

**2013 HOUSE JUDICIARY**

**HB 1068**

# 2013 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee  
Prairie Room, State Capitol

HB 1068  
January 21, 2013  
Job # 174352

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to account wagering and payments to the funds administered by the North Dakota racing commission.

## Minutes:

Testimony #1

**Chairman Koppelman:** Opened the hearing on HB 1068.

**Winston Satran, Director ND Racing Commission:** (See testimony #1). :00:47 - 11:21

**Rep. Steiner:** What is the total budget for the racing commission?

**Winston Satran:** Our request was for \$489,000; ten Chairman Osborn and I met with the Governor and his staff and we informed them that we needed to look for a full time racing director so it is going to take more money than what I have been getting paid. The Governor asked for us to estimate what is going to be wagered over the next couple years and I contacted each of the companies and we see a significant increase in what going to be wagered so our total budget is \$563,967. \$166,000 of that comes from licensing fees. Those fees are paid for licensing account deposit wagering companies; total izader companies, charities and the horsemen when they go to the race track.

**Rep. Klemin:** On page 4 of the bill that change on line 7-13. As I understand what the law says there would be a maximum of \$400,000 per year per company, but that the commission can then increase that 5% each year or alter that amount of increase by enacting an emergency rule.

**Winston Satran:** What the law actually says is there would be \$400,000 with a 5% increase per year. From 2013 to 2014 it would \$400,000 then increases an increment of 5% so the next year would be \$420,000.

**Rep. Klemin:** The commission may alter the amount of the increase by rule. When you say alter the amount does that mean make it higher than 5% or make it lower than 5%?

**Winston Satran:** Both. I reviewed the state of Oregon and they can alter their percentage of increase or decrease any time without any rule change. So I met with the Tax

Department lawyer and we talked about that. There are really two states in the county that are managing the most account deposit wagering companies. Oregon by far and then North Dakota. Oregon is extremely competitive but they do \$1 billion 4 hundred millions worth of wagering through their racing commission. So we put that in there to be more competitive with Oregon.

**Rep. Klemin:** The rule could be given effect on an emergency basis without meeting certain requirements of the Administrative Agency Practice Act; is that the notice and hearing requirement?

**Winston Satran:** Yes. Mr. Bill Peterson is the Ass't Attorney General that advises us. I wanted to put it in there and he said no do it on an emergency basis and then goes through the administrative rule.

**Rep. Klemin:** Did the Attorney General's office say anything whether this would result in taxation without legislative action. The issue that comes up is called an unconstitutional delegation of legislative authority with respect to taxes in this case. We would be authorizing an emergency rule without notice or hearing to increase taxes.

**Winston Satran:** We did not discuss that.

**Rep. Karls:** You mentioned the word charities when you were listing the groups that pay money into your organization and when you were reading the description of these kiosk being located in bars and taverns. I wondered how this is accommodated when we are supposed to have charities. What is your relationship with charities in this?

**Winston Satran:** The only way in North Dakota that any kind of gambling can be conducted is through charities and that same rule applies to the racing commission so we license charities across the state. If there were going to be kiosk placed in liquor establishments that would have to be through a contract between the account deposit wagering company and a charity and the charity would have to be licensed by us. None of these machines could be placed without having a contract between the charity and the account deposit wagering company.

**Rep. Larson:** You gave us a number for what your budget would be. Do you have the numbers of how much goes into the general fund from this?

**Winston Satran:** I can give you an estimate. It would be about \$158,000 per year and I base that on a December phone call with the account deposit wagering company projections for next year. They actually projected about \$2.5 million in wagering.

**Rep. Larson:** If the amount that goes to the racing commission is increased would there be a fiscal note to the general fund with this or not?

**Winston Satran:** We have talked that over and all of these are estimates. We couldn't come up with a determination from Legislative Council so did not put a fiscal note on it.

**Rep. Kretschmar:** What was the reason for eliminating all those pages?

**Winston Satran:** Under the former bill the old taxation law was included in there so we are taking out the old taxation law that was kept in the old bill.

**Rep. Klemin:** What if the commission wanted to change the \$400,000 to \$600,000 which would be way more than 5% but this would give you that authority?

**Winston Satran:** The law says a 5% increase and I think we would have to abide by that 5% increase.

**Rep. Klemin:** It does say the commission could alter the percentage of the increase and there is nothing specifying how you could do that. I understood you to say that you could alter it by increasing or decreasing the amount of the increase.

**Winston Satran:** Yes there is that possibility.

**Rep. Klemin:** If you didn't do anything the first year it would be \$400,000 and the next year it would go up 5% to \$420,000. Maybe we should say \$400,000 for 2013 and \$420,000 for 2014 and after that we have another session you could come back and change it if you wanted to.

**Winston Satran:** That would be permissible.

**Rep. Brabandt:** There were two years of inactivity at the Fargo track and there were cost overruns. How old is the track?

**Winston Satran:** I think they started racing in 2005 in Fargo, but the cost overruns were in 2009.

**Rep. Brabandt:** The cost overruns did not come from the construction?

**Rep. Boehning:** What do you think you will be able to raise; looking at the fiscal note.

**Winston Satran:** There are 34 companies out there. After the bill was drafted and a news article put in the Fargo paper one of the major companies came and visited with the Chairman and myself and the Lt. Governor last February and they are looking at North Dakota and Oregon to start an account deposit wagering company and it would be a very significant amount of money. Oregon offers them a much better opportunity so this bill was really in response to bringing one of those major players into a license with North Dakota.

**Rep. Boehning:** What kind of estimate are you thinking about that you are hoping to raise?

**Winston Satran:** I think they would do \$300 million the first year.

**Rep. Boehning:** What would that translate into for the state in the racing commission?

**Winston Satran:** \$1.2 million.

**Chairman Koppelman:** The emergency rule making authority so the Governor would have to approve it on the front end, is that correct and then the way emergency rule making works normally as rules go into effect they need to go through the public hearing process and then come before the Administrative Rules Committee and they don't go into effect until after that. Emergency rules work differently, the Governor can approve them and they go into effect immediately and then they go through that process and they still are subject to the authority of the legislature as exercised through the Administrative Rules Committee, but it is typically reserved for something where quick action is necessary and we can still decide if it is within the law.

**Rep. Boehning:** On this \$1 Million; was that per year?

**Winston Satran:** That would be per year.

**Chairman Koppelman:** The question before us is whether to replace tax policy with simply delegating that authority to the commission. This is a policy question whether we should go this far or not.

**Winston Satran:** That ability to change tax rate is not the essential part of the bill. Horse racing is a competitive business and I Rep. Maragos: finding out the states are very competitive. When I saw that provision in the Oregon state law I knew they had the ability to change.

**Rep. Paur:** I don't understand the competition between us and Oregon.

**Winston Satran:** States are trying to get these companies to come in under their licensing so that we can get the tax revenue off that and that funds live racing in North Dakota and the same in Oregon. It has come down to Oregon since they were the powerhouse in wagering license and now we are starting to come along and we are being competitive to offer companies basically the same thing Oregon has and it is competitive. We don't do that so there is competition.

Opposition: None

Neutral: None

Hearing closed.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1068  
January 23, 2013  
Job 17624

Conference Committee

*Kristie Hetzler*

## Explanation or reason for introduction of bill/resolution:

Account wagering and payments to the funds administered by the North Dakota Racing Commission.

## Minutes:

Chairman: Opens.

Warren Dekray: Opposes HB 1068. 3 major concerns. First one is the rule making process, as I read it, it appears that they the rule making process has been relaxed considerable and to me this is not a proper thing to happen these days when right now legislature is looking at more oversight, would be too flexibly and like gambling. It is not necessary for us to bring outside gambling into ND. We have had an experience with that some years ago with people out of NY that ended up with court cases. It relaxes the rule making, it's an expansion of gambling, and it is unnecessary for ND which is doing well financially.

Chairman: Closes.

## **Judiciary Sub-Committee on HB 1068 Jan 28<sup>th</sup> Minutes**

**-Rep. Klemin gave public notice of meeting after House Assembly's adjournment.**

**-Meeting called to order by Rep. Klemin at 3:05 PM, January 28, 2013.**

**-Present: Rep. Klemin, Paur, Hanson.**

**-Discussion was had on Page 4, line c. It was determined by the sub-committee to recommend to the committee the deletion of lines 8-13 on Page 4 and to replace the deleted language with the amendment stating subsequent years to have a \$420,000 appropriation. Language to be drafted by legislative council and present to full committee.**

**-Rep. Hanson made a motion to adopt this deletion and amendment. Seconded by Rep. Paur. Vote was 3-0-0 to present this to the committee when Chairman Koppelman sees fit.**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1068  
January 30, 2013  
Job 17968

Conference Committee

*Kristi Hetmyer*

## Explanation or reason for introduction of bill/resolution:

Account wagering and payments to the funds administered by the North Dakota Racing Commission.

## Minutes:

*Testimony 1*

**Chairman Koppelman:** Opens. Rep Klemin please explains the amendments.

**Rep Klemin:** We had appointed a subcommittee to meet on Jan 28 on the floor. Rep Hanson took the minutes. The proposed amendment relates to section 2 on pg 4, lines 8-13. Originally the bill stated the licensee would pay no more than \$400,000 for fiscal year July 1, 2013. After that the racing commission would have authority by emergency rule without notice and hearing to increase the amount of the maximum. The sub-committee determined that was not the best the policy and might even be unconstitutional delegation of legislative authority to give an agency the ability to raise and lower taxes. The amendment Subsection C line 7 and 8 would stay same for the first year and then for each subsequent year the limit on ....The amendment has the wrong language on it. Oh, sorry, it's replacing that language. Replace that with for the fiscal year commencing July 1, 2014 and thereafter, the licensee should pay no more than \$420,000. That was the %5 increase that they would be looking at for the second year of this and then after that legislation will be back if they want to change it again. If they do not want to revisit the "thereafter" takes care of leaving at \$420,000. That is a 5% difference. It was talked about deleting all that language 5-7 and 8 but the subcommittee decided we were not going to do anything with that because of how certain funds are allocated.

**Chairman Koppelman:** You are keeping July and just adding July 1, correct?

**Rep Klemin:** And putting the comma in after the word thereafter.

**Rep Klemin:** Motions

**Rep Delmore:** Second.

**Chairman Koppelman:** One question, how would this work with regard to the language being deleted in the bill from current statute that would just be left up to the racing commission to prescribe by rule?

**Rep Klemin:** The language that's being deleted in the bill was only going to be effective after June 30, 2013.

**Chairman Koppelman:** I see. Vote.

**Yah:** 10

**Nay:** 4

**Absent:** 0

**Rep Klemin:** Moves a Do Pass as amended.

**Rep Maragos:** Second.

**Chairman Koppelman:** Asks Rep Hanson to get an electronic copy of it to the clerk.

**Yes:** 10

**No:** 4

**Absent:** 0

**Carried by:** Klemin

**Discussion:** Speakers were unknown, it was discussed whether this was an expansion of North Dakota gaming/gambling.

**Chairman Koppelman:** Reminds the committee that concerns should be prior to the vote, there are some new people on board, and I don't have a problem discussing it now. I understood this is simply sort of maintenance of the process, the part that I thought was an expansion would have taking the authority of the legislature has to govern horse racing, out of the hands of the legislature and putting in the hands of the racing commission to do by emergency rule. The amendments maintain it.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/20/2012**

Bill/Resolution No.: HB 1068

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

This bill is a continuation of the current tax bill with the additional simulcast wagering to be taxed at the same level as the account deposit wagering. If the ADW companies pays in excess of \$400,000 in taxes in fiscal year 2013 they will no longer be accessed the three racing taxes.

- 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.*

- None

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.*

Unknown at this time. It is contingent on the amount of wagering done by each account deposit wagering and simulcast company.

- 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.*

- None

- 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.*

- No affect on the appropriations.



**Name:** Helen Tessmann

**Agency:** ND Racing Commission

**Telephone:** 328-4633

**Date Prepared:** 12/28/2012



January 30, 2013

1/30/13  
TN

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1068

Page 4, line 7, replace "shall" with "may not"

Page 4, line 7, remove "no"

Page 4, line 8, remove "For each subsequent fiscal year, the limit on total"

Page 4, replace lines 9 through 13 with "For the fiscal year commencing July 1, 2014, and thereafter, the licensee may not pay more than four hundred twenty thousand dollars."

Re-number accordingly

Date: 1-30-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1068

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep Klemm Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemm			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Voice vote - Carried*

Date: 1-30-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1068

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Klemin Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning	/		Rep. Kathy Hogan		/
Rep. Roger Brabandt	/				
Rep. Karen Karls		/			
Rep. William Kretschmar	/				
Rep. Diane Larson		/			
Rep. Andrew Maragos	/				
Rep. Gary Paur		/			
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Klemin

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

**REPORT OF STANDING COMMITTEE**

**HB 1068:** Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1068 was placed on the Sixth order on the calendar.

Page 4, line 7, replace "shall" with "may not"

Page 4, line 7, remove "no"

Page 4, line 8, remove "For each subsequent fiscal year, the limit on total"

Page 4, replace lines 9 through 13 with "For the fiscal year commencing July 1, 2014, and thereafter, the licensee may not pay more than four hundred twenty thousand dollars."

Renumber accordingly

**2013 SENATE JUDICIARY**

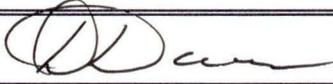
**HB 1068**

# 2013 SENATE STANDING COMMITTEE MINUTES

**Senate Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB1068  
3/6/2013  
Job #19487

Conference Committee

Committee Clerk Signature 

**Minutes:**

*See written testimony*

## **Relating to account wagering and payments to the funds administered by ND Racing Commission**

### **Senator David Hogue - Chairman**

Winston Satran - Director of State Racing Commission - See written testimony (1)

Senator Sitte - Asks if horse racing can make it on its own and clarifies that out of every million wagered ND gets \$2500. She also asks how many companies are licensed in ND for wagering to which Mr. Satran replies that there are nine.

Mr. Satran - Describes the kiosks that are going up through-out the U.S. This would be another means to support horse racing in N.D. He explains the process of wagering through a kiosk. He relates a story about people coming from all over the world to be licensed in ND.

Representative Maragos - States that he is in favor of 1068. He is a member of the Racing Commission and commends Mr. Satran and Dr. Ozbun for doing an outstanding job in turning the Horse Racing Commission around. He said they have restored the credibility and the Commission to its normal function of supporting the horse production industry and the horse racing industry in ND. He asks for support of the bill.

Opposition - none  
Neutral - none

Close 1068

# 2013 SENATE STANDING COMMITTEE MINUTES

**Senate Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB1068  
3/11/2013  
Job #19714

Conference Committee

Committee Clerk Signature	
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**Minutes:**

Vote
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## **Senator David Hogue - Chairman**

Committee work

Senator Hogue explains that this bill lowers the rate of taxation to encourage people to do business here. He goes on to say they do not project a fiscal impact because they don't know if any company will meet the cap.

Senator Armstrong moves a do pass  
Senator Sitte seconded

Discussion

Senator Sitte asks if all the money from the kiosks will always go to the Racing Commission. Senator Lyson remarks that he does not vote for any gaming bills. Senator Grabinger states that we have given the Racing Commission this responsibility and asking them to make it work. He feels we need to grant it and hopefully they will have success. Senator Hogue agrees and says we need to provide some encouragement.

Vote - 5 yes, 2 no

Motion passes

Senator Armstrong will carry

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/31/2013**

Amendment to: HB 1068

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

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Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

The amendment does not have any affect on this fiscal note. The licensee may not pay more than four hundred twenty thousand dollars for the fiscal year commencing July 1, 2014 and thereafter.

- 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.*

- None

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.*

Unknown at this time. It is contingent on the amount of wagering done by each account deposit wagering and simulcast company.

- 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.*

- None

- 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.*

- No affect on the appropriations.

**Name:** Helen Tessmann  
**Agency:** ND Racing Commission  
**Telephone:** 328-4633  
**Date Prepared:** 02/01/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/20/2012**

Bill/Resolution No.: HB 1068

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
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Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

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

This bill is a continuation of the current tax bill with the additional simulcast wagering to be taxed at the same level as the account deposit wagering. If the ADW companies pays in excess of \$400,000 in taxes in fiscal year 2013 they will no longer be accessed the three racing taxes.

- 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.*

- None

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.*

Unknown at this time. It is contingent on the amount of wagering done by each account deposit wagering and simulcast company.

- 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.*

- None

- 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.*

- No affect on the appropriations.

**Name:** Helen Tessmann

**Agency:** ND Racing Commission

**Telephone:** 328-4633

**Date Prepared:** 12/28/2012

Date: 3/11/13  
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1068**

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By S. Armstrong Seconded By S. Sitte

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	X		Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte		X	Senator John Grabinger	X	
Senator Stanley Lyson		X			
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 5 No 2

Absent \_\_\_\_\_

Floor Assignment S. Armstrong

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

**REPORT OF STANDING COMMITTEE**

**HB 1068, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1068 was placed on the Fourteenth order on the calendar.**

**2013 TESTIMONY**

**HB 1068**

1

**House Bill 1068**  
ND Racing Commission – Budget No. 670  
Winston E. Satran, Director  
January 21, 2013

63<sup>rd</sup> Legislative Assembly  
House of Representatives  
Judiciary Committee  
Representative Kim Koppelman, Chairman

In 2009 the Racing Commission requested a reduction in taxes assessed to account deposit wagering companies. The purpose of this request was to stimulate more account deposit wagering activity under the ND Racing Commission license. The tax was reduced to one quarter of one percent with one-sixteenth to the General Fund, one-sixteenth to the Purse Fund, one-sixteenth to the Breeder's Fund, and one-sixteenth to the Promotion Fund. At that time there were only two account deposit wagering companies licensed by the Racing Commission and one of those companies was preparing to leave North Dakota and obtain a license in Oregon.

There were questions in the 2009 session as to whether the pari-mutuel law should be renewed. The pari-mutuel tax bill was brought before a conference committee to determine the future of the Racing Commission and horse racing taxation. Then Racing Commission Chairman Patrick Weir and I attended the conference committee meeting. At the conclusion of the meeting, conference

committee member Senator Grindberg approached Chairman Weir and me and stated, “you gentlemen have four years to make this work.” This bill is not only a request for continued authorization with some additions but this testimony is also an account of what has transpired in the past four years and a description of potential enhancements in the future.

Below is the growth of handle since 2009:

2009	\$56 million
2010	\$71 million
2011	\$113 million
2012	\$158 million

This bill is intended to maintain continued growth and also strengthen the operational funding for the Racing Commission. Contained in the language of this bill is a change on the taxation rate on simulcast wagering. Simulcast wagering has been taxed at the same rate as live racing which is one-half of one percent to the State Treasurer to be deposited in the general fund, one-half of one percent to be deposited each in the purse, promotion, and breeder’s funds.

Continued innovation in wagering technology has advanced simulcast wagering from a labor intensive endeavor to one that is becoming increasingly

automated. Simulcast wagering can now be conducted through stand-alone kiosks similar to ATM machines. This form of wagering is permitted under existing North Dakota law and the kiosks have been placed in taverns and night clubs under present regulations. It is anticipated that this form of wagering will become more prevalent in the future. Racing industry leaders see this as an important avenue of support for the sport of horse racing in the forthcoming years. This change in the tax assessment enables the Racing Commission to be prepared to license companies who will take advantage of these innovations to provide revenue for the future of horse racing in North Dakota. This change in the law would assess simulcast wagering as follows:

One-sixteenth of one percent to the state treasure to be deposited in the general fund.

One-sixteenth of one percent to the commission to be deposited in the breeders' fund.

One-sixteenth of one percent to the commission to be deposited in the purse fund.

One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.

Under section 53-05.2-11, subsection 2 subsection c, additional language has been inserted which would limit the amount of taxation per company to \$400,000 per year. Each year the tax threshold would be increased by five percent unless the commission alters the amount of increase before the commencement of a fiscal year by rule. The rule may be given effect on an emergency basis without meeting requirements of subsection 2 of section 28-32-03 which would require the commission to go through the rule-making process if it was determined that the emergency rule needed to be applied. This rule change would not affect any of the currently licensed companies, due to the fact that their taxation payments are well below the threshold, but is being implemented to attract horse racing's major corporations to conduct account deposit wagering through a North Dakota Racing Commission license.

Under section 53-06.2-11 subsection 3, the Racing Commission is requesting a change in the law in which the amount received from the payment of breakage be deposited in the racing promotion fund only. Prior to 2009, all breakage payments were placed in the racing promotion fund which is used to

support the operation of the race tracks during the actual race meet. In the revised legislation in 2009, the breakage payments were changed to pay the funds on the following percentages:

Purse Fund            50 percent

Breeder's Fund       30 percent

Promotion Fund      20 percent

This formula of breakage payments limited the ability of the Racing Commission to fund live horse racing in North Dakota. Live horse racing in North Dakota experienced two years of inactivity at the Fargo race track due to cost overruns and limited resources available to the Racing Commission. This change in law will restore funding and provide for additional horse racing activity and horse production within our state.

This concludes my testimony on House Bill 1068.



## House Bill 1068

ND Racing Commission – Budget No. 670

Winston E. Satran, Director

March 6, 2013

63<sup>rd</sup> Legislative Assembly  
Senate Judiciary Committee  
Senator David Hogue, Chair

In 2009 the Racing Commission requested a reduction in taxes assessed to account deposit wagering companies. The purpose of this request was to stimulate more account deposit wagering activity under the ND Racing Commission license. The tax was reduced to one quarter of one percent with one-sixteenth to each fund: General, Purse, Breeder's, and Promotion. At that time there were only two account deposit wagering companies licensed by the Racing Commission and one of those companies was preparing to leave North Dakota and obtain a license in Oregon.

There were questions in the 2009 session as to whether the pari-mutuel law should be renewed. The pari-mutuel tax bill was brought before a conference committee to determine the future of the Racing Commission and horse racing taxation. Then Racing Commission Chairman Patrick Weir and I attended the conference committee meeting. At the conclusion of the meeting, conference committee member Senator Grindberg approached Chairman Weir and me and

stated, "you gentlemen have four years to make this work." This bill is not only a request for continued authorization with some additions, but this testimony is also an account of what has transpired in the past four years and a description of potential enhancements in the future.

Below is the growth of handle since 2009:

2009	\$56 million
2010	\$71 million
2011	\$113 million
2012	\$158 million

This bill is intended to maintain continued growth and also strengthen the operational funding for the Racing Commission. Contained in the language of this bill is a change in the taxation rate on simulcast wagering. Simulcast wagering has been taxed at the same rate as live racing which is one-half of one percent to the State Treasurer to be deposited in the General Fund, one-half of one percent to be deposited each in the Purse, Promotion, and Breeder's Funds.

Continued innovation in wagering technology has advanced simulcast wagering from a labor intensive endeavor to one that is becoming increasingly automated. Simulcast wagering can now be conducted through stand-alone

kiosks similar to ATM machines. This form of wagering is permitted under existing North Dakota law and the kiosks have been placed in taverns and night clubs under present regulations. It is anticipated that this form of wagering will become more prevalent in the future. Racing industry leaders see this as an important avenue of support for the sport of horse racing in the forthcoming years. This change in the tax assessment enables the Racing Commission to be prepared to license companies who will take advantage of these innovations to provide revenue for the future of horse racing in North Dakota. This change in the law would assess simulcast wagering as follows:

One-sixteenth of one percent to the state treasure to be deposited in the general fund.

One-sixteenth of one percent to the commission to be deposited in the breeders' fund.

One-sixteenth of one percent to the commission to be deposited in the purse fund.

One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.

Under section 53-05.2-11, subsection 2 subdivision c, additional language has been inserted which would limit the amount of taxation per company to \$400,000 per year. The tax threshold would be increased by five percent for the 2014-2015 fiscal year. This rule change would not affect any of the currently licensed companies, due to the fact that their taxation payments are well below the threshold. This rule change is being implemented to attract horse racing's major corporations to conduct account deposit wagering through a North Dakota Racing Commission license.

Under section 53-06.2-11 subsection 3, the Racing Commission is requesting a change in the law in which the amount received from the payment of breakage be deposited in the racing promotion fund only. Prior to 2009, all breakage payments were placed in the racing promotion fund, which is used to support the operation of the race tracks during the actual race meet. In the revised legislation in 2009, the breakage payments were changed to pay the funds

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This concludes my testimony on House Bill 1068.