# CHAPTER 69.5-01-11
# SIMULCASTING AND ACCOUNT DEPOSIT WAGERING


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**69.5-01-11-01. Definitions.**

For the purposes of this chapter, unless the context otherwise requires:

1. "Account wagering" or "account deposit wagering" means a form of pari-mutuel wagering in which an individual deposits money in an account and uses the account balance to pay for pari-mutuel wagers. It includes advance deposit wagering.

2. "Authorized pari-mutuel wagering entity" means a licensed racetrack, service provider, or site operator.

3. "Combined pari-mutuel pool" means the pari-mutuel wagers received at sites being contributed into one or more pari-mutuel pools as required by the commission.

4. "Eligible organization" means an organization eligible to conduct pari-mutuel wagering pursuant to North Dakota Century Code section 53-06.2-06.

5. "Independent real-time monitoring system" means a system operated and approved by the commission for the purpose of immediate and continuous analysis of wagering and other pari-mutuel systems data in order to detect suspect wagering transactions or other activity indicating a possible problem relating to the integrity of the pari-mutuel system and which transmits transactional level data to a wagering security data base.

6. "Pari-mutuel manager" means the person responsible for managing the pari-mutuel wagering system, including managing all teller and wagering operations, monitoring tote operations, opening and closing tote, communicating with tote hub, issuing wagering system reports, and maintaining wagering system records.

7. "Sending track" means any track from which signals originate.

8. "Simulcast employee or agent" means any person employed by a simulcast service provider or simulcast site operator, but does not include custodial or maintenance personnel not directly involved in wagering and others exempted by the commission.

9. "Service provider" means a person engaged in providing simulcasting or account wagering services directly to a site operator and establishing, operating, and maintaining the combined pari-mutuel pool, but does not include persons authorized by the federal communications commission to provide telephone service or space segment time on satellite transponders. Sending tracks are also excluded from this definition.

10. "Simulcast services" means services provided to a simulcast site operator including the simulcast signal from a sending track and the operation of the combined North Dakota pari-mutuel pool.

11. "Site" means the physical premises, structure, and equipment utilized by a site operator for the conduct of pari-mutuel wagering on horse racing events being run elsewhere.

12. "Site operator" means an eligible organization licensed by the commission to offer, sell, cash, redeem, or exchange pari-mutuel tickets on races being simulcast from a sending track or to conduct account wagering.

13. "Voucher" means a document or card produced by a pari-mutuel system device on which a stored cash value is represented and the value of which is recorded in and redeemed through the pari-mutuel system.

**History:** Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-10.1

**69.5-01-11-02. General licensing requirements.**

1. Any site operator, service provider, or totalizator company must be licensed by the commission and approved by the attorney general. Totalizator companies contracting for service within the state and their employees whose principal work address is within the state must be licensed by the commission. Other vendors and their employees may be required to be licensed at the discretion of the commission. Application for a license must include the license fee as prescribed by the commission. Applications for licenses must be in such form as may be prescribed by the commission and must contain such information or other material or evidence as the commission may require. All licenses must be for a period of one year commencing January first and ending December thirty-first of each calendar year. The initial license fee for a service provider is seven thousand five hundred dollars, for a site operator is one thousand dollars, and for a totalizator company is two thousand five hundred dollars. A service provider is required to pay an additional license fee in accordance with section 69.5-01-05-02.1 when offering the mad scramble pool.

2. The application for renewal of a license must be made to the commission by such date as may be prescribed by the commission. If the commission has not specifically set application dates for renewal of the class of license, application must be made no later than thirty days prior to the date of expiration of the license. Application for renewal of license must be made in such form as may be prescribed by the commission. Application for license renewal must include the license fee for a service provider, two thousand five hundred dollars; site operator, two hundred fifty dollars; and totalizator company, one thousand five hundred dollars.

3. Approval or disapproval of an application for site operator, service provider, or totalizator company license must include consideration by the commission of the following:

   a. The applicant's general benefit to the state of North Dakota.

b. The applicant's general benefit to the state's horse racing industry.

c. The applicant's integrity.

(1) Individual and corporate conduct and reputation.

(2) Criminal history.

(3) Betting and gaming industry conduct and reputation.

d. The applicant's credibility.

(1) The feasibility of the applicant's business plan.

(2) Experience and expertise of the applicant in the industry.

e. Financial stability.

4. A service provider cannot operate without an executed contract with a site operator.

5. The commission may require licensing of any entity or person contracting with or providing services or commodities to any site operator, service provider, or employee licensed by the commission.

**History:** Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; October 1, 2012; April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

**69.5-01-11-03. Licensing service providers and totalizator companies.**

1. Service providers and totalizator companies must be licensed by the commission and approved by the attorney general.

2. Before the commission may grant such license, it shall review and approve the services to be provided by the applicant. The applicant shall submit such information as required by the commission which must include, but not be limited to:

a. The services and equipment to be provided.

b. Projected revenue and costs associated with the operations of the applicant.

c. A complete financial statement demonstrating adequate capitalization to maintain the intended services.

d. A description of the management or management groups responsible for the operation of the service provider or totalizator company, including a list of all officers, directors, partners, and shareholders with a five percent or greater share of ownership or beneficial interest in the service provider or totalizator company.

e. A complete description of the transmission, totalizator, and data processing equipment to be used.

f. A history of the company demonstrating the experience and technical knowledge necessary to supply the intended services.

g. Written agreements between the applicant and all parties assisting in providing services.

h. A description of the security measures to be used to protect the propriety of the signal and the integrity of the wagering process.

i. The system of accounts to be utilized in the collection and distribution of revenues directly or indirectly related to the operation and the combined pari-mutuel pool.

j. A detailed statement demonstrating individual and corporate conduct, ability, and reputation of the applicant and supervisory personnel.

k. A complete list of licenses held by the applicant, the thoroughbred racing association codes associated with such licenses where applicable and the websites to which the licenses and thoroughbred racing association codes apply.

l. A description of the processes and procedures implemented in conjunction with tracks and other industry stakeholders to address possible odds manipulation through placing large bets on small pools, the cancellation of wagers, and other methods.

m. The commission may require an audit of the applicant at the expense of the applicant.

n. The commission may require totalizator companies to provide documentation of third-party compliance and testing within two years of application.

o. The commission may require a background investigation of the applicant to be conducted by the thoroughbred racing protective bureau or another entity approved by the commission, the scope of which shall be at the sole discretion of the commission. The applicant shall be responsible for all costs associated with conducting the background check.

3. The commission may license one or more service providers or totalizator companies concurrently to provide services, as defined by this chapter, to one or more licensed site operators within the state. Fees for such license shall be as prescribed by the commission. Licenses will be for a term of one calendar year. The commission may establish license fees separately for first-time applicants and for renewal of existing licenses in order to recognize additional costs of investigation and analysis required for first-time licenses.

4. Each applicant for a service provider license shall give a bond or letter of credit payable to this state with good security as approved by the commission. The bond or letter of credit must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.

**History:** Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

**69.5-01-11-04. Duties of service providers.**

1. Service providers shall comply with all state and federal laws, including section 3001, et seq. of title 15 of the United States Code.

2. A service provider intending to make any change in its structure or operations which would alter any of the responses given in its original license application must obtain prior approval of such changes by the commission and must file with the commission a statement including, but not limited to:

a. The changes to be made.

b. The date and time the service provider intends to commence said changes.

3. A service provider may not be licensed as a site operator.

4. A service provider shall maintain records of all wagering at sites where it provides services. Such records shall be available to the commission for review and shall be retained in safekeeping for periods of time as follows:

   a. Digital storage for three years.

   b. Other wagering records as may be required from time to time and are specifically defined by the commission.

5. A service provider shall maintain such security controls over its simulcast, account wagering, and communications system as directed by the commission.

6. A service provider shall provide the commission with a report of its operations as directed by the commission. A summary report detailing handle for each day of wagering, the taxes, and breakage owed to the state of North Dakota, and the amounts owed to one or more site operators shall be provided to the commission on a monthly basis. The report must contain any additional content as directed by the commission.

7. A service provider may only provide simulcast and account wagering services to a site operator licensed by the commission, except that a service provider may provide simulcast services to an Indian tribal entity within the state which may not be licensed pursuant to the provision of an existing racing addendum to a tribal gaming compact.

8. A service provider may require compliance by the site operator with contractual provisions necessary to maintain the integrity and proper operation of wagering.

9. A service provider shall provide access by the commission or its designated representative to its facility, records, and any other information as required by the commission or its representative.

10. Simulcasting and account wagering may be permitted only on races conducted at approved locations at pari-mutuel tracks governed by a racing commission, racing board, or governmental agency.

11. A service provider shall participate in a combined pari-mutuel pool, ensure the integrity of its participation, and establish procedure as approved by the commission for the use of federally insured financial institutions for receipt and disbursement of funds which are part of the combined pari-mutuel pool. Such procedure must include provision for timely reconciliation and settlement of pool accounts by a service provider on behalf of a site operator. Times within which settlement of pool accounts are to be settled must be specified in contracts or service agreements between a service provider and site operators.

12. Payment of taxes and other funds:

   a. A service provider shall pay all pari-mutuel taxes, special fund contributions, and other funds due and owing the state of North Dakota as indicated in the monthly summary report, required in this chapter, directly to the commission.

   b. Amounts due to North Dakota for pari-mutuel taxes, promotion fund, breeders' fund, purse fund, and breakage shall be paid to the commission in monthly payments on or before the last day of the next month succeeding the month in which the pari-mutuel tax or other funds due to North Dakota occurred or accrued.

c. A service provider shall submit a report and a corresponding payment of funds owing to the commission for the full amount of outs (unclaimed winning tickets) within fifteen days after the end of the calendar quarter following the calendar quarter in which such wager was made.

d. The commission may, when a service provider is delinquent in remittance of taxes or other funds owed to North Dakota, notify the surety providing bond coverage to North Dakota of the delinquent status of such taxes or funds, and may make a claim for payment from the surety.

e. If a service provider fails to submit a report of its operations as required, or fails to pay pari-mutuel taxes or other funds due North Dakota within the time required by this section, or if upon audit it is found to owe additional taxes or other funds, a service provider is subject to a late fee of five percent of the amount of tax or other funds due, plus interest of one percent of the tax or other funds due per month or a fraction of a month of delay after the due date for the remittance of the moneys according to this chapter. A service provider with seven of fourteen delinquent payments may be subject to a late fee of ten percent of the moneys due plus interest of one percent of the amounts due per month or a fraction of a month of delinquency. The late fees and interest must be paid to the commission and disposed of in the same manner as other receipts under this chapter.

f. The commission may suspend or revoke a license of a service provider for failure to submit a report of its operations as required by law or administrative rule or for failure to pay funds due North Dakota as required by law or administrative rule. The commission may also take such other actions as may be authorized by law.

13. The commission may approve auditors as reasonably necessary for the protection of the public interest. The commission shall be reimbursed on a monthly basis for the salaries, benefit, and travel expenses by the service provider for the auditors assigned to them. Duties of an auditor shall include, but not be limited to, the following when instructed by the commission:

    a. An independent weekly record and report of each race program presented by a service provider. The report must be based on a review of each race contained in a program.

    b. Reconciliation of all operating exceptions by the service provider and the sites it services that are not within the definitions of this chapter or are departures from normal operating practice. Such reconciliation shall include identification, investigation, reporting, and recommendation for adjustment or disposition directly to the commission.

    c. Independent review and reporting directly to the director of racing of all actions taken by the service provider or the totalizator company operating under contract with the service provider.

14. A service provider and a totalizator company operating under contract with a site operator shall serve as the designees of the commission to supervise simulcast and account wagering operations pertaining to pari-mutuel wagering as is reasonably necessary to ensure the public interest.

15. The pari-mutuel manager shall take immediate emergency actions as necessary to assure the continued operation and integrity of the simulcast or account wagering system. All such actions shall be reported to the commission. The pari-mutuel manager shall, when such acts are not, in the manager's judgment an emergency, report to the commission prior to acting.

16. A service provider shall adopt and adhere to emergency operating procedures as follows. Totalizator system operations will be maintained by a service provider hub. Wagering data will be transferred from the wagering site to the hub via data transmission lines or electronic transmission. Wagering will be conducted in ontrack pools. The hub will transfer all wagering data from the wagering site to the ontrack totalizator system. The locking procedure for the purpose of locking all teller windows at post time will be initiated by an ontrack official; the lock will be electronically conducted through the totalizator system to lock all tellers windows at the wagering site. Back-up locking procedures will be maintained by the pari-mutuel manager, the hub pari-mutuel operator and the hub totalizator system operator. In the event of a lock procedure failure, in which one or more windows fail to lock at the designated time, wagers shall be refunded. In the event of a locking procedure failure, a report will be submitted to the commission. Included will be computer reports reflecting all wagering activity.

    a. In the event of an interruption of the audiovisual satellite signal or the direct wagering and information dissemination connection from the host racetrack, the pari-mutuel manager must:

        (1) Notify the host track of the loss of signal.

        (2) Maintain telephone contact with host track pari-mutuel department. The service provider may continue to accept wagering on the balance of the program.

        (3) In the event the hub totalizator system fails to transfer the data to the ontrack totalizator system, the totalizator hub pari-mutuel operator must notify ontrack totalizator system representative of the problem and request additional time prior to the start of the race to allow for a transmission of the data.

        (4) A service provider's pari-mutuel manager shall prepare a report indicating that the transfer of data could not be completed electronically. The report shall also include all the following:

            (a) A copy of the totalizator report prior to the failure of the transfer of data.

            (b) A copy of the totalizator report.

            (c) A brief statement as to where the failure occurred, when the ontrack officials were notified.

    b. The ontrack pari-mutuel manager must be notified of the system failure.

    c. In the event that the ontrack totalizator system experiences a complete failure, the pari-mutuel manager may pay ontrack prices or refund amounts wagered.

    d. In the event any emergency arises in connection with the operation of the pari-mutuel system not provided for by these rules, then the pari-mutuel manager shall make an immediate decision and render a full report to the commission.

    e. The ontrack pari-mutuel manager is responsible during the simulcast racing operating hours for the reporting of any problems or delays to the wagering site. The wagering site is responsible for reporting any problems or delays to the public.

17. No service provider may commence wagering or utilize a totalizator system which has not been previously disclosed to the commission without notifying the commission of its intent to begin conduction wagering and receiving written commission approval. The foregoing does not prohibit a service provider from engaging in test wagering if such test wagering does not involve the exchange of real currency.

18. A service provider shall provide its players with contact information for no less than one problem gambling program. The problem gambling program utilized by the service provider shall be clearly identified on the service provider's application and be subject to approval by the commission. The commission may designate changes to the methods employed in displaying contact information as necessary to support the accessibility of the information.

    a. On any website utilized for account wagering a link to problem gambling program contact information shall be prominently displayed on the main page of the website.

    b. At any simulcast facility problem gambling program contact information shall be prominently displayed so as to be clearly visible in each room of the facility.

**History:** Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14

**69.5-01-11-04.1. Independent auditing services.**

1. The commission may appoint an independent auditor responsible for providing reports of amounts due to the state of North Dakota from all site operators and service providers for pari-mutuel taxes, promotion fund, breeders' fund, purse fund, unclaimed tickets, and breakage.

2. The independent auditor shall obtain wagering data directly from the totalizator company used by the service provider. Each service provider shall cooperate fully to provide the independent auditor with complete access to all wagering data held by the service provider and their totalizator company.

3. In the event of a discrepancy between reports provided by a service provider and the independent auditor, the service provider shall work directly with the independent auditor and take all reasonable steps to identify the error or discrepancy and provide a complete reconciliation to the commission not later than thirty days after the service provider is notified of the discrepancy. The commission may grant an extension of this deadline.

4. If the discrepancy between reports provided by a service provider and the independent auditor is the result of an error in the systems or procedures utilized by the service provider, the service provider shall file a report detailing the cause of the error and a proposed course of action to correct the error. The error must be corrected and a final report filed detailing the correction no later than sixty days after the service provider is notified of the error. The commission may grant an extension of this deadline.

**History:** Effective April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14

**69.5-01-11-04.2. Thoroughbred racing association codes and account deposit wagering websites.**

1. A service provider may conduct wagering under its North Dakota license only through thoroughbred racing association codes, simulcast sites, and websites specifically identified to the commission in writing. All simulcast sites and websites must be identified in the service provider application by their corresponding thoroughbred racing association code. These requirements may be waived by the commission in the event that thoroughbred racing association codes are not used in wagering into international jurisdictions or thoroughbred racing association codes are no longer used as part of industry standards. If the commission finds that providing a waiver for the use of thoroughbred racing association codes would affect

the security or integrity of the wagering to be conducted, the commission may not issue the waiver.

2. A service provider shall notify the commission prior to the use of any new thoroughbred racing association code under its North Dakota license and must specify in each notification the simulcast site or website with which the thoroughbred racing association code is associated.

3. The service provider shall be responsible for retiring any thoroughbred racing association codes no longer in use and notifying the commission of such retirement in writing. A service provider may not use a thoroughbred racing association code for any purpose other than the purpose described in its service provider application without notifying the commission. The commission may require confirmation from the entity regulating thoroughbred racing association codes of a change in thoroughbred racing association code description if applicable.

**History:** Effective April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14

**69.5-01-11-05. Licensing site operators.**

1. Before the commission may grant a license to a site operators, it shall review and approve a plan of operation submitted by an applicant including, but not limited to, the following information:

   a. A feasibility study denoting the revenue earnings expected from the facility and the costs expected to operate such facility. The feasibility study must include:

      (1) The number of races to be simulcast.

      (2) The types of wagering to be offered.

      (3) The level of attendance expected and the area from which such attendance will be drawn.

      (4) The level of anticipated wagering activity.

      (5) The source and amount of revenue expected from other than pari-mutuel wagering.

      (6) The cost of operating the facility and the identification of costs to be amortized and the method of amortization of such costs.

   b. The security measures to be employed to protect the facility, to control crowds, to safeguard the transmission of the simulcast signal and to control the transmission of wagering data to effectuate common wagering pools.

   c. The description of the management groups responsible for the operation of the facility.

   d. The system of accounts to maintain a separate record of revenues collected by the facility, the distribution of such revenues, and the accounting of costs relative to the operation.

   e. The location of each site and a copy of the lease or site agreement.

   f. All written agreements or letters of consent between parties to the operation of the system, including a licensed service provider.

g. Proof of eligibility under North Dakota Century Code section 53-06.2-06.

h. Applicant's financial information demonstrating adequate capitalization to carry on the duties of a site operator.

i. Support or nonsupport of the local jurisdictional government.

j. Proof of adequate experience and knowledge necessary to conduct simulcasting and pari-mutuel wagering operations.

2. The license fee shall be as prescribed by the commission. Site operators may apply for a license and may operate one or more sites at the fees prescribed by the commission. Licenses will be for a term of one calendar year.

3. Licenses to site operators may be granted as follows:

a. Organizations eligible under North Dakota Century Code section 53-06.2-06.

b. Indian tribal entities within the state which may be licensed pursuant to the provision of an existing racing addendum to a tribal gaming compact with the state.

c. No service providers may be licensed as site operators.

4. Each applicant for a license under this chapter shall give a bond or letter of credit payable to this state with good security as approved by the commission. The bond or letter of credit must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.

5. No simulcasting or pari-mutuel wagering may be conducted at a site not approved by the commission.

**History:** Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

**69.5-01-11-06. Duties of site operators.**

1. A site operator shall conduct the pari-mutuel wagering at a site approved by the commission.

2. A site operator shall provide access to the commission or its designated representative to the site and to all records of the site operator and any other information as required by the commission or its designated representative.

3. A site operator is responsible for cash shortages which occur at a simulcast site.

4. The provisions of North Dakota Century Code section 53-06.2-11 are applicable to simulcasting andaccount wagering. A site operator shall establish a system of monitoring and supervising accounts to facilitate and to make record of compliance with this section. Such supervision of accounts must provide for timely payoffs to winning patrons either through immediate cash payments or by vouchers payable upon demand as soon as necessary funds transfer can be made through the clearing process of the banking system by the service provider. Such accounts must also provide for timely transfer of all funds owing to North Dakota. These shall include pari-mutuel taxes, breakage, unclaimed tickets, purse fund contributions, breeders' fund contributions, and promotion fund contributions. The site operator's service agreement with its service provider must include provision for such timely transfer of these funds and systems of monitoring and supervising accounts.

5. A site operator may only take a signal or conduct account wagering from a service provider licensed by the commission.

6. All wagers are made on the official results of the sending track.

7. Only a licensed employee of a site operator may conduct simulcast or pari-mutuel wagering on behalf of a site operator, excepta service provider may conduct pari-mutuel wagering on behalf of a site operator through a self-service device, electronically, telephonically, or through the internet only with the prior approval of the commission.

**History:** Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-14

**69.5-01-11-06.1. Claims for payment from pari-mutuel pool.**

1. At a designated location, a written, verified claim for payment from a pari-mutuel pool shall be accepted by a site operator or service provider in any case where the site operator or service provider has withheld payment, not placed a wager requested by a customer, or has refused to cash a pari-mutuel wager. The site operator or service provider's full written report on the matter in accordance with the requirements of section 69.5-01-08-21 (complaints pertaining to pari-mutuel operations) shall be forwarded to the commission within forty-eight hours of the commission's request.

2. In the case of a claim made for payment of a mutilated pari-mutuel ticket, the site operator or service provider shall make a recommendation to accompany the claim forwarded to the commission as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

**History:** Effective April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-10, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-14

**69.5-01-11-07. Licensing of employees.**

1. No person may be a simulcast employee unless that person is the holder of a valid license issued by the North Dakota racing commission. If the individual is already licensed to engage in the same type of employment related to pari-mutuel wagering in another jurisdiction that has the same or similar licensing requirements and standards, the commission may waive any administrative background check and fees. This exception does not apply to the principals and supervisory personnel of a service provider as identified by the commission.

2. The employment of an unlicensed person by a site operator or service provider is prohibited. Upon discharge of a licensed simulcast employee, the site operator or service provider shall report that fact to the commission, including the name and occupation of the discharged licensee and the reason for discharge.

3. The commission will not issue a license to a simulcast employee unless the application includes the prior endorsement of the employer.

4. The initial license fee and the renewal fee shall be prescribed by the commission. For each change of employment, name change, or replacement of a lost or destroyed license, a fee may be assessed as prescribed by the commission. The term of licenses shall be one calendar year.

5. Maintenance and administrative representatives of service providers and their vendors or suppliers must have current North Dakota racing commission licenses available for presentation prior to requesting admittance to restricted areas of sites. If such representatives are not licensed by the commission, they must be accompanied by a licensed representative or have the prior identification and endorsement of a licensed representative.

6. Each simulcast employee shall wear a valid license at all times while working in a simulcast site. The license must be worn on the upper one-third of the employee's body. All information on the license or permit must be easily visible. No license may be transferred to any other person.

7. No employee or agent of a service provider may be employed by a site operator. No employee of a site operator may be employed by a service provider.

8. No simulcast employee may wager at a site while on duty. For purposes of this section, a simulcast employee taking a temporary break is still considered on duty.

**History:** Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

**69.5-01-11-08. North Dakota tracks offering extended wagering.**

1. Subject to commission approval, a North Dakota track may authorize use of its simulcast for interstate wagering by out-of-state betting systems provided the North Dakota track files with the commission a copy of the agreement with the out-of-state betting system which sets forth the payment to the North Dakota track for use of its simulcast, and of any agreements required by chapter 57, including section 3001, et seq. of title 15 of the United States Code.

2. Every North Dakota sending track simulcasting its racing program shall contract with a simulcast service provider for the purpose of providing authorized users with its simulcast.

3. The North Dakota sending track is responsible for the content of its simulcast and shall use all reasonable effort to present a simulcast which offers the viewers an exemplary depiction of its racing program, a periodic display of wagering information, and continuity programming between horse racing events.

4. Unless otherwise permitted by the commission, the sending track simulcast will contain in its video content a digital display of the actual time of day, the name of the racetrack from where it emanates, the number of the race being displayed, and the sequential fractional time of the race as the race is being run.

**History:** Effective March 1, 1990; amended effective April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-10.1

**69.5-01-11-09. Denial, suspension, and revocation of licenses.**

1. Reasons for denial, suspension, and revocation. The commission may deny, suspend, or revoke licenses for just cause. Actions constituting just cause include:

   a. Any action or attempted action by a person contrary to any law.

   b. Corrupt practices, which include:

      (1) Prearranging or attempting to prearrange the order of finish of a race.

(2) Failing to properly pay winnings to a bettor or to properly return change to a bettor purchasing a ticket.

(3) Falsifying or manipulating the odds on any entrant in a race.

c. Any violation of the rules of racing, simulcasting, or account wagering adopted by the commission.

d. Willful falsification or misstatement of facts in an application for a license.

e. Material false statement to a racing official or to the commission.

f. Willful disobedience of a commission order or of a lawful order of an agent of the commission.

g. Continued failure or inability to meet financial obligations.

h. Failure or inability to properly maintain a simulcast system, site, combined pari-mutuel pool, or account wagering system.

i. Failure to fulfill contractual obligations.

j. The suspension or revocation of racing or pari-mutuel wagering activity of the applicant or licensee by an out-of-state regulatory agency recognized by the commission.

k. Failure to meet the considerations of subsection 3 of section 69.5-01-11-02.

2. The procedures to be followed in denial, suspension, or revocation of licenses must be as prescribed by North Dakota Century Code section 53-06.2-15.

**History:** Effective March 1, 1990; amended effective January 1, 2008; July 1, 2011.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-05, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

**69.5-01-11-10. Pari-mutuel wagering.**

The North Dakota racing commission has taken separate action to adopt and incorporate the model rules of the association of racing commissioners international, inc., in whole or in part as soon as adoption and incorporation is practically possible.

**History:** Effective August 1, 2007.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-10.1

**69.5-01-11-10.1. Interstate common pool participation.**

1. A service provider shall participate in common pool wagering by accepting wagers placed in other jurisdictions or by offering wagers on races run in other jurisdictions. The rules for a pari-mutuel pools established in the state of the live event pari-mutuel pool host apply.

2. All contracts submitted to the commission must be fully executed by all parties thereto and must include all attachments, addendums, and other documentation that constitute part of the contract. A service provider may submit only an addendum to a contract which increases the term of that contract if a copy of the original contract of which the addendum is part is currently on file with and has been approved by the commission. A service provider shall resubmit any contract, or any portion thereof, at the request of the commission.

**History:** Effective April 1, 2016.

**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-10, 53-06.2-10.1

**69.5-01-11-11. Account wagering.**

Repealed effective July 1, 2011.

**69.5-01-11-11.1. Account wagering.**

The requirements for account wagering are as follows:

1. A site operator may offer a system of account wagering to its players in which wagers are debited and payouts credited to a sum of money, deposited in an account by the player, that may be held by a service provider. The service provider shall notify the player, at the time of opening the account, of any rules the site operator or service provider has made concerning reporting, monitoring, changes of awards, account activity (deposits or withdrawals), user fees, or any other aspect of the operation of the account. The service provider shall notify the player and the site operator whenever the rules governing the account are changed. The notification must occur prior to or at the time when the new rules are applied to the account. Notification shall be posted on the website utilized for account wagering or by mailing to the player at the player's last-known address. The player shall be deemed to have accepted the rules of account operation upon opening or not closing the account. The site operator and service provider shall present the method of account wagering to the commission for review and approval.

2. To establish an account with the service provider, the player must be approved through a process developed by the service provider and shared with the site operator and commission.

3. The information each player submits must be subject to electronic verification. The verification must identify clients and obtain information with respect to name, principal residence address, date of birth, and verification of information through testing criteria established by electronic verification pertinent to doing financial business with them. The service provider must verify that the customer is not on the specially designated nationals list, maintained by the United States department of the treasury, or the designated foreign terrorist organizations list, maintained by the United States department of state. If there is a discrepancy between the application submitted and the information provided by the electronic verification described above, or, if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. The information secured by the service provider must be documented and available to the site operator and commission upon request. If a player wagers more than ten percent of the monthly amount wagered with the service provider, the service provider shall perform additional identity verification, which must be proportionate to the possible risks and the resources available. The service provider may close or refuse to open an account for what it deems good and sufficient reason and shall order an account closed if it is determined that information that was used to open an account was false or that the account has been used in violation of law or rules.

4. The player shall maintain an account balance established by the service provider and identified in the contract with the site operator. In no event shall the service provider allow wagering on an account with a negative balance.

5. The service provider may offer to players:

    a. Accounts that are operational for any performance offered by the service provider, whereby wagers are placed by the player at a self-service terminal or by any electronic means.

b. The service provider may reserve the right at any time to refuse to open an account, to accept a wager, or to accept a deposit.

c. The service provider shall provide, for each player, a confidential account number or user name and password or personal identification number to be used by the player to access the player's account or, at the service provider's option, confirm validity of every account transaction.

6. Deposits may be made in the manner provided by the site operator or service provider. Holding periods will be determined by the service provider, and the player will be informed of this period. A receipt for the deposit may be issued electronically to the player by the service provider.

7. The service provider may only debit an account as follows:

a. Upon receipt by the service provider of information needed to place a wager. The service provider shall only debit the account in the amount of the wager at the time the wager is placed.

b. For fees for service or other transaction-related charges by the service provider.

c. Authorized withdrawal from an account when the player sends to the service provider a properly identifiable request for a withdrawal. The service provider will honor the request contingent on funds being available in the account and subject to funds being collected from the host track and approved by the commission. If the funds are not sufficient to cover the withdrawal, the player will be notified, and the funds that are available may be made available for withdrawal. These transactions will be completed in accordance with financial institutions funds availability schedules.

8. Each player shall be deemed to be aware of the status of that account at all times. Wagers will not be accepted which would cause the balance of the account to drop below the minimum account balance set by the service provider.

9. When a player is entitled to a payout or refund, said moneys will be credited to the respective account, thus increasing the balance. It is the responsibility of the player to verify proper credits, and, if in doubt, notify the service provider within the timeframe identified by the service provider.

10. The service provider shall maintain complete records of every deposit, withdrawal, wager, and winning payment for each player account. These records shall be made available to the commission and site operator upon request.

a. Any account wagering system shall provide for the player's review and finalization of a wager before it is accepted by the service provider. Neither the player nor the service provider shall change a wager after the player has reviewed and finalized the wager.

b. For wagers made telephonically or electronically the service provider shall make a voice or electronic recording of the entire transaction and shall not accept any such wager if the voice or electronic recording system is not operable. The voice and electronic recording of the transaction shall be deemed to be the actual wager regardless of what was recorded by the pari-mutuel system.

11. The service provider may close any account when the player attempts to operate with an insufficient balance or when the account is dormant for a period determined by the commission or the site operator. In either case the service provider shall refund the remaining balance of the account to the player within thirty days.

12. The service provider shall provide upon request of the commission direct access to the databases and computer systems used by the service provider in the monitoring and control of wagering and account activity.

13. The service provider shall establish with the site operator the minimum amount due to the site operator as negotiated by each entity. This information should be filed with the commission. In the event of any disagreement or inquiry regarding the amounts due to the site operator which are based on a percentage of handle, the commission may review reports of wagering activity to determine the amounts due and render a report to the service provider and site operator.

**History:** Effective July 1, 2011; amended effective April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-10.1, 53-06.2-14

**69.5-01-11-11.2. Totalizator system general provisions.**

1. Pari-mutuel wagering utilizes a totalizator to pool wagers. The totalizator system may be located at a site, or may, subject to compliance with applicable law and rules, reside at another location other than within the state of North Dakota.

2. Wagering, subject to commission approval and compliance with applicable law and rules, may be accepted by separate totalizator systems in this or other jurisdictions and combined via communication between totalizator systems.

3. The commission may, without specific reference in these rules, utilize a designee for the purposes of certification, verification, inspection, testing, and investigation. A commission designee may be another commission or equivalent regulatory authority, a multijurisdictional group of regulatory authorities, association of regulatory authorities, or auditing, consulting, security, investigation, legal services, or other qualified entities or persons.

4. The commission may enter into multijurisdictional agreements with other regulatory authorities to facilitate certification of compliance with requirements by, and licensing of, service providers and totalizator companies. Such agreements shall, at a minimum, ensure certification and licensing requirements comparable to this jurisdiction.

5. In the event that any daily electronic files or other totalizator data provided to the commission or a third-party auditor designated by the commission for receipt of such information is found to be inaccurate, the totalizator shall provide to the commission or its third-party auditor any data files or other date in whatever form that is requested.

6. A totalizator company shall provide access by the commission or its designated representative to its facility, records, and any other information as required by the commission or its representative.

**History:** Effective July 1, 2011; amended effective April 1, 2016.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

**69.5-01-11-12. Totalizator system standards.**

Repealed effective July 1, 2011.

**69.5-01-11-13. Totalizator system standards - Facilities and equipment.**

1. **Facility requirements.**

a. Onsite totalizator room. An authorized pari-mutuel wagering entity may provide a totalizator room to house the main computing and communications equipment and the operator's terminal at the authorized pari-mutuel wagering entity facility. The room must include all of the following:

(1) Air-conditioning with humidity control to maintain a stable environment that meets the specifications of the computer equipment manufacturer.

(2) A master power switch that allows all or part of the equipment housed in the room to be turned off in an emergency.

(3) A smoke and fire alarm system that sounds locally and is tied into the authorized pari-mutuel wagering entity master alarm system.

(4) Fire extinguishers to address minor electrical fires.

(5) An internal communications system connecting the totalizator operator with all of the following:

(a) For racetracks only, the stewards and racing judges.

(b) The pari-mutuel manager.

(c) Each betting line.

(d) The commission office onsite, if any.

(6) A private outside line for communication with supervisors, programmers, or totalizator personnel at other sites.

(7) Fire resistant, locking storage cabinets to hold removable data storage devices and documents necessary for operating the system.

b. Totalizator room at a central processing location. An authorized pari-mutuel wagering entity may contract with a totalizator that uses a central processing location off the authorized pari-mutuel wagering entity's grounds. The totalizator company shall ensure all of the following:

(1) That the totalizator central processing location satisfies the requirements of subdivision a of subsection 1.

(2) That the totalizator central processing location has a communications system connecting the central processing location operator with all of the following:

(a) The totalizator operator at the authorized pari-mutuel wagering entity.

(b) A private outside line for communication with supervisors, programmers, or totalizator personnel at other locations.

2. **Totalizator room security.** The totalizator room housing the computer processing unit that processes wagers made at an authorized pari-mutuel wagering entity facility must be secured. Annually, on a date established by the commission, the totalizator company shall submit to the commission for approval a security plan for the totalizator room housing the computer processing unit that processes wagers made at the authorized pari-mutuel wagering entity's facility. The security plan must include all of the following:

a. A security system covering the totalizator room and any other related service room, electrical room, or equipment room that consists of locking closed doors and detecting unauthorized entry.

b. A system of controlled entry to the totalizator room and other related rooms using all of the following:

(1) Locking devices on all doors or entry points.

(2) Control over distribution of keys or codes necessary to unlock the doors.

(3) A sign-in log for visitors escorted by authorized personnel.

(4) A system that identifies and records each person entering and leaving the room.

3. **Hardware requirements.**

a. Cash/sell system. A totalizator company shall use a cash/sell totalizator system. The system must comply with these rules regardless of the location of the central processing unit for the system.

(1) A totalizator system must be a multi-computer or multi-processor system with independence in the transaction processing and system control functions distributed among the computers as specified in the contract with the authorized pari-mutuel wagering entity. At least one computer shall be independent, sharing no loads or processing functions with the master computer. The computers must be configured so that, if one computer actively tracking events fails, another computer will take over all functions of the failed computer on a timely basis.

(2) The schematic chart, required pursuant to subdivision b of subsection 3, must be submitted to the commission at least two weeks before the scheduled date for system installation and testing.

b. Schematic chart. The totalizator company must provide to the commission an overview of the equipment in the totalizator system. The overview must be a detailed schematic chart showing each piece of hardware and the network interconnections. The chart must indicate, where appropriate, the part of the database each terminal can access as well as the amount and degree of access each terminal has to the application and operating system programs. User assignments must be determined by access, and the schematic chart must also reflect the usual and potential user types assigned to each terminal. If the totalizator company changes any component in the hardware or the network layout, the company must revise the schematic chart and submit it to the commission within seven days.

c. Peripherals. A totalizator system must include all of the following peripherals:

(1) A log printer for each computer if the system is unable to reproduce the logs upon request.

(2) A master control terminal that allows the operator to execute routine maintenance and operational functions based on individual operator identification and authentication.

(3) User terminals that allow restricted system access for the stewards or racing judges to allow the order of finish to be input.

(4) Wagering information screen displays.

(5) Data storage devices to record necessary system data.

(6) Backup devices capable of recording complete system information on removable media for storage and restoration.

d. Stop wagering devices. The totalizator company shall install two separate devices that activate the stop wagering function of the totalizator system in a manner consistent with stop wagering procedures approved by the commission. The primary device must be located in or near the stewards or racing judges, in a location approved by the commission, to issue the stop wagering command during normal operations and activate the "off bell". The secondary "backup" device must be installed in the totalizator room to allow the totalizator operator to issue the stop wagering command if a totalizator malfunction or human error prevents the totalizator system from activating the stop wagering function at the appropriate time. The totalizator company shall ensure that stop wagering occurs. The totalizator company, for good reason, may request from the commission additional or alternative stop wagering devices.

e. Tote board. Unless otherwise approved by the commission, the tote board must do all of the following:

(1) Update the odds on each betting interest in the win pool at intervals of not more than sixty seconds, or at more frequent intervals expressly directed by the commission.

(2) Allow the stewards or racing judges or designee of the stewards or racing judges to post the times, running order, order of finish, the official sign, inquiry sign, objection sign, or dead heat sign.

f. Uninterruptible power supply. The computer system must be supported by an uninterruptible power supply to allow for system shutdown if a power failure occurs. In a system shutdown, all wagering data in the computer at the time of the failure must remain intact and all race and end-of-day reports must be produced. The uninterruptible power supply must be able to supply even power to the totalizator system, for a minimum of fifteen minutes, when a power surge or drop occurs. An alarm associated with the uninterruptible power supply must be readily recognizable by the totalizator operator from inside the totalizator room.

g. Wagering devices. Wagering devices (cash/sell terminals) in a network are not required to be intelligent but must have identities. A program related to the production or verification of the wager identification number printed on a mutuel ticket or assigned by the main computer may not reside in a wagering device. A wagering device may not access the wagering database except to conduct the wagering or cashing functions necessary for a teller to serve the public. Wagering shall not occur in the totalizator room.

h. Maintenance. A totalizator company shall provide preventative maintenance to a totalizator system to ensure the system hardware will provide a high degree of reliability. Maintenance must include physical cleaning of system components and peripherals and testing the uninterruptible power supply for batter life and power stability.

i. Common pooling.

(1) A totalizator company shall use a totalizator system that operates in either a tote-to-tote network or a wagering device to tote network. The totalizator system must, without regard to the location of the central processing unit, use all of the following:

(a) The current version of inter-tote systems protocol recognized by the standard prescribed by the commission.

(b) The standard track codes recognized by the association of racing commissioners international.

(2) A totalizator company may common pool if all equipment used is of an approved type and in an approved location.

(3) The pari-mutuel pool host must provide a totalizator system that meets all of the following requirements:

(a) It directs each totalizator system involved with the common pool regarding the pools offered, live and scratched betting interest, common pool totals, network and guest authorized pari-mutuel wagering entity specific odds and probable payouts, start and stop wagering commands, official orders of finish, and deduction and payout calculations.

(b) It produces reports showing the amount wagered on each betting interest and pool from each site, in accordance with the current inter-tote systems protocol or other inter-tote communication standard prescribed by the commission.

(4) An authorized pari-mutuel wagering entity and the totalizator company must file with the commission, at the time of license application, a disaster recovery plan that will ensure that the authorized pari-mutuel wagering entity may continue to conduct pari-mutuel wagering within a reasonable period of time.

(5) The totalizator company utilizing inter-tote systems protocol shall follow a method of progressive scanning for those wagers including pick (n) with four or more legs and superfecta or other method approved by the commission.

j. Emergency procedures.

(1) The totalizator system must be supported by an uninterruptible power supply as described in subdivision f .

(2) A totalizator company must have emergency procedures to address a totalizator system failure. The procedures will apply whether the system is operating as a stand-alone wagering site for separate pool wagering or as a satellite in a common pool network.

(3) If a hardware problem, excluding routine repair of wagering terminals, occurs, the totalizator company may make an emergency fix to the totalizator system. No later than twenty-four hours after the fix has been made to the totalizator system, the totalizator company shall file a written report with the commission stating the situation that caused the need for the fix and the corrective changes made.

k. Remote access. The totalizator company shall use a monitoring server that records keystrokes for all users accessing the tote system.

l. Independent monitoring system. The totalizator system shall transmit data in real-time to an independent real-time monitoring system approved by the commission. This system is to provide information in a read only format. The system must meet all of the following requirements:

(1) The system shall verify all transactions performed by the totalizator.

(2) Access to the independent monitoring system shall be provided to the commission and the authorized pari-mutuel wagering entity for monitoring activity.

(3) If the system detects a discrepancy in the totalizator operation or with the independent monitoring system, the system shall automatically notify the authorized pari-mutuel wagering entity's pari-mutuel manager or duly appointed representative. The pari-mutuel manager shall determine the cause of the error and require any necessary repairs or adjustments to be made pursuant to the rules.

(4) Notification of discrepancies shall be made to the commission no later than twenty-four hours after each occurrence.

4. **Software requirements.**

a. General requirements.

(1) The totalizator system program must be able to do all of the following:

(a) Sell, calculate, cash, and refund according to the pool profile, current rules, and number of races.

(b) Produce the required reports and logs and other reports and logs the commission may prescribe.

(c) Network with the remote wagering sites.

(d) Offer simultaneous wagering cards.

(e) Allow access to program functions and identification of each user based on the user identifications and passwords provided from the operating system or program login, in the case of administrative terminals, or by physical connection to the computer system, in the case of wagering devices.

(f) Automatically maintain all carryover data required for the next performance on a rotating basis, including system date and time, without operator intervention.

(g) Be subject to modification only by authorized individuals holding specific user identifications that allow gateways to the operating system.

(h) Document changes to programs, including who made the change and when the change was made. This log is to be made available to the commission upon request.

(i) Provide software or hardware restrictions that eliminate the capability of printing duplicate tickets.

(j) Provide software or hardware restrictions that prevent invalid claims on unclaimed funds.

(k) Be able to detect abnormal system operation and the cause, such as a validation problem, communication difficulty, and computer downtime, and immediately notify the totalizator operator.

(l) Generate, within the approved timeframe, data usable across two major revisions, and within all minor revisions, or retrieve archived data reports as requested by the commission.

(m) Contain a utility program that backs up the totalizator system and schedules these backups at regular intervals.

(n) Provide a utility or application that writes requested pari-mutuel wagering data on media readable by the commission. The totalizator company must also provide documentation about the structure of the data.

(o) Have the ability to close remote sites before the post time if the commission requires.

(2) The operating system must be separated from the application program. The operating system must maintain auditable records of transactions.

(3) The totalizator company must upon request make available to the commission an inventory of all totalizator system programs included in the system.

(4) A totalizator system must be able to produce a copy of all historical data necessary to recreate the wagering activity of any race performance within a three year period that the commission requests.

b. Documentation. Software documentation, using computer software industry accepted methods, must be available to the commission upon request and must provide all of the following:

(1) Documentation of modules or sections within the source code, detailing the function of the module or section, the definition of all variables used within the module or section, the source of all variables passed to the module, and the method of passing variables, for example, passed by reference or by value.

(2) Complete documentation of all program functions as seen by the end user of the program.

(3) Complete inventory of all programs contained on the system, their purpose, the date and time of their last modification, and the size, in bytes, of each file.

(4) Clarification of differences between major and minor revisions of the totalizator software. This clarification must include a complete history of all revisions, the intended reasons for and differences between major and minor revisions, the date of implementation, and a listing of the current revision number.

(5) Any change in software requiring the assignment of either a new major or minor revision number.

c. Backup. Before beginning operations, the totalizator company shall submit a backup procedure plan to the commission for approval and should include all of the following:

(1) Full system backups made at weekly intervals. Full system backups must include all data files contained on the totalizator system.

(2) Incremental system backups made at daily intervals. Incremental system backups must include all data files that were changed since either the last full system or incremental backup.

(3) Backups stored at an offsite storage area in a disaster-resistant environment.

d. Change to totalizator software.

(1) All changes to the software on the central site computers, peripherals, or firmware changes downloaded to terminals may be subject to the approval of the commission.

(2) The totalizator company is responsible to notify the commission at least thirty days prior to any major revisions.

(3) A major revision to the software may not be initialized or operated during wagering until tested and approved by the commission. The daily computer log must show all of the following:

(a) When a change was loaded into the totalizator system.

(b) The time the work commenced and the time the work was completed.

(c) When the old software was removed from the system.

(4) If a software problem occurs, the programmers may make an emergency fix to the totalizator software. No later than twenty-four hours after the fix has been made to the software, the totalizator company shall file a written report with the commission that stating the situation that caused the need for the fix, the corrective changes the programmers made, and the new revision number.

**History:** Effective July 1, 2011.
**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

**69.5-01-11-14. Totalizator system standards - Operational requirements.**

1. **General management requirements.**

a. Programming.

(1) A totalizator company shall develop and maintain written procedure manuals that outline structured programming methods used by the programmers. The manuals must give the programmers sufficient information to understand the programming methodologies, base operating systems, and maintenance procedures.

(2) The totalizator company shall develop and maintain a written systems development life cycle that requires signoffs at pertinent checkpoints. It must address all the following or the equivalent as acceptable to the commission;

(a) A procedure for accepting written requests for systems design or major program changes from users and a method for handling and recording these requests.

(b) The feasibility study stage.

(c) The general systems design stage.

(d) Detailed systems specification.

(e) Program testing.

(f) System testing.

(g) Conversion.

(h) Systems acceptance by the totalizator company.

(3) A totalizator company must develop and follow procedures to manage all program changes without regard to the complexity of the modification. The procedures must do all of the following:

(a) Establish controls to prevent unauthorized and potentially inaccurate program changes from being incorporated into the production environment.

(b) Regulate both scheduled and emergency changes to ensure the integrity of the computer system.

(c) Permit revisions of computer programs submitted on a sequentially numbered basis.

(d) Require program changes to be developed, tested, and compiled only in a test environment that is not connected to an online totalizator network.

(e) Require all program changes to be thoroughly tested, reviewed, and approved pursuant to procedures adopted by the totalizator company before being placed into operation.

(f) Maintain a written or electronic log, to be made available to the commission upon request, when programmers have physical access to the totalizator room or electronic access to the operation environment.

(4) Before a totalizator company may place a major programming revision into production or transfer any data affected by the revision from the test environment to the production environment, the totalizator company must follow the procedures required by subdivision d of subsection 4 of section 69.5-01-11-13.

b. Totalizator operations. A totalizator company shall maintain a written operations manual for the totalizator system. The manual must clarify the authority, duties, responsibilities, and lines of communication. The manual must contain sufficient detail to ensure totalizator personnel understand their job duties. The operations manual must include complete documentation for operation of the totalizator system and its software, including all of the following:

(1) The duties described in subsection 2.

(2) Clearly defined restrictions for totalizator room access.

(3) General block diagrams of program options (menu tree) available to totalizator operations.

(4) A glossary of terms used in reports, including formulas for calculating the displayed results.

(5) The relationship, if any, between information contained in reports.

(6) Startup and shutdown procedures.

(7) General operating procedures.

(8) Restart and recovery procedures.

(9) Emergency procedures, including a list of individuals to notify if a system requires an emergency revision.

2. **Personnel requirements.**

a. General requirements.

(1) A totalizator company must provide necessary personnel to perform the duties described in the rules. The totalizator company shall employ a sufficient number of personnel to ensure an adequate segregation of duties to avoid collusion. The totalizator company may use job titles different from those in the rules.

(2) All totalizator personnel assigned to work on totalizator operations in North Dakota must be licensed by the commission.

(3) The totalizator company shall have procedures and documentation that show the verification of totalizator position applicants' experience and education as indicated on their job applications. The totalizator company must prescribe and maintain job descriptions containing the experience, education, and organization training requirements for all of the following totalizator positions, if necessary:

(a) Network manager.

(b) Programmer or software engineer.

(c) Systems analyst.

(d) Totalizator operator.

(e) Technicians.

(4) The totalizator company must certify in writing annually that its personnel are properly trained to program, manage, operate, and maintain the totalizator system. The totalizator company must provide ongoing training to its personnel and document the training.

(5) The totalizator company is responsible for the actions of its personnel relating to the operations and use of the totalizator system. The totalizator company shall designate an individual to act as a point of contact for communications between the commission and the totalizator company.

(6) A totalizator company employee may not hold a position of programmer and totalizator operator simultaneously unless approved by the commission.

(7) A totalizator company employee is prohibited from wagering at any time at any location where the company provides service.

(8) The totalizator company shall have a policy of mandatory time away from the job for each totalizator personnel within each calendar year.

b. Network manager. The duties of a network manager shall include all of the following:

(1) Coordinate the totalizator company's totalizator systems operating in North Dakota or at a specific site in North Dakota.

(2) Ensure each totalizator operator follows proper procedures when operating the totalizator system.

(3) Determine the onsite and offsite storage locations for the backup media.

(4) Provide information and prepare any report requested by the authorized pari-mutuel wagering entity, the commission, or the tax commissioner, if appropriate.

(5) Ensure a current list of personnel is maintained, all totalizator operators are qualified, and the appropriate pari-mutuel information is maintained within the operating system and application programs.

c. Totalizator operator. The duties of a totalizator operator shall include all of the following:

(1) Maintain the communication links and ensure data is transmitted accurately.

(2) Consult with the pari-mutuel manager and the commission or duly appointed representative, if available, when a problem occurs in determining a pool or calculation, and suggest alternatives for continued operation, including possible temporary restrictions on or suspension of the communication links.

(3) Perform necessary daily performance testing, system initialization, monitoring of wagering operations, and system shutdown.

(4) Execute established procedures to shut down system software and hardware in emergency situations including loss of communication between computers or peripheral devices, power surges or failures, operating with a partial system, and restarting the system during a performance.

(5) Perform necessary system maintenance.

(6) Perform daily backups required by subdivision c of subsection 4 of section 69.5-01-11-13.

(7) Ensure information is entered in the tote maintenance log detailing all repairs or modifications to the totalizator system.

(8) Provide to the commission an initial incident report within twenty-four hours of the incident, with a final report submitted as necessary, detailing each unusual occurrence during totalizator system operations, including a description of the probable cause of the occurrence and the corrective action taken.

(9) Maintain a copy of the incident report or enter information about each unusual occurrence in the system incident log.

(10) Consult with the commission or duly appointed representative regarding any other operational issues encountered.

d. Technicians. The duties of technicians shall include all of the following:

(1) Service and maintain the totalizator.

(2) Perform maintenance on wagering devices and the tote board.

(3) Record in the totalizator maintenance log all maintenance and repair activities performed.

3. **Totalizator network.** Common pools must be merged and calculated at the site the totalizator company designates as the network computing center. In a tote-to-tote network or at remote sites, the totalizator company must use the inter-tote system protocol endorsed by the association of racing commissions international or another inter-tote communication protocol prescribed by the commission.

4. **Data transmission protocols.** An authorized pari-mutuel wagering entity using a wagering device-to-tote network may use whatever communications protocol it wishes. A remote site is considered part of a tote-to-tote network and is subject to the requirements of subsection 3 of

section 69.5-01-11-13. If the failure to compile pools or payout winning prices is isolated to a remote site, the stopping of wagering or the manual cashing and accounting of tickets need only occur at the affected site. The relevant information must be transmitted between the central processing location and the remote site through the established communication links or facsimile machine and must be verified.

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**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

**69.5-01-11-15. Totalizator system standards - Reporting and log requirements.**

1. **General requirements.**

   a. A totalizator system must be able to produce reports and logs necessary to audit pari-mutuel activity and to recreate any given day of wagering in its entirety in a format prescribed by the commission.

   b. A totalizator company shall retain the information needed to produce these reports and logs on storage devices for at least three years after the end of the calendar year during which the reports and logs were created, unless otherwise released by the commission.

   c. A totalizator company shall provide a report or log requested by the commission within forty-eight hours, unless required otherwise, after the totalizator company receives the request. A printed report must have consecutively numbered pages. Each page of the report must be headed with all of the following:

      (1) The name of the race track.

      (2) The date and time, in hours, minutes, and seconds, the report was produced.

      (3) The performance number, if applicable.

      (4) The wagering sites to which the report refers.

      (5) The version of software in use.

2. **Pre-race reports.** If requested by the commission, before starting wagering each day, the totalizator operator shall print all of the following reports:

   a. System initialization report showing all of the following:

      (1) The date and time the system was initialized.

      (2) The identity of the totalizator operator initializing the system.

      (3) The software version in use.

   b. Configuration parameter report showing all of the following:

      (1) The pools that may be offered as well as those that are currently operational in the totalizator system.

      (2) The display cycle frequency, pools, any minimum pool required, minimum wagers, and means of display of any approximate odds or will-pays produced.

      (3) The minimum and maximum value of wagers for every pool that a wagering device may accept.

(4) Which wagering devices are activated, including a listing of all terminals operational that session or day.

(5) Which remote sites may input into the totalizator system.

(6) The split percentages and payout parameters for each multi-leg pool offered.

(7) Verification of all operational locking devices.

(8) The amount of delay between locking switch activation and actual stop betting or canceling.

(9) The canceling parameters for regular and supervisory wagering devices.

(10) Configurations placed on each wagering device.

(11) The method of breakage and rounding used in calculating the payout.

(12) Takeout percentages for each host site and for the live races, including takeout percentages for each association, state, and other statutory takeouts used in price calculations, including net pool pricing calculations.

(13) Federal tax withholding rates and parameters.

(14) Required currency conversion tables.

c. Race information report showing, for each race to be offered, all of the following:

(1) The pools to be opened, indicating totals starting at zero and totals starting with money from advance wagering.

(2) Pool summaries of all advance wagering.

(3) Money added due to overages.

(4) Underpayments or money added due to carryovers, miss pools, or any other reasons.

(5) The betting interest for each race, showing entries and scratches.

d. Odd report showing the opening line of odds for the win pool.

e. Wagering device report listing the teller's identity assigned to each wagering device for that session or day, if applicable.

3. **Race-by-race reports.** For each race offered, the totalizator system must be capable of printing all of the following reports and have them available to review by the pari-mutuel manager and as requested by the commission:

a. Scratch report showing the time each late scratch was entered into the totalizator system and the amount of money to be refunded in each pool.

b. Betting report produced immediately on activation of the stop betting command and final merge of wagering information from all sites showing all of the following:

(1) The amount wagered and to be refunded for each betting interest or combination in each pool offered and the net amount for each pool to be used for calculating the payout.

(2) The final dollar odds for the win pool.

(3) Time of stop betting and time of each pool transmission.

c. Calculating price report, produced before each race is declared official, showing all of the following for each pool:

(1) The winning betting interests or combinations.

(2) The winning moneys in total and for imported hubs.

(3) The minimum payout prices.

(4) The breakage.

(5) The amount payable to the public.

(6) The total amount wagered.

(7) The total amount refunded.

(8) The amount added to the pool.

(9) The actual pool total.

(10) The takeout in total dollars.

d. Probable payout report showing the payouts for multiple and exotic pools, subject to scratches, cancellations, and dead heats.

e. Scan report for multi-leg pools of four or more legs, showing all of the following:

(1) The total wagered in the pool.

(2) The amounts of any carryover.

(3) The winners of completed legs.

(4) The amount of possible winning, based on paying the winner of completed legs combined with every betting interest entered in subsequent legs.

(5) Late scratches in each leg.

f. Race summary report, produced before and after the race results are official, showing, as the sum for all pools paid out in that race, all of the following:

(1) The amount wagered.

(2) The amount refunded.

(3) The net amount to be used for calculating the payout.

(4) Any money added to the pool.

(5) The actual pool total.

(6) The total commission.

(7) The breakage.

(8) The amount paid to the public.

(9) The carryover balances.

(10) The liabilities (due to/due from).

(11) The daily summary report showing the cumulative totals, for each pool and for all pools combined, of the items listed under the race summary report.

4. **End-of-day reports.** For each race offered, the totalizator system must be capable of producing all of the following reports, and have them available for review by the pari-mutuel manager and as requested by the commission:

a. Balance report showing for every wagering device operated on that day, including all of the following:

(1) The teller's name or identification number, if applicable.

(2) The total value and number of tickets sold, canceled, and cashed, separating the outs from the current day's tickets.

(3) The total amount of money drawn from the money room, including the beginning draws.

(4) The total amount of money returned to the money room.

(5) A listing of adjustments made to each wagering device balance after each wagering device has been individually balanced.

b. Wagering summary report showing all of the following:

(1) By wagering site, the amount wagered, refunded, and added for every pool and for each race.

(2) The time of day each race's pools closed.

(3) The commissions deducted, breakage calculated, and amount paid out for every pool in each race.

(4) The total value of outstanding tickets before the pools were opened for the performance, the value of tickets cashed during the performance, the value of tickets to be added to the outstanding ticket total, and the new outstanding ticket total.

(5) The total value of outstanding vouchers before the pools were opened for the performance, the value of vouchers cashed during the performance, the value of vouchers to be added to the outstanding voucher total, and the new outstanding voucher total.

c. System balance report comparing the pool and paid-out totals obtained by processing the transaction files with the pool and paid-out totals obtained from the actual calculations.

d. Money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions. Money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions. Money room balance report showing cash added and subtracted from the beginning day's balance resulting from the

day's wagering and cashing transactions.Money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions. Money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions.

e. Internal revenue service report showing the winnner's social security number, the ticket number, amount won, and taxes withheld for each transaction requiring a form W2-G.

5. **Other standard and special reports.**

a. A totalizator company shall produce any of the following standard reports requested by the commission no later than seventy-two hours, unless otherwise directed, after receiving the request:

(1) Odds progression report showing each successive line of odds for the win pool and the time it was displayed to the public.

(2) Ticket and transaction history report showing the appropriate portion of the ticket history log for the requested ticket identification numbers.

(3) Terminal history report showing the portion of the terminal log requested.

(4) Outstanding ticket report showing all the following information for uncashed winning tickets retained in the totalizator system:

(a) The ticket identification number.

(b) The wagers on the ticket.

(c) The date and performance for which the ticket is outstanding.

(d) The value of the winning wagers.

(e) The wagering device location and number.

(5) Outstanding tickets cashed report for a performance, race, or pool, showing each outstanding ticket cashed that day, in the form of the outstanding ticket report, including the identity of the wagering device that cashed the ticket and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read.

(6) Manually cashed tickets report for a performance, race, or pool, showing every ticket cashed that day in the form of the ticket history report, the identity of the wagering device that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read as well as a subtotal for each wagering device.

(7) Canceled tickets report for a performance or race, showing each ticket canceled that day in the form of the ticket history report, the identity of the wagering device that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read as well as a subtotal for each wagering device.

(8) Network balance report summarizing the activity and liabilities for each site within a tote-to-tote network.

(9) Teller inquiry report showing the time of each cash balance inquiry made by each teller.

(10) Wagering report required for multi-leg pools, four legs or more, showing the amount bet on every combination of the pool and total amount bet.

(11) Account history report showing all activity for each account.

(12) Inter-track wagering report for a card showing the separate or consolidated report for wagers made at participating tracks, including all money wagered on each runner or combination of runners in each pool for each race. Separate or consolidated reports for the host track and each satellite track and the combined totals are required and any additional reports, as determined by the commission.

(13) Ticket history report and terminal history report in the case of a wagering device to totalizator network failure for specific locations and time periods in order to determine what wagers have been recorded in the totalizator from the remote site, including any advance bets.

(14) Pool transmission report listing time of each pool transmission.

b. The totalizator system must be able to produce a special report that filters data by all of the following:

(1) Performance.

(2) Race.

(3) Pool.

(4) Betting interest.

(5) Wagering device.

(6) Sites.

(7) Any combination of paragraphs 1 through 6.

6. **Logs.**

a. Online logs. The totalizator operator shall produce a daily log to the commission on request. The totalizator system must produce all the following logs in a format prescribed by the commission:

(1) Teller or machine history log showing for every wagering device operated during a performance all of the following:

(a) Each time the wagering device was opened and closed.

(b) For each wagering transaction, the wagers made, tickets issued, and total value of the transaction.

(c) For each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, and the value of the wagers paid out.

(d) For each cashing transaction, an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read.

(e) The amount of each cash draw and return.

(f) Any special function, including teller balance, accessed through the wagering device.

(g) The times of day each of the transactions listed were made.

(2) Ticket history log showing all of the following for every ticket issued:

(a) The identification number of each cashed or canceled ticket.

(b) The wagering device location and number.

(c) The wagers and their values.

(d) The cashing or canceling machine location and number.

(e) The amount paid out.

(f) The time of day each transaction occurred.

(g) An indication as to whether each transaction was manual or automatic.

(3) User terminal log showing the time of day of each entry for all of the following:

(a) Each terminal other than a wagering device operating during a day, including all of the following:

[1] Each logon or logoff and the operator's identification code.

[2] Each command or transaction entered.

[3] Each stop-betting, order of finish, official, and sales open command and the device that issued it.

[4] Each occurrence of loss or restoration of communication between computers or sites.

[5] Each occurrence of discrepancy between computers or sites when comparing databases.

(b) Each wagering device operated during a performance, including all of the following:

[1] Each logon or logoff and the teller's identification code, if applicable.

[2] Each instance of loss or restoration of communication and the wagering device.

(4) System error log showing the date and time of each error.

(5) System journal log, including date and time of each entry, including remote access, showing all of the following for every day the system is operated for wagering, maintenance, or other purpose:

(a) System shutdown commands, the device from which they were issued, and the user identification of the individual issuing the commands.

(b) The individual user identification used and the originating device for every attempt, successful or unsuccessful, to access the operating system.

(c) The individual user identification used and the originating device for every attempt, successful or unsuccessful, to access the application programs.

(d) All commands that affect the operating environments issued from the operating system command line.

(e) All commands issued from within the application program in an attempt to access the operating system.

(f) A listing of every operational or operating terminal during computer operation.

(6) Account history log showing all of the following for every account:

(a) The identification number of the account.

(b) Each time the account was accessed, the location and time of each access point.

(c) For each wagering transaction, the amount, time, betting interest selected, type of wagers made, the wagering device used to make the wager, and total value of the transaction.

(d) For each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, and the location, time, and value of the wagers paid out.

(e) For each withdrawal and deposit the amount, location, and time.

b. Offline log. In addition to the computer-generated reports and logs, the totalizator personnel must maintain all of the following logs for review by the commission or duly appointed representative:

(1) System incident log showing a description of each incident involving the totalizator system, including system failures, their causes, and corrective actions taken.

(2) Totalizator room access log of all authorized persons entering and leaving the totalizator central computer room. This includes entries of date, time, and user identification of each person entering and leaving the room.

(3) Totalizator maintenance log of all maintenance work completed on wagering devices and the main totalizator computers or printers showing all of the following:

(a) The name of the person performing the work.

(b) The date and time of day when the maintenance was performed.

(c) The type of maintenance job performed.

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**General Authority:** NDCC 53-06.2-05
**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14