

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1324

2007 HOUSE JUDICIARY

HB 1324

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1324

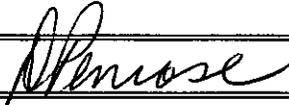
House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/29/07

Recorder Job Number: 2105

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1324.

Rep. Shirley Meyer: I am a sponsor of this bill (see attached testimony).

Rep. Klemin: Is there a difference between breed registry and bred registry.

Rep. Meyer: They are interchangeable, that is how LC drafted the legislation.

Rep. Klemin: I'm just pointing out on line 2, it says relating to the breed registry and line 8 it says bred registry.

Rep. Meyer: I believe that are both correct.

Rep. Charging: If you can put your finger on a problem that this fixes, what would that be.

Rep. Meyer: It is trying to clean up something that's taking up time in the office and takes up a huge amount of time. The breed registry is being done in the office in long hand in triplicate. It takes hours to do that. It's been pointed out by the State Auditor, and many of the people in the breed industry, that there is a way to streamline this and save hours. The money is there to put this on the computer and get this done faster.

Rep. Charging: It is part of the growth process?

Rep. Meyer: This is an old problem that has gone on for many years, and it seems to take longer and longer. It needs to be modernized and in 2001, they made a rule that this be done

and that's why I gave you a copy of the rule 69.5. That was intended to cover that right then. It hasn't been done.

Rep. Onstad: Is there any reason why we shouldn't leave this up to the rule-making process.

Rep. Meyer: The big problem I alluded to earlier, it doesn't get done. We gave the Racing Commission \$5,000 last biennium to promulgate the rules. They aren't done. They are a long way from being done. This was recommended in the audit which is 2 ½ years old. The Horsemen, as I stated earlier, they make this investment years ahead of time. These are definite problems for them. True, it could be done in the rulemaking process, but they are working on proposed rules, but none of these concerns are being addressed in that rule.

Rep. Onstad: On #2, it denies the ability to transfer money between funds. Has that happened.

Rep. Meyer: That has happened, and is happening. Originally we allowed the breeders fund to transfer money into the purse fund, because we wanted to encourage black type races. That's for high quality races, we had to put more money in there so we could get those races to be run, and we did that. What we're seeing now, the racing industry is a very frail industry. If you look at the dollars, we are losing money. We're subsidizing the track, but to keep this breeders' fund intact, I want to see horse racing continue on in this state as long as possible. In the case if something happened in Belcourt, and they don't have live races, or if something happened in Fargo, that we can no longer race, it would leave the breeders' fund intact. You're still allowed then to apply for breeders' fund at ND bred races, and races run at out-of-state tracks. With transferring money right now, we're seeing a little bit of robbing Peter to pay Paul.

Rep. Onstad: So we're asking that each of those different funds really hold merit on their own and be held for that purpose.

Rep. Meyer: That's correct. Although I do acknowledge that we have used breeders' fund money in the past to encourage these black type races for a higher quality race.

Rep. Boehning: You want to distribute the breeders' fund in one year. Is that how this reads.

Rep. Meyer: No, that doesn't happen. That is indicated in your rule, it is 1/8th of the fund to be distributed every year.

Rep. Boehning: What is the change then.

Rep. Meyer: No, it's just that the fund states that the breeders' fund goes to breeders, promotion funds stays with promotion and the funds can't be transferred between each other.

Rep. Boehning: You want to set up another commission or you want privatization of this breeder's registry on line 10.

Rep. Meyer: That's an entirely different matter. The commission right now, handles the breed registry. That means you come in when the foal is born, before the end of the year, and they stamp ND bred foal. At that time, they have to go in and check who is the sire and mare are, and then if my foal can be ND certified bred, it is stamped on the application. That is contracted out and that is provided for in this rule. That should have been done this whole time. It should be handled by an outside agency. That was determined in a 2001 rule. That was also reaffirmed by your State Auditor in 2004. These breed registries, takes up a huge amount of time because they do everything in the office by hand. It doesn't need to be done that way. The Racing Commission would have oversight. There is \$20,457 in that fund to do that. This would take the actual, manual writing it down over and over again, to a private individual or entity, whoever gets the contract, and that's the way it should be done according to this rule. But it hasn't been done.

Rep. Boehning: In other words it would cost about \$20,000/yr to do the registry, if somebody does the contract. What commission will have the oversight.

Rep. Meyer: No, that's not how it works. They wouldn't have to use that money. They would contract it out to the lowest bid. The money in that fund is used for postage, certified mailings, etc. It just allows an independent agency or individual with a computer to enter the information.

Rep. Boehning: How many horses are we talking about. How many are registered.

Rep. Meyer: I don't know. The numbers are increasing all the time.

Chairman DeKrey: Thank you. Further testimony in support.

Rep. Tracy Boe: I am a sponsor. The Horsemen are in favor of this bill.

Chairman DeKrey: Thank you. Further testimony in support.

Sen. Richard Marcellais: (see attached testimony).

Chairman DeKrey: Thank you. Further testimony in support.

Lance, Hagen, ND Quarterhorse Racing Association: Our organization supports this bill.

We need to maintain the breeders' fund. Back in 2000, we purchased a laptop to put this information on it. We began working on the project in 2001, and we didn't get as far as we'd like. We wanted to be able to enter the data at the end of the races in Fargo, and be able to pay the horsemen. There are some changes that need to be made to the Administrative Rules. That can be taken care of by the Commission. I think it would be a good move to let someone else do this, an independent person that might take care of some of the problems that we've got between some of the Horsemen and the Commission. This is being done now with the ND Stockmen's Association, of the breed registry. This is not something that is foreign to the legislative body. The second thing is on moving money between the funds. I am not exactly how that's going to work. I'm interested in hearing Mr. Schmidt's testimony. I was the one that made the original motion back in 1998, at that time we were dealing with \$100,000/yr in the promotion fund and roughly \$100,000 in the breed fund and \$100,000 in the

purse fund. The reason why that motion was made, was so that we could get the thoroughbred and quarterhorse races moved into the black type race. So that they become nationally recognized horses in ND and the country. The funds had pretty small balances. Now the breed fund has \$1.3 million dollars in it, and the purse fund has \$1.1 million dollars. It is important to maintain that breed fund for the person who is in the barn, foaling out those mares. If we didn't have live racing in ND anymore, the only way we would be able to keep racing going at all, for the people who have invested the money and time into it, is to have the breed fund to go back to the old way that we paid money out, which was if you ran out-of-state, you got a certain % and if you ran in-state in got a certain %. It's a complicated issue. The third thing on the bill was the owner's fund. The way it is set up now, we had problems with it. If you have a horse that runs it out-of-state, at one time, if the owner of the horse didn't apply for the funds, the breeder couldn't get their share etc. even though both horses were in the fund. You couldn't get that money, simply from the fact that the owner didn't apply for it. Then we decided that shouldn't be that way. If you're in the fund, you're in the fund and you're entitled to the money. It is my understanding that for some reason we went back to the same system I spoke about earlier. This is a good bill. This should have been done years ago, and we wouldn't have the problems that we have now. Some of these things may need to be fixed through administrative rules and possibly offer some amendments.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition.

Randy Blaseg, Director of Racing Commission: (see attached testimony).

Rep. Delmore: Do we have an automatic system now that does any of the recording. I am assuming that you go out and do the verification on each of the foals as they are born. Do you have a system that you can bring that up on.

Randy Blaseg: We have approximately 4,000 horses at this time entered into the database. We have been working on this steadily for the past year. We did this, in an attempt to correlate with the project that I had mentioned earlier, to enter all the data on these various brood mare, stallions, foals that have been certified, so that it will become a computer generated process.

Rep. Delmore: So right now you have no computer generated process for recording any of this now.

Randy Blaseg: We do have these horses in the database so we can generate the list.

Rep. Delmore: A computer based system, you can go in and pull all of them out at any given time that you wanted from the 4,000 horses.

Randy Blaseg: I would be remiss in stating that we could generate the type of documentation that you may or may not desire. We have the horses entered into the database, so we can then co-mingle them that particular database which we've had composed to us.

Rep. Delmore: It looks to me like the last time Administrative Rules process was used by in 2002. Have you promulgated the rules, have they been adopted since you took over your job, are the rules in place that were asked for the Audit. It seems like that would be something done in your office.

Randy Blaseg: That's been the object in drafting a revision of the rules.

Rep. Delmore: So you have no system in place on the computer and you haven't drafted the administrative rules, you haven't promulgated them or turned them in.

Randy Blaseg: We are to the point where we are ready to move forward with this.

Rep. Klemin: First of all, I am still a little confused about the terminology here of this registry. In the bill, in the title it refers to the breed registry and then on line 8 it refers to the ND Bred Registry. Then in your administrative rule it refers to the ND Stallion and Brood Mare Registry. Is there more than one registry or only one.

Randy Blaseg: Breed registry typically refers to a specific breed; the thoroughbred breed, the quarter horse breed, there's different registration processes you go through to register those two separate breeds. ND bred registry has them in one unit. In other words, you can be a thoroughbred or quarterhorse and when you follow this particular process you are simply certifying those horses to participate as a certified ND bred racehorse.

Rep. Klemin: Before you go on, what about the Stallion and Brood Mare registry. Is that something else.

Randy Blaseg: The stallions and brood mares have to be entered into the fund, so that when a foal is conceived by a particular stallion, and foaled by a particular mare, then the owners of those, will then receive awards.

Rep. Klemin: As I understand it, there is a registry for each breed.

Randy Blaseg: Yes.

Rep. Klemin: Then there is one registry that covers all the horses bred in ND.

Randy Blaseg: That would be correct.

Rep. Klemin: So they are both right.

Randy Blaseg: That's right.

Rep. Onstad: In the audit report, it says the worksheets reviewed prepared by hand. Is that still being done. Then it says that there are triplicate form, could it be combined into one.

Randy Blaseg: That was the process that was being followed. We are in the process of changing that.

Rep. Onstad: That's a problem that I have. The racing commission has been here every session that I have sat in this committee. They've always made the comment we're working on that, etc. Two weeks ago the Racing Commission was here and said you were getting dollars to promulgate the rules and you said yourself said we're working on that, or we're going

to start on that. You hadn't started on it yet, you were going to start on it. If I take what you're saying now as we're working on that, and then I'll go back to your testimony and it says if we're going to part of it, we might as well do all of it. Your history isn't very good when it comes to keeping your promises on when these matters are going to be taken care of. We've heard that you are working on this for three sessions in a row. We still have complaints. We haven't been able to do it all at this point, so why do you want to do all of it now.

Randy Blaseg: I brought with me a copy of the draft of the proposed rules. Rep. Meyer, I provided you with a copy of the draft of the proposed rules at the beginning of this session. It's truly my fullest intention to move forward with drafting these rules. I did not work on these with the intention of discarding them. I felt that it would be beneficial to the breeders of horses, and the owners of certified ND bred horses, to be paid as promptly as we could provide following the conclusion of a race. I feel that the drafting of these rules addresses that. I also felt that it was cumbersome for them to have to make a separate application to be paid the money for which they just got done winning. We eliminated that portion of the rules. We tried to address as many of the problems as were being presented to us.

Chairman DeKrey: How many colts are we registering a year n now.

Randy Blaseg: Approx. 300 applications will come in yearly.

Rep. Meyer: Part of the problem, and the reason this came about, and Rep. Koppelman, is much astute at this than I am in how you promulgate the rules. You aren't allowed to just sit down and make the corrections that you want. Part of the reason that this bill is here, is because the very people that this affects, you've never talked to them, had a meeting with them, they are prohibited from appearing on the agenda. They have to get an attorney to appear before the Commission. When they asked to see just a copy of the proposed rules at your December 20th meeting, they were told that as soon as you were done with it, we'll let you

see it. What you passed out is something that you are working on, without any of the people that this will affect directly, without their input on it. When you promulgating the rules, it is so extremely necessary to have people in there that these rules are going to affect. You can't just do this yourself and then expect them to accept them. That's part of the reason that HB 1324 is before us. After I received a copy of the proposed draft changes, there's some things in there that's true. But the main problem, with removing the breed registry, to give your office more time, that wasn't addressed. Have you sat down with the groups before you started this process.

Randy Blaseg: In June, I contacted both the president of the Quarterhorse Association and the president of the Thoroughbred Association and at that time, the providers of the simulcast.

I asked them for any and all recommendations that they would have, or could provide me with for one section of any new or different rules. The president of the Quarterhorse Association is an active member in the Horsemen's Advisory Board. I spoke with him on more than one occasion during that timeframe and from then until these were formulated, I received no recommendations and/or suggestions, nor did I from the president of the Thoroughbred Association. The Simulcast provider did provide me with a number of recommendations which were incorporated into the drafting of these rules. I disagree with your analysis that they were not addressed or involved with the formulation of these particular rules.

Rep. Meyer: Then can you tell me at your December 20th meeting, when they requested a copy of the proposed draft, they were denied that. They were told that as soon as it is presented to the commission, you can have a look at it. If there is open communication process, why weren't these draft rules passed out to the horsemen who requested at that meeting.

Randy Blaseg: I'm not aware of who you are referring to when you say "they".

Rep. Meyer: The Chairman of the Horsemen's Advisory Council. He'll be here later this afternoon.

Rep. Charging: It appears that there are some internal problems. We're hearing that the industry is in trouble. We seem to be legislating what seems to be management problems. Is there enough money right now to hire someone to do the registry.

Randy Blaseg: The funding for this next biennium has no provision in it for hiring this particular process, other than stating that there is funding to create a method of cataloging the horses that are certified in this fund.

Rep. Charging: So there isn't any money for you, the commission, to set this up and pay a 3rd party contract.

Randy Blaseg: That would be a process that we would have to look at the bids, the proposals that would be made to us. It's not in our budget.

Rep. Meyer: When you check on page 5, it states in there that every year the cost of administrating this program will be deducted, it's 5% of the breeder's fund, it pays for itself. That's where the money is at. It's on page 5, that's an automatic thing, 5% of the yearly accumulated ND breeder's fund.

Rep. Onstad: The auditor said the racing commission currently has \$20,000 available to purchase a program and put this in place.

Rep. Wolf: In your administrative rules that you're talking about modifying, you said that you are taking out the restrictions that allow for these year end distributions and you are taking out the restrictions for the people having to apply for these payments. But you're not putting it in, for example you are saying that all owners of horses are restricted with the current distribution.

Would you have an objection to putting it in there that says it will be paid out by the end of the year.

Randy Blaseg: I would not have a problem with changing the wording in that particular section at all, which would make it more liberal and if, and when, it could be done before the end of the year, I would hate to see it so restrictive that it wouldn't be required to have that done for one reason. It does take time to verify a lot of this information. The verification as to the owner of the horse, when he runs, the date that he races, etc. It does take a little more time on the owners of the dams and sires.

Rep. Wolf: You mentioned that you have this database, wouldn't that just be easy to pull it up on the database that you have.

Randy Blaseg: It would, the biggest issue is it is truly the busiest time of the year in horse racing. It wouldn't appear to be on the outside looking in, but it is in when we have to relicense everyone in the fall of the year. It's an issue which I would have no problem changing the wording on that. I just would like to have a little relief, so that we wouldn't be restricted entirely. I have no problem in attempting to get that done as promptly as I possibly could. I think that everyone here would admit, that we are truly trying to address several of these issues when we are drafting the rules.

Rep. Charging: How many races a year are there.

Randy Blaseg: I don't know. Mr. Schmidt handles the racing in Fargo. There are generally 8-10 races run a day.

Rep. Charging: So it is a complicated matter having to record all the winners, etc.

Randy Blaseg: You have two things, you have straight ND bred races for certified ND bred horses. They are the only ones that can compete in those races. But if a certified ND bred horse competes in open company race, he's still entitled to receive funding. So you screen all of those horses. A certified ND bred might win 3rd in a race like that, so you're screening all of the races, not just the ND certified bred races to determine who is going to receive awards.

Rep. Klemin: In the bill, at the bottom of page 1, it says the commission may not transfer money among the funds. We are talking about 3 funds, the breeder's fund, the purse fund, and the racing promotion fund. Does the commission transfer money among these three funds now.

Randy Blaseg: The commission does not transfer money among the funds. The commission awards the money from each of the funds for specific purposes. The impression that I get is that money is being utilized from the ND Bred fund to supplement purses for open horses or such as that. The money from the ND breeder's fund is allocated strictly for the benefit of ND certified bred race horses.

Rep. Klemin: So if this bill says not to transfer money among the funds. It's not any different from what you are doing.

Randy Blaseg: That's correct.

Rep. Meyer: Randy, you stated that the time involved with this, wouldn't you feel like if we removed this breed registry and put it on a computer program that would give your office a great deal of time, it would still have to be certified like it is now, but that would really free up a lot of your time, so in the four months you could, if you the correct computer program, these are being done. When the last horse leaves the gate on Labor Day weekend, you would know who the sire is, the dam is, and who gets paid. It's not a difficult thing to do and many other states are doing it. If we would remove the breed registry that could free up almost 12-14 weeks. Wouldn't that be a good thing.

Randy Blaseg: It has been the feeling of the Racing Commission that the fund is handled appropriately within the racing commission. If they had elected to have it be handled by an independent authority, I assume they would have done so.

Rep. Meyer: Has the commission taken a stance on this bill.

Randy Blaseg: The commission has not had a meeting to discuss this bill and make such a commitment as you are stating as far as having a vote.

Rep. Meyer: So you are here on your own behalf.

Randy Blaseg: I am representing the past interpretation of the commission involving awarding this to an independent agency.

Rep. Meyer: Their past intent were the changes made in the racing commission, they would have to be looking at this specific piece of legislation if they are going to weigh in on it. If you were representing the commission, they would have definitely have needed to get together and vote on it.

Chairman DeKrey: Thank you. Further testimony in opposition.

Les Schmidt: (see attached testimony). I am neutral. I have seen many changes since I've been in the racing industry in ND. I know how important the three funds are, especially to the breed fund.

Rep. Meyer: Previously, we heard that monies are not transferred between these funds, and you just gave us an example of how they are. The breed fund when you put it into the purse fund, regardless if that is shoring it up. Well, if you've got a MN horse that comes out and wins that race that is shoring up your purse fund. My point being in this, is that the monies are transferred between the funds. The breeders fund isn't held exclusively for breed racers and points.

Les Schmidt: Yes, it is. The money that we allocate from the breed fund, is ruled and regulated by the entrance of only ND bred certified horses in that race. The statement that the \$2500 purse for that race, comes out of the ND bred race money. Only ND certified bred horses can run in that race. A MN horse can't run in it. It can't be done. We get manipulated once in a while on these races too. First of all, we have to offer a quarter horse race and a

thoroughbred ND bred race at our race meet every day. It has to be offered for racing. At 10:00 am, if we don't have those races filled, we have the option to substitute those races with open races. But the open races then do not qualify for the ND bred money that was allocated for that day. Only ND bred horses qualify for that money.

Rep. Meyer: It is possible that you can ride a race so that ND horses can't qualify. We have a lot of ND bred horses that you can write a stipulation on a race so it virtually eliminates a lot of ND bred horses, and then they run off in the open. In the transferring of the funds, they are transferred from the purse fund to your breeder's fund, regardless. The breed fund gets transferred into the purse fund.

Les Schmidt: The breed fund is used for specific breed fund purposes.

Rep. Klemin: You're saying that the breeders' fund money is paid out throughout the season as you go along right after each race.

Les Schmidt: Yes.

Rep. Klemin: It's not something that you wait until the end of the year to make the distribution to everyone.

Les Schmidt: No. The first part of that question is, the breed point money that is allocated to us for breed point races is given out after the race date. Above that, you earn breed points besides that. Those breed points are given out later in the year.

Chairman DeKrey: Thank you. Further testimony in opposition.

Jim Tilton: I'm a former president of Horserace ND and presently on the executive board for Horserace ND. My concern with this bill is the fact that we're really in a very notable transition period with regard to the racing commission and the fact that you realize that, as far as the racing commission, in the past 2.5 years, we've had three racing directors. That, of course, causes some dilemma with regard to getting things done. I would speak to the fact that the

question arises with regard to Mr. Blaseg and why these changes haven't been done. As you well know, when you come into a situation like the racing commission, the first six months is a probationary period and so consequently during the probationary period, you tend to try and keep yourself as far under the radar as you can and so consequently, it's not a time when you start making a whole lot of changes. Another thing that was pointed out here, is that there was money set aside \$5,000 in the 2004 legislature for the promulgation of some of these changes. I asked the question, why weren't those changes made before. Why weren't the changes made before 2005, when Mr. Blaseg came in. I think we see an effort on his part to make these changes. I'm really concerned about the fact that we're going to take 5% of a million dollars, over \$50,000 and put that with another agency so that they can develop a computer program that really is in the process of being developed. We have this database. Since the information is in that database, I think that actually can be pulled out of there and then you can access these records. I would really think that this would not be in the interest of racing to take that \$50,000 away and especially if that got to be an annual situation.

Rep. Meyer: That is currently being done. It's written right in the rules here that is done every year. It is automatically done, it's 5% of the yearly accumulated ND breeders' fund. That, in no way, changes the amount or anything. That money is there. This just simplifies the process. It doesn't create another agency, it's just that the money is there, there is no additional funds that aren't being taken now.

Jim Tilton: If it doesn't create another agency, where is this work going to be handled by. Is this still going to be handled by the commission or is it an offshoot of the commission that they have to subcontract this, which does bring in another agency.

Rep. Meyer: It would be out on a contractual basis, the same way it is being done in many agencies, done automatically. It's mostly data entry. It's a very simple data entry process. I could do it at home on my computer.

Jim Tilton: I understand. I just reiterate my position. I believe if we give the commission and Mr. Blaseg an opportunity to move forward with the changes that he is in the process of making in this period of time, and with the present commission, that they can get this job done.

Rep. Delmore: It's my understanding that this does not have a computer system to track it. My other concern is how long has Mr. Blaseg been with the commission, you talk about 6 months. The administrative rules are very important procedure to follow through. You can go back to 2002 or 2004, but we're in 2007. I think he's well past the six months when he could have promulgated the rules, gone before the committee and taken care of some of the concerns that created this bill.

Jim Tilton: That is correct, he is past the six months. The situation I believe there, that there has been a tremendous amount of time spent with regard to the simulcast situation and trying to get some of the situations straightened out and that required a considerable amount of time and effort on the part of the commission to get those things done. So from there, we went directly into the racing that started the last week in July and went through the racing up until the second week in September and then right away we're into this period of time.

Rep. Delmore: This is something I supported my entire legislative career. I think it is good for ND. But I am very concerned with some of the things that have come out. We all have good intentions for things to do, and we all have a job to do.

Jim Tilton: I agree with you. If you look at the amount of time and energy spent, there have been a number of things that were accomplished. I think there are certainly more things that

need to be worked out. Given time with the present racing commission as it exists, that those things will be accomplished.

Chairman DeKrey: Thank you. Further testimony in opposition. We will close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1324

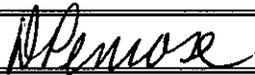
House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/31/07

Recorder Job Number: 2462

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will take a look at HB 1324.

Rep. Meyer: Today, everyone was emailed from Rob Lynch, he is the Executive Director of the ND Horse Park, and they are not opposing this bill. He wanted to indicate to the committee that when Mr. Schmidt and Mr. Tilton spoke in opposition, they were not representing the ND Horse Park. He said they can get up and testify as citizens, but he is the only official lobbyist for the ND Horse Park and they are not in opposition on HB 1324. Just so that's clarified he sent it to me and said to make sure that the committee knew. It's long overdue. On Section 1, with the Breed Registry. Just to clarify a few things. The only thing that this does is require the Racing Commission to contract this out. It's very similar to the ND Stockmen's Association. They have a breed registry; Wade Moser does not sit and write out the registry in long hand in triplicate for every person that applies for a cattle breed registry. It's foolish and a complete waste of time. That's all this does, is contract that out to the lowest bidder. This removes the breed registry from that office. This has been requested that this be done since 2001, now we're 6 years later and still hasn't been done. It's causing a huge backlog in the office, which is the reason then, when you go over here, that this isn't being handled right, the money isn't being paid out during the same season that they are won in. If you win the breed

monies, the reason is because of the situation when you're declaring income on a 1099.

When you earn these monies, you have to declare these monies in the year these monies are won. Under our IRS code, you have to get a 1099 for this, it has to be issued to you by the end of January. That's not being done; we have tax preparers asking us for the 1099. Well they aren't done, they weren't sent out.

Rep. Koppelman: As an employer, I have to send out 1099 and W2's. They aren't getting them out on time.

Rep. Meyer: This is one of the reasons that this has needed to be done since 2001, and it's creating a lot of problems. I believe that one of the problems for the backlog in this office, is this breed registry. It is foolish to be doing things long hand in triplicate; which is how it is being done now. It's not a great deal of money to do this. I could do this myself, you put it on your computer. You don't have to buy an expensive computer system, it is a simple program to put in there. You plug it in when the last horse comes out, you know automatically who gets the breed points. It's not a difficult thing; 5% is taken every year from the breeder's fund to pay the certified mailings and data entry. They spent 14 weeks putting that information together long hand. It needs to be changed.

Rep. Charging: No question that there are problems. In the audit report of 2004 it mentions this problem. Doesn't this open up other opportunities for error. Who is going to manage the person, who is going to make sure that they do it right; are they going to turn the documents back to the Commission and they write the checks.

Rep. Meyer: It's very similar to when you contract out paperwork. The checks and balances are there; it has to come back to the Race Commission. It's basically data entry, it's such a simple thing to put this on the computer and bid this job out, the same as you do the breed registry for the Stockmen's Association. Of course, when it comes back it is checked.

Rep. Koppelman: I was looking on line 10, is there a legal definition for private person, should that be third party or something like that.

Rep. Klemin: A person is the same definition throughout the Century Code, includes corporations, individuals, etc. Private person would be a non-public person; not an ITD person. I do have a question about who pays for the contract work.

Rep. Meyer: The money that is withheld every year, 5%, and it's being done now, that 5% is automatically held to administer the program. I believe this happened in 2001, it's done now.

Rep. Klemin: Do you need to say in here in Section 1 that the payment of this contract is to come out of the Breeder's Purse Fund.

Rep. Meyer: That's in 69.5-01-09-03, that's already right here in the Code.

Rep. Klemin: You're reading a Rule now.

Rep. Meyer: Yes, it's a Rule.

Rep. Klemin: So it's not in the statute. The statute doesn't say where the money comes from to pay the contract, maybe it should say that the contract shall be paid with the breeder's fund, that's what I think.

Rep. Meyer: That's alright with me.

Rep. Klemin: I move that amendment.

Rep. Kingsbury: Second.

Chairman DeKrey: We will take a voice vote on the Klemin amendment, pg. 1 line 12, at the end of the sentence, add the following sentence, "The cost of the contract will be paid out of the Breeder's Fund". Motion carried. We now have the bill before us as amended.

Rep. Kingsbury: I move a Do Pass as amended with rereferral to Appropriations.

Rep. Delmore: Second.

12 YES 1 NO 1 ABSENT DO PASS AS AMEND W/REREFERRAL TO APPROP. CARRIER: Rep. DeKrey

FISCAL NOTE

Requested by Legislative Council
01/11/2007

Bill/Resolution No.: HB 1324

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Until such time as bids have been submitted we would be unable to determine the fiscal impact.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Randy Blaseg	Agency:	Racing Commission
Phone Number:	701-328-4633	Date Prepared:	01/13/2007

70548.0101
Title.0200

Adopted by the Judiciary Committee
January 31, 2007

House Amendments to HB 1324 (70548.0101) - Judiciary Committee 02/01/2007

Page 1, line 12, after the underscored period insert "The cost of the contract must be paid from the breeders' fund."

Renumber accordingly

70548.0101
Title.0200

Adopted by the Judiciary Committee
January 31, 2007

House Amendments to HB 1324 (70548.0101) - Judiciary Committee 02/01/2007

Page 1, line 12, after the underscored period insert "The cost of the contract must be paid from the breeders' fund."

Renumber accordingly

Date: 1-31-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1324

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended w/ referral to Approps

Motion Made By Rep. Kingsbury Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging	✓		Rep. Onstad	✓	
Rep. Dahl		✓	Rep. Wolf	✓	
Rep. Heller					
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep. DeKrey

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1324: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1324 was placed on the Sixth order on the calendar.

Page 1, line 12, after the underscored period insert "The cost of the contract must be paid from the breeders' fund."

Renumber accordingly

2007 SENATE JUDICIARY

HB 1324

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1324

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: February 26, 2007

Recorder Job Number: 3857

Committee Clerk Signature

Maria L. Solby

Minutes: Relating to the breed registry of the ND racing commission.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following hearing:

Testimony in Favor of the Bill:

Rep. Shirley Meyers, Dist. #36 Introduced Bill – Att. #1, copy of ND Century Code 69.5-01-09-03 – Att. 1b, and the Administration of the ND Breeders Fund – Att. #1c Spoke to a situation of a person winning one year and not getting payment until the next.

Sen. Olafson asked a question pertaining to horse D.N.A.

Sen. Marcellais, Dist. #9 Gave his testimony – Att. #2. (meter 12:43)

Leon Glasser, NDQHRA President – Att. #3 (meter 13:48)

Lance Hagen, Lobbyist NDQHRA (meter 14:00) Spoke of being the reason of the problem and how he had used the funds to build up a “cushion” in the purse fund. Currently there is \$1 million in the fund and would now like to change the process back. He spoke of the funding process and why the payments were so late.

Douglas Plummer, Self-spoke in support of the bill and "amen" to what has already been said.

He also talked again of what the current results are.

John Blubel, self (meter 20:23) spoke in support of the bill also discussing the Breed Fund and its viability.

Leigh Bockhouse, self (meter 21:34) Spoke in support of the bill.

Testimony Against the bill:

Randy Blaseg, Dir. of Racing, ND Racing Commission (meter 23:06) Att. #4.

Testimony Neutral to the bill:

Rep. Meyer stated in a point of Clarification the money the legislation put forward, \$5000 spent to propagate the rules and they are still not done and will not be done this racing season.

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1324

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: March 12, 2007

Recorder Job Number: 4878

Committee Clerk Signature *Maria L Solberg*

Minutes: Relating to the breed registry of the ND racing commission.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

Sen. Nething reviewed the bill for the committee stating that this bill makes the racing commission accountable. They spoke of the length of time it takes for the winners to get paid.

Sen. Marcellais made the motion to Do Pass HB 1324 and **Sen. Olafson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Marcellais**

Senator David Nething, Chairman closed the hearing.

REPORT OF STANDING COMMITTEE (410)
March 12, 2007 3:28 p.m.

Module No: SR-46-5044
Carrier: Marcellais
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1324, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1324 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1324

Testimony on HB 1324
Shirley Meyer
District 36, State Representative

*same
given to
Senate
Judiciary*

House Bill 1324 does three things.

Number one. It mandates the commission will contract out the administration of the breeder's fund.

Number two. It denies the ability to transfer money between the funds.

Number three. It mandates that breeders fund awards be paid out the same year they are earned.

To adequately explain this bill requires me to briefly explain the horse industry and the breed funds. They are not unique to North Dakota. Many state have breed funds established. Their purpose is to promote and improve the quality of horses, and encourage breeders to operate within a state. The fund is established by a tax on pari-mutuel wagers with each state. They are not general fund dollars, but wagers on horse races.

Every breeder has dreams of a Kentucky Derby winner. Or, if you raise Quarter Horses, a horse that can win the All-American. We all spend lifetimes trying to raise a Dash for Cash, A Sea Biscuit, a Secretariat, a Refrigerator (all time QH money winner), a Ghostzapper (thoroughbred horse of the year last year). But in all reality, the best most of us can hope to achieve is to win the futurity or derby at Fargo or Belcourt. But if you have seen the people in the win pictures at these races, their smiles are as big as the smiles at Churchill Downs.

To breed these horses takes dedication, time, and commitment. That is why the sustenance of the breeders fund is so important to the industry. You may make the commitment at the yearling sale at Keeneland. Or the winter sale at the Heritage Place. Starting with a bred mare. Or you may have made it at home, generations ago, with a plan to raise a winner. You know the purses alone will not be enough to cover your cost. But the breeders fund can help. It is needed because you made a decision to invest tens of thousands of dollars years before that colt walks into the starting gate.

We have to remember that the racing commission is a two person office. They license simulcast providers. They license personnel at the simulcast sites and at the track. They have to ensure that taxes are paid and that rules are being enforced. Under current law, they may contract out the administration of the breeders fund. This bill would mandate that be done. Most, if not all other states do this. New Mexico and Louisiana to name some of the biggest. Current law even sets the amount that can be used to administer the fund. See 69.5-01-09-03 subsection 2. By contracting out the breeders fund administration, we free up the office to better oversee the wagering part of the industry.

The bill disallows the transfer of moneys between the funds. Currently, part of the breeders fund money must be used to supplement purses. This makes it an owners' fund, not a breeders fund. To understand this, you have to realize that when a North Dakota bred horse finishes in the top three at races held at Fargo or Belcourt, that horse is eligible for breeders fund dollars. It is split between the runner, the dam, and the sire. If they are registered in the program. Breeders are in this for the long term. As explained earlier, their commitment to a horse is made years before that horse sets foot on a track. By not using this breeders money to supplement purses, we can insure that the fund will last longer into the future.

Currently the breeders fund moneys are paid out in approximately March. The last race of the year is ran on Labor Day weekend. This bill simply says the awards must be paid out the same year they are won. This would allow these breeders to have this money, which may vary from a couple hundred dollars, to nearly twenty thousand dollars, to have this money to reinvest in stallion auctions, or horse sales for the next colt crop. I believe all states are quicker than us. In South Dakota the breed funds are paid in the current year.

This bill also eliminates the need to make an application. This rule was in place when the state paid out breeders awards on races ran out of state. The season lasted all year. Now, when we only pay on North Dakota races, this application is no longer necessary. You know which horses are registered. You know the top three finishers of each race. Just check them against each other, which you must do anyway, and you have it. When you pay your registration fee, you are actually applying for the dollars if you win.

This bill is needed. I urge a do pass and would try to answer any questions.

Report ID: GLS7012
Bus. Unit: 67000--ND Horse Racing Commission
Ledger: ACTUALS -- Actuals Ledger
As of Year 2007 and Period 6
Base Currency: USD
Account

Account	Fund	Transaction Debit	Transaction Credit
105251 Cash & Equiv at BND - Current	001 General Fund	116,484.65	0.00
	278 BREEDERS FUND	1,327,611.87	0.00
	290 PURSE FUND	1,355,274.85	0.00
	334 Horse Racing Operating Fund	31,171.76	0.00
	339 PROMOTION FUND	873,268.04	0.00
Total for Account		<u>3,703,811.17</u>	<u>0.00</u>
Total for Ledger		3,703,811.17	0.00

Dec 06

DIDNT EXIST IN 2005

Report ID: GLS7012
Bus. Unit: 67000--ND Horse Racing Commission
Ledger: ACTUALS -- Actuals Ledger
As of Year 2005 and Period 12
Base Currency: USD

Fund

Transaction Debit

Transaction Credit

PeopleSoft GL
TRIAL BALANCE

Page No. 1
Run Date 01/11/2007
Run Time 09:15:55

Report ID: GLS7012
Bus. Unit: 67000--ND Horse Racing Commission
Ledger: ACTUALS -- Actuals Ledger
As of Year 2006 and Period 12
Base Currency: USD

Account	Fund	Transaction Debit	Transaction Credit
105251 Cash & Equiv at BND - Current	001 General Fund	133,667.90	0.00
	278 BREEDERS FUND	1,456,949.80	0.00
	290 PURSE FUND	1,709,209.71	0.00
	334 Horse Racing Operating Fund	20,457.04	0.00
	339 PROMOTION FUND	1,163,712.84	0.00
Total for Account		4,483,997.29	0.00

Total for Ledger 4,483,997.29 0.00

compliance with legislative intent for the following areas that we determined to be significant and of higher risk of noncompliance:

Legislative Intent Subjected
To Testing

- **Bet Payoff Formulas** – Determine that the correct amount was remitted to the general fund, breeders fund, purse fund, and promotion fund from all betting in North Dakota (North Dakota Century Code section 53-06.2-11).
- Proper limitation of funds for operations to \$50,000 from each special revenue fund (2001 North Dakota Session Laws chapter 3, section 9).
- The use of the following special revenue funds:
 - Promotions Fund
 - Breeders Fund
 - Purse Fund

The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*.

Operations

Our audit of the North Dakota Racing Commission identified the following areas of potential improvements to operations:

BREEDERS FUND PAYMENTS

Background:

Operational
Improvement 04-1

Each year the Racing Commission determines the amount of monies to be disbursed from the Breeders Fund. The Racing

Commission has recently set a policy of awarding 1/8 of the breeders fund balance each year. This policy was established to ensure funds will be available in future years for currently registered horses in the Breeder's Fund program. Generally, horses registered in the current year will not race or have offspring that will race for several years.

Awards were \$283,000 for fiscal year 2003 and \$230,000 for fiscal year 2004. This amount is paid annually to all registered North Dakota bred horses that win, place, or show (take 1st, 2nd, or 3rd) in the races held either at Belcourt or Fargo. Breeders Fund monies are only paid for in-state race results and only in cases where the race purses are at least \$1,000. Monitoring this fund includes registering the horses (foal, mare, or sire), accumulating race results, and determining which horses are eligible to receive Breeder Fund disbursements.

The Breeders Fund is getting more complex and difficult to maintain since more owners have registered their horses due to the larger payouts. According to the Racing Commission, the manual process of registering horses can consume up to 12 weeks per year. However, it was determined to be cost prohibitive for the Attorney General's Office to develop a new IT system to run the Breeders Fund. The Racing Commission currently has approximately \$20,000 set aside for the purchase of a software package if one that will fit their needs can be found. Most states do not distribute their funds like North Dakota, and instead have used the breeders fund monies to supplement the purse amounts for in-state bred horse winners or eliminated the Breeders Fund altogether.

Process:

In order to be eligible for Breeders Fund monies, a horse must be registered into the fund. The cost to register a foal or mare into the Breeder's fund is \$10; the cost to register a stallion is \$20. These registration fees are currently deposited into the state's general fund. The application is reviewed to determine if the mare is already in the fund by looking up the mare's owner on the computer. For every horse owner a separate Word[®] file table is created for all foals/mares/sires owned by that individual. If a foal is re-registered as a mare/sire then it will be included on both lists. Once the national certificate is received from the applicable organization (i.e.—National Foundation Quarter Horse Association) confirming the name of the horse, it is matched with the filed application. The file is not considered complete until this certification is received and the horse will not be paid if their file is incomplete.

Annual letters are sent to the horsemen to submit applications for Breeders Fund disbursements. The horse owners have until January 15 to request funds from the Breeders Fund. A separate Breeders Fund application form must be completed for each registered horse that placed 1st, 2nd, or 3rd in a North Dakota race. This application is primarily used to update addresses and to obtain the social security number for inclusion on the IRS 1099-MISC (Miscellaneous Income Form). All North Dakota bred horses receiving monies (approx. 540 in 2004) are checked against the Racing Commission records to verify the horse was eligible and properly registered. The race (win/place/show) results are separately compiled (on the North Dakota Breeders Fund Race Winners worksheet) and compared to the information submitted by the horse owner. These results are checked against the data compiled by Equibase Co. and TruForm Inc. to verify race results and that the purse amounts are greater than \$1,000. These hand-written worksheets are then typed up and forwarded to the Racing Commission's auditor to determine each horse's winnings. A point system allocates points for each foal's win, place, or show. The total amount of Breeders Fund monies available for distribution are then allocated to the foals based on their percentage of points to the total points awarded to North Dakota bred horses. The foal receives 60% of the monies, while the mare and sire of the winning foal receive 30% and 10%, respectively. If the mare or sire is not registered, their portion goes to the foal. A copy of the worksheet is sent with each check so that each horse owner can see how their foal's winnings were distributed.

Solution:

The following operational improvements would help considerably in streamlining the process of allocating monies from the Breeders Fund.

The fee (\$10) to get into the fund is too low and a higher amount (such as \$25) should be considered to offset the cost of maintaining the fund. This recommendation will only be effective if Senate Bill 2344, introduced in the 2005 Legislative Session, becomes law and allows the Racing Commission the ability to use license fees collected for operating purposes.

The Racing Commission should consider either outsourcing Breeders Fund distribution duties or develop/purchase a software program to streamline the process. Although the amount of dollars disbursed in 2004 decreased and may continue to

decrease, the amount of time incurred to manage the fund has not decreased, as it is based on the number of horses registered.

The race winner worksheets are prepared because the breeders fund application forms do not include a place to indicate the foal's mare/sire and respective owners. The worksheet prepared by hand is subsequently typed up on the computer. These three forms, with virtually contain the same information, should be combined into one form. The breeders fund application form could be modified to include the necessary data from the race winner worksheets. These forms could then be verified against the race results, forwarded on to the auditor, and a copy returned to the horse owners with their calculated allocation. The only change needed would be to get the social security number, which could be added to the registration form for submitting a horse into the Breeders Fund.

To conclude, rather than having each horse owner with a separate table set up in a Word® document for foals, mares, and sires, there should be one database that holds all necessary and relevant information. This database could be set up in Access® or in a spreadsheet format such as in Excel®. This would facilitate verifying whether a horse is already registered in the Breeders Fund, or who the mare/sire of a particular foal is and would also save time from looking up several Word® documents or going through file cabinets. The Racing Commission currently has approximately \$20,000 available in the Breeders Fund Administrative fund, which could be used to purchase or develop a software program.

North Dakota Racing Commission Response:

In response to the streamlining of the breeder's fund, we are looking at several alternatives. We have been in contact with surrounding states, but are having a difficult time finding a program that we can use. This search is ongoing, but if we find none, we will develop our own.

Beginning with the 2005 colt crop, we will enter them into a database. By doing this for the next several years, by year six, we will have all eligible runners on a database that will allow us simpler access to all needed material. We are currently discussing the number of fields that would be necessary. Ms. Tesson has worked extensively with the development of such a database when she was employed by FEMA and is confident this can be done.

- c. An investigator appointed by the commission shall have access to the premises on which qualified mares, North Dakota-registered stallions, and North Dakota-bred foals or horses are kept. The investigator may perform random inspections of North Dakota-registered foals as required by the commission.
- d. The original breed registration certificate must be embossed by the commission or official registering agency prior to the entry into any restricted race.
- e. Failure to have the breed registration certificate embossed shall disqualify a horse from entry in a race restricted to, or with preference given to, accredited North Dakota-bred horses, and shall prohibit an award or payment from the North Dakota breeders' fund.
- f. The owner of the dam of a foal submitted to the registering agent or the North Dakota racing commission for registration in the North Dakota breeders' fund program must notify the North Dakota racing commission ten days prior to shipping if the dam is to be leaving the state prior to ninety days after foaling.
- g. The foal of a mare registered in the North Dakota breeders' fund program, but owned by an out-of-state individual or corporation, will be required to be inspected by a state-licensed veterinarian at the expense of the owner.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-03. Administration of North Dakota breeders' fund program.

1. The North Dakota racing commission shall deduct one-half of one percent from each parimutuel pool resulting from a licensed race meet or simulcast display for the purpose of providing a North Dakota breeders' fund as provided for by North Dakota Century Code section 53-06.2-11. All moneys held in the fund must be deposited with the North Dakota state treasurer in accordance with North Dakota law. All moneys shall remain in the control of the state treasurer until, upon action of the North Dakota racing commission, funds are transferred to the account of the fund administrator. The director of racing of the racing commission is responsible for the timely deposit of all revenue derived from the breeders' fund take-out and shall keep accurate records of deposits and disbursements.

2. The management procedures, rules, fee schedules, registration forms, publications, and all other instruments necessary to the operation of the North Dakota breeders' fund program by the ~~official registering agency~~ are subject to the review and approval of the commission. The commission must be provided copies of the completed registration forms for all horses entered in the North Dakota breeders' fund program, or the North Dakota stallion or broodmare registry. The official registering agency shall provide the commission with a financial accounting of the North Dakota breeders' fund program by an independent accountant within ninety days of the end of the calendar year. Costs of administering this program will be funded by a deduction of no more than five percent of the yearly accumulated North Dakota breeders' fund.

3. The racing industry advisory committee shall be the officially recognized advisory body to the North Dakota racing commission on all matters pertaining to the North Dakota breeders' fund program. The actions of the racing industry advisory committee shall be advisory only and shall not be binding upon the North Dakota racing commission. Establishment and membership of the racing industry advisory committee as to number and representative affiliation shall be at the discretion of the North Dakota racing commission.

4. Any person who desires to contest the accuracy of the commission's records or accounting of the North Dakota breeders' fund distribution in any one year shall file a written claim with the commission prior to the end of the calendar year. The written claim must state the basis for the claim.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-04. Registration required for North Dakota-bred eligibility.
Repealed effective March 1, 2002.

69.5-01-09-05. Decision as to eligibility of North Dakota-bred. Questions as to the registration, eligibility for registration, or breeding of a North Dakota-bred horse must be decided by the North Dakota racing commission or official registering agency. The North Dakota racing commission or the official registering agency may demand and inspect any breed registration certificate or record of a North Dakota breeder and may require affidavits in support of any claim for North Dakota-bred registration. Concerning questions as to parentage, the official registering agency may require testing of the horse in question, as well as its sire and dam. Such testing must be done by an organization approved by the official registering agency. The results of this test may be taken into consideration by the official registering agency in its determination of the horse's parentage. A decision of the official

payee within the additional sixty days, any such award shall revert back to the commission to be held in the breeders' fund for future distribution. Any subsequent claims for such awards by the person or entities not cashing award checks as prescribed or not located as defined by this section shall not be allowed.

~~6.~~ 7. In no event may North Dakota breeders' fund moneys be used to subsidize restricted races, other than those restricted to North Dakota-breds.

~~7.~~ 8. All broodmare and stallion awards must be calculated at the end of the year for distribution.

~~8.~~ 9. All owner's awards may be distributed with purse distribution. ~~or, until such time as sufficient criteria is established, may be calculated at yearend for distribution.~~

~~10. No breeders' fund moneys will be payable to the owner or owners of the sire or dam unless the owner or owners of the runner makes application for and receives an award.~~

History: Effective January 1, 1990; amended effective March 1, 2002.
General Authority: NDCC 53-06.2-04, 53-06.2-05 **Law Implemented:** NDCC 53-06.2-11

69.5-01-09-11. Open company wins awards. Accredited North Dakota-bred horses that win open races at a North Dakota ~~parimutuel~~ pari-mutuel track will be eligible to receive owner, breeder, and stallion awards authorized by the commission.

History: Effective January 1, 1990; amended effective March 1, 2002.
General Authority: NDCC 53-06.2-04, 53-06.2-05
Law Implemented: NDCC 53-06.2-11

69.5-01-09-12. Special interim clause. Until such time as there exists a major racing facility in the state as described in section 69.5-01-09-13, the provisions of this chapter regarding the division of available breeders' fund moneys between races inside the state and races outside the state shall pertain. When such a racing facility exists, or is granted race dates or is licensed by the North Dakota racing commission prior to actual physical completion, the North Dakota racing commission may redefine the allocation of breeders' fund moneys for in-state races and out-of-state races. Regardless of the designation of a major racing facility, all moneys generated via simulcasting may be held by the commission and the percentage of distribution for any one year out of the total in the fund shall remain at the discretion of the commission.

History: Effective January 1, 1990; amended effective March 1, 2002.
General Authority: NDCC 53-06.2-04, 53-06.2-05 **Law Implemented:** NDCC 53-06.2-11

Testimony
House Bill No. 1324 – relating to the breed registry of the
North Dakota racing commission
Judiciary Committee
Representative DeKrey, Chairman
January 29, 2007

Chairman DeKrey, members of the Judiciary Committee, I am Senator Richard Marcellais, from District 9, of Belcourt I am here today to provide you with testimony on the breed registry of the North Dakota racing commission.

The North Dakota breeders fund purse falls under the North Dakota Racing Commission as part of Title 53 Sports & Amusements, Chapter 53-06.2 Pari-mutuel Horse Racing and Chapter 69.5-01-09 North Dakota Breeders Fund.

These two chapters regulate the horse racing in North Dakota and we want to make sure that only North Dakota breed horses qualify for this funding.

Therefore I am here today to support House Bill 1324 in accordance with the two (2) chapters mention above.

Thank you Mr. Dekrey & Judiciary Committee members.

House Bill No. 1324

House Judiciary Committee

January 29 2007 8:00 A.M.

Testimony of Randy Blaseg, Director of Racing, ND Racing Commission

Chairman DeKrey and members of the House Judiciary Committee.

I am opposed to HB1324. By definition in the statute, the Racing Commission is responsible for the administration of the Breeders Fund and is responsible to create rules and regulations. The regulations at this time under 69.5-01-09-02 allows the commission to contract with and designate an official registering agency if they so desire.

It has been determined that it is in the best interest of racing to receive all documentation for certification of ND bred horses at the commission office. The proposed bill would require duplication of existing records if you were to receive foal certification at an independent entity. The racing commission office would need to provide all of the broodmare information in order to verify if a foal was eligible to be certified or not. Then the commission office would need that same information for their documentation involving payments of breeders' awards. In other words if we are going to do part we just as well do all of it. The state's Information Technology Department has developed a software proposal for the commission's review to process the 4,000 plus records for the Breeders Fund.

In line 23 it makes reference to money being transferred among the funds. Money is granted from the funds for various purposes for which it is intended to be used. Line 1 page 2 of the HB 1324, this is dealt with on page 9 part 8 of the draft of the proposed rule changes. It is obvious the commission has already dealt with this issue. In line 1 page 2 of HB 1324, it includes both owners and breeders. The payments to the

breeders requires time to determine if the stallion is included in the fund and who the owner of said horse of record is. It must also be determined correct ownership of the broodmare at time of foaling prior to making these awards. That involves time and who the owners of said horse of record is. That involves time and the deadline referred to in this bill is too restrictive. Payment to the owners of the runners can be done promptly. Line 3 page 2 of HB 1324, is dealt with in the draft of the proposed rules. In the proposed rule changes page 9 part 10 has been deleted and this eliminates the problem.

I request a do not pass recommendation from the Committee.

2004 HORSE RACE NORTH DAKOTA CERTIFIED BRED RACES & PURSES

DATE	RACE	PURSE	TYPE
6-AUG	1	\$2500	QH
7-AUG	5	\$2,800	QH
8-AUG	1	\$2,800	QH
	5	\$19,000	TB
	7	\$3,000	QH
13-AUG	2	\$2,900	TB
	3	\$1,000	QH
	4	\$1,000	QH
14-AUG	1	\$2,600	QH
15-AUG	1	\$2,600	QH
20-AUG	1	\$2,600	QH
21-AUG	3	\$2,600	QH
	6	\$4,000	TB
22-AUG	3	\$3,000	QH
27 AUG	1	\$1,000	QH
	2	\$1,000	QH
	3	\$1,000	QH
28-AUG	1	\$2,600	QH
29-AUG	8	\$19,000	QH
4-SEPT	5	\$2,800	QH
5-SEPT	1	\$2,500	QH
	8	\$19,000	TB
6-SEPT	6	\$3,500	QH
	8	\$19,000	QH
	10	\$7,500	QH
	11	\$4,500	TB

AMOUNT ALLOCATED FROM THE BREED FUND \$132,500

AMOUNT DISPERSED FOR NORTH DAKOTA BRED RACES \$135,800

2005 HORSE RACE NORTH DAKOTA CERTIFIED BRED RACES AND PURSES

DATE	RACE	PURSE	TYPE
5-AUG	2	\$2,500	QH
6-AUG	1	\$2,500	QH
	6	\$2,800	QH
7-AUG	7	\$19,000	TB
12-AUG	1	\$1,000	QH
	2	\$1,000	QH
13-AUG	2	\$3,000	TB
	3	\$2,500	QH
19-AUG	4	\$2,500	QH
20-AUG	1	\$2,500	TB
	3	\$2,800	QH
21-AUG	3	\$2,500	QH
	9	\$2,500	TB
26-AUG	1	\$1,000	QH
	2	\$1,000	QH
	3	\$1,000	QH
27-AUG	2	\$2,500	TB
	8	\$7,500	TB
28-AUG	1	\$2,500	QH
	7	\$19,000	QH
4-SEPT	8	\$19,000	TB
5-SEPT.	1	\$2,500	QH
	6	\$19,000	QH
	10	\$7,500	QH

AMOUNT ALLOCATED FROM BREED FUND \$129,250.00

AMOUNTED DISPERSED FOR NORTH DAKOTA BRED RACES \$129,600.00

2006 HORSE RACE NORTH DAKOTA CERTIFIED BRED RACES AND PURSES

DATE	RACE	PURSE	TYPE
29-JULY	2	\$2,300	QH
	4	\$2,100	QH
	6	\$2,300	TB
30-JULY	2	\$2,500	TB
	6	\$19,000	TB
4-AUG	4	\$2,100	QH
	7	\$2,300	TB
5-AUG	5	\$2,100	QH
6-AUG	1	\$2,500	QH
11-AUG	1	\$2,100	QH
	3	\$2,000	QH
	4	\$2,000	QH
	6	\$2,300	QH
12-AUG	3	\$2,300	TB
13-AUG	1	\$2,300	TB
18-AUG	1	\$2,500	QH
	4	\$2,300	QH
19-AUG	1	\$2,100	QH
20-AUG	3	\$2,300	QH
25-AUG	3,4,5	\$1,000EA.	QH
26-AUG	1	\$2,300	QH
	8	\$10,000	TB
27-AUG	6	\$19,000	QH
1-SEPT	1	\$2,300	QH
2-SEPT	2	\$2,300	TB
	6	\$19,000	TB
3-SEPT	1	\$2,500	QH
	2	\$2,500	TB
4-SEPT	1	\$2,600	QH*
	7	\$10,000	QH
	8	\$19,000	QH

AMOUNT ALLOCATED FROM THE BREED FUND \$150,000

AMOUNT DISPERSED FOR NORTH DAKOTA BRED RACES 153,700

AH #2

2-26

Testimony
House Bill No. 1324 – relating to the breed registry of the
North Dakota racing commission
Judiciary Committee
Senator Nething, Chairman
February 26, 2007

Chairman Nething, members of the Judiciary Team, I am Senator Richard Marcellais, from District 9, of Belcourt I am here today to provide you with testimony on the breed registry of the North Dakota racing commission.

The North Dakota breeders fund purse falls under the North Dakota Racing Commission as part of Title 53 Sports & Amusements, Chapter 53-06.2 Pari-mutuel Horse Racing and Chapter 69.5-01-09 North Dakota Breeders Fund.

We want to make sure that only North Dakota breed horses qualify for this funding.

Therefore I am here today to support House Bill 1324.

Thank you Chairman Nething & Judiciary Team members.

Att #3
2-26-07

**Testimony of Leon Glasser
President NDQHRA
2/26/2007**

Good Morning Chairman Nething and members of the Senate Judiciary Committee. My name is Leon Glasser and I'm the President of the North Dakota Quarter Horse Racing Association. I have been involved in racing horses all of my life and was a part of putting together the original legislation that allowed horse racing in North Dakota back in the 89 legislative session.

The Quarter Horse Racing Association is in favor of HB 1324. This bill would protect the breeder's fund from being used for anything other than what it was intended for and that is a horse breeder's fund and not a purse fund or owners fund supplement. Some opponents of this bill will use play on words and say this is the fastest way to get the money back into the horsemen's hands. But, this money does not go back into the North Dakota breeder's hands as was originally intended.

When Breeders Fund money is used as purse supplementation some of the following problems occur.

- 1. The trainer who most likely is not a North Dakota resident receives 10 % of the winners share.**
- 2. The jockey who most likely is not a North Dakota resident receives 10 % of the winners share.**

3. And, if the owner of the racehorse is not a North Dakota resident, he will receive the winner's share of several thousand dollars that has come directly out of the North Dakota Breeder's Fund.

Now not one cent of that breeder's fund money that was used to supplement that purse went to the North Dakota Breeder who slept in the barn when that horse was born. The only thing that the North Dakota Breeder will receive is money that will come out of the breeder's fund a second time at the end of the year when the breed fund awards are given out. Currently if the winner of that race does not apply for breeder's fund awards the breeder will get nothing. This bill will also fix that problem as the horse is already in the fund and the breeder and (or) owner should not have to apply for his award.

The whole system is broken when it is used in this fashion. This is the reason we have 3 separate funds: The promotion fund for promoting horse racing; the purse fund used for purses at the horse races; and the Breeders fund with the intent of paying breeders of NORTH DAKOTA BRED HORSES not racing owners who may not even be a North Dakota resident. If this is allowed to continue the breeder's fund will be broke and breeders in North Dakota will be out of business.

One final portion of this bill allows the breeders fund to be contracted out to the most reasonable responsible bidder and for the funds to be paid out by December 31st. This is a great idea that is long over due. There is currently an auditor who is

under contract with the racing commission who will be able to maintain the credibility of the fund. As you know this type of arrangement is not unique as it is now done with the North Dakota Stockman's Association who handle all of the brand inspections and the fees that go along with them here in North Dakota.

Thank-you Mr. Chairman and I will answer any questions you may have.

AH # 4
2-26-07

House Bill No. 1324

Senate Judiciary Committee and Chairman Dave Nething

February 26 2007 10:30 A.M.

Testimony of Randy Blaseg, Director of Racing, ND Racing Commission

Chairman Nething and members of the Senate Judiciary Committee.

I am opposed to HB1324. By definition in the statute, the Racing Commission is responsible for the administration of the Breeders Fund and is responsible to create rules and regulations. The regulations at this time under 69.5-01-09-02 already allows the commission to contract with and designate an official registering agency if they so desire.

It has been determined that it is in the best interest of racing to receive all documentation for certification of ND bred horses at the commission office. The proposed bill would require duplication of existing records if you were to receive foal certification at an independent entity. The racing commission office would need to provide all of the broodmare information in order to verify if a foal was eligible to be certified or not. Then the commission office would need that same information for their documentation involving payments of breeders' awards.

In the June 30, 2004 state auditor's report, it states as follows: "The Racing Commission should consider either outsourcing the Breeders' Fund distribution duties or **develop/purchase a software program** to streamline the process."

Prior to this session at the Racing Commission's request, the state's Information Technology Department has developed a software proposal for the commission's review to process the nearly 4,000 registered horses for the Breeders Fund. Current staff has already entered into a database nearly 2,500 plus records in anticipation of this new software program.

We anticipate because of the complexity of this project which includes registration, proof of ownership, determination of eligibility and the list goes on that we will have a high turn over in vendors. Bear in mind the Commission is held accountable for the balance of 1.3 million dollars in the Breeders' Fund.

All of the important elements in this bill have already been addressed in the draft of the proposed rule changes. Our Legal Counsel had advised the Commission to wait until session ends before moving forward with the proposed rule changes. In other words the Commission was moving in the right direction without legislative action.

I request a do not pass recommendation from the Committee.