

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

4011

2007 SENATE JUDICIARY

SCR 4011

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4011

### Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2803

Committee Clerk Signature *Maria L Solbey*

**Minutes:** Relating to directing the legislative council to study the formation of a ND gaming commission to regulate and control all forms of gaming in ND.

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

#### Testimony In Support of Bill:

**Sen. Judy Lee**, Dist. #13 Introduced the resolution.(meter :14) A basket of gambling opportunities have grown in ND. With all of this different activities it we need to have a full blown, stand alone, gaming commission that would be able to be proactive and not reactive as we have had problems in the past. The department of the Attorney General is responsible of enforcement and are also involved in the advertising. This is a conflict of interest. People coming after me will have there own ideas but I do not want a pre-conceived destination for this bill. Se can learn from South Dakota and other states.

**Rep. Boucher**, Dist. #9 (meter 2:49) spoke in support of the bill. We need to review ALL of are gaming into one central location and manage it consistently for accountability. Some branches of gaming have gone off on there own. Reviewed what can be done.

**Mike Cichy**, Involved in racing since 1994 and have seen all sides. This is not a threat, it is a review. It will allow current operators to review there process and make them self better. The

offices are understaffed and can not do the research that need to be done. Spoke of Internet Pokers sites still being a debate. How meetings, agendas etcetera, have no consistency in organization and I would prefer a formal process.

**Testimony in Opposition of the Bill:**

None

**Testimony Neutral to the Bill:**

**Warren Dekrey**, ND Council of Gambling Problems. (meter 7:54) Ever session we approve more and more gaming. Line 8 concerns me that we as a state are addicted to gambling for the financial gains it brings us.

**Chuck Keller**, Director of ND Lottery (meter 9:25) Att. #1 The present statutory authority governing the commission and Att. #2 the role of the lottery Advisory Commission and reviewed this.

**Keith Lauer**, Attorney General office (meter 11:38) gave summery review of the gaming industry – Att. #3. Spoke of the Adoption of Rules Rule Book. There current budget is \$5000, spoke of how it is divvied out. AG's office does all the work along with many volunteers. They have no budget and not staff them self.

**Randy Blasit**, ND Director of the Dir. Of the Racing Commission (meter 13:56) Att. #4.

**Senator David Nething**, Chairman closed the hearing.

**Sen. Lyson** made the motion to Do Pass and **Sen. Nelson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Lyson**

Date: 2-5-07  
Roll Call Vote # 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

SCR  
BILL/RESOLUTION NO. 4011

Senate \_\_\_\_\_ Judiciary \_\_\_\_\_ Committee \_\_\_\_\_

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Sen. Lyson Seconded By Sen. Nelson

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Flebiger	✓	
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson	✓		Sen. Nelson	✓	

Total Yes 6 No 0

Absent 0

Floor Assignment Sen. Marcellais

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

**REPORT OF STANDING COMMITTEE**

**SCR 4011: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS**  
**(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4011 was placed on the**  
**Eleventh order on the calendar.**

2007 HOUSE JUDICIARY

SCR 4011

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4011

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/12/07

Recorder Job Number: 4835

Committee Clerk Signature

*R. Penrose*

Minutes:

**Chairman DeKrey:** We will open the hearing on SCR 4011.

**Sen. Judy Lee:** Before you is a resolution which was called for to study the possibility of establishing a gaming commission. As you well know, we have moved from \$2 Blackjack and tip jars to a really sophisticated level of a variety of types of gaming. As a result, our regulations, such as it is, has been Geri rigged in my opinion in looking at this. I really think it is extremely important for us to consider the possibility of establishing a full blown gaming commission. I think we've seen it become a multi-million dollar business. We've seen things on the news about issues in gaming. So much of gaming now is electronic, it is so high tech. We need the most effective way possible to establish a system with which the business can be overseen.

**Rep. Klemin:** Do you see this study encompassing the possibility of taking the lottery or racing commission and putting it all under the gaming commission.

**Sen. Lee:** I would like to see that be part of the study. I don't know what the final outcome would be. It seems to me that we really need a professional to understand the regulations of this industry, which has grown so dramatically in our state. I would hope that would be part of the study.



**Rep. Onstad:** It isn't mentioned, but charitable gaming. Would that come under this umbrella or not, the non-profits, any organization.

**Sen. Lee:** Any kinds of game of chance or gambling of any sorts, not the charities. I'm not trying to monkey with that. But just to regulate the site and game and making sure that everything is done as smoothly as possible. There is an advantage, it seems to me, for the entities that are currently running these types of charities too. This should encompass every kind of gambling, be looked at as part of the study for inclusion under the broader bill. Maybe it would be decided to have smaller units under the larger gaming commission umbrella. I can't say. But I do think it is really important that we figure it out.

**Rep. Boehning:** I like to see this before us. Would we be doing anything with the tribal casinos. I don't know what we have for regulatory over them. Do you see this as a one-stop shop for all gaming in the state, is that your intent.

**Sen. Lee:** We have little to say about that, because that is primarily regulated by the compacts which the various governors have established with the tribes. But I think it will be important for us to be knowledgeable about what our opportunities and responsibilities are there. You may or may not be aware that at a session or two ago there was a bill that would have called for legislative advice and consent to gaming compacts, which frankly constitutionally I believe we have a right to do. If Congress provides legislative advice and consent to the treaties that the President signs, it seems to me that the state should be required to provide advice and consent for compacts that are negotiated between the Governor and the Tribes, but we're not here to put that back in place. So recognizing what key that will play in the overall picture is an important part of this.

**Rep. Delmore:** Are you familiar with other states that actually gaming commissions and how they do work.

**Sen. Lee:** Yes, SD is one example. Others will testify to that.

**Rep. Delmore:** I am happy to hear you say an umbrella type of thing because I serve on a couple of different commissions and many states work very differently. Keeping track is one thing, but I think another one is expertise, which might be hard.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Mike Suchy, Simulcast Service Provider:** Sen. Lee and I have discussed this at some length. This is not an attack on what's going on now. I think that any of us that have been in this business, I've been at it for 13 years now. There are some things that we can do differently up and down the line. The biggest problem we have is that it is so scattered. There is not enough money thrown in. There is very limited staffing of people that are full-time in the gaming business in ND, and the business has grown by leaps and bounds. The technology changes literally by the month. So you have to have somebody that's up on the rules. I would like to see an attorney in the gaming that was full-time, permanent. As far as the different forms of regulation, SD is closest to us. They are a long way from corporate, but they have a full-time gaming commission, executive director, staffing, and I've been told that the remaining job is to run the soft-keys in the desert and the black jack tables. I do know that they took a lot of their regulations from Nevada. Nevada sort of wrote the book on this because they were the first with the exception of racing, which pre-dates Nevada by 40-50 years. I don't think we need that level of regulation, but there are some things that could be run systematically from one agency to the other, as simple as licensing applicants for gaming to background checks. That would be the reason for the study over the next year or so to get back to the legislature, to take a serious look at this and come up with some options.

**Rep. Delmore:** Are you familiar with any of our entities right now that are not subject to audits, such as charitable gaming, lottery, any of those that aren't subject to that type of review.

**Mike Suchy:** No, I believe they are all subject to review and each entity will have some form of a process when they get audited. I do know that the reviews I receive in the simulcast are different than the type of review they do on the black jack table, or a live cast provider. One of the reasons that the racing business went pari-mutuel a hundred years ago, the mechanical was so distinct, it could track each bet.

**Rep. Delmore:** You would put charitable gaming into the gaming commission as well.

**Mike Suchy:** I think it should be. I have no preconceived opinions in this. My whole sense is that it is time we took a look at it, and if everybody comes back a year from now and says they are doing a great job, we shouldn't make any changes, fine. At least we looked at it.

**Rep. Delmore:** One of the problems that I see in doing this, which would be to add another layer of bureaucracy in many ways, is finding people that could be appointed to this board, that had expertise in every one of those areas. There are a number of people that may have served on a couple of commissions or whatever.

**Mike Suchy:** Actually those people are available, they are out there, and they would be the ones with the track experience. I can think of a couple that I know of, that have full-time jobs that have dealt with that, have sold pull tabs, have worked in the racing business, etc. and are familiar up and down the line. I'm sure there are people within the AG's office that are familiar with this, so if you had two groups together they could work it out. I don't see this as additional bureaucracy, I see this as streamlined. But I do believe that they need more money. Racing in 2003 contributed over \$2 million dollars in the general fund. It's there. Traditionally in the gambling business, the ones that are operating the systems pay for the regulation.

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

**Keith Lauer, AG's office:** (see attached testimony). We are neutral. We are just providing you with a current list of the gaming commission members and the statutes that go along with charitable gambling in the state of ND.

**Chairman DeKrey:** Don't we already have a gaming commission.

**Keith Lauer:** I think there are actually three bodies and they are all represented here today. We have the state gaming commission, which I am passing out information on. It's a five member board, they are paid \$75/day for a day's service and their job is to adopt rules to deal with charitable gambling. Their budget is just over \$5,000 per biennium. Basically their job is to adopt administrative rules for the regulation of the 350 organizations that have charitable gambling. But then you also have the racing commission and a lottery advisory board.

**Chairman DeKrey:** So the lottery is a board, not a commission.

**Keith Lauer:** That is just an advisory board and Chuck has more information on that. My understanding is, that all they do, is make recommendations to the AG, but the AG makes all the final decisions for the lottery.

**Rep. Delmore:** As you look at the current gaming commission, there is also another advisory group too, that is made up of legislators, and can you tell us a little about that, because they do have some oversight as well.

**Keith Lauer:** We do have a 21 member advisory board that helps out the state gaming commission. They are all volunteers. Only the legislative members, and there are two of them get paid for their days of service, the rest are volunteers from the industry, law enforcement individual, a wide range of distributors, charities, that just volunteer their time to help advise the state gaming commission.

**Rep. Delmore:** We do also have comprehensive audit of this group.

**Keith Lauer:** By comprehensive audit, the state auditor's office does a review of the AG's office every two years and I believe they look at the budget of the gaming commission, like I said it is only about \$5,000 budget every two years; like I said they basically just adopt administrative rules with that budget. It isn't a large budget. They do have a minimum number of board meetings, but there really isn't a lot to audit, it isn't a full-time board. We do all the work in the AG's office for the ND State Gaming Commission, as far as drafting the rules, working with the advisory board, doing the public hearings, we actually conduct those on behalf of the state gaming commission.

**Rep. Delmore:** Would you agree with Mr. Suchy, because I have dealt black jack I have enough of knowledge to serve on a technical commission that seems to be favored in the study.

**Keith Lauer:** I guess I wouldn't want to comment on that, whether dealing black jack was enough.

**Rep. Kretschmar:** On the racing commission, do they regulate the pari-mutuel system or do they just mainly regulate horse racing.

**Keith Lauer:** Randy Blaseg is here from the racing commission, they actually do the regulation of the simulcast and the pari-mutuel wagering. He's here to answer questions about that.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Chuck Keller, ND Lottery Commission:** (see attached 2 handouts). The first document provides for the statutory authority of the Lottery Advisory Commission, it says it is a 5 member commission. Committee members are appointed by the chairman of the legislative council and by the AG. The second document provides an overview of the role of the Lottery commission.

It does serve primarily as a policy advisor to the AG and the director of the lottery, and it also serves as the audit committee of the lottery. I assure that AG Stenehjem and I take all of the recommendations from the lottery advisory commission seriously. I question whether AG Stenehjem would oppose any of the recommendations of the lottery advisory commission. There is also a 12 member informal volunteer retail advisory board that the lottery has created that at least quarterly, provides the lottery with the information on what is working and what isn't working. The commission does provide the AG and me with an independent perspective of the issues and operations of the lottery. We consult with the commission on all major policies, plans, issues, contracts, timelines and activities of the lottery, including (see handout). They are also involved in developing the lottery's mission statement.

**Chairman DeKrey:** Thank you. Further testimony in support. Assure us that the Susan Bjalla situation couldn't happen again.

**Randy Blaseg, Director of Racing Commission:** We are neutral (see attached testimony). You would have to talk to federal about that.

**Chairman DeKrey:** Thank you.

**Mike Suchy:** I didn't mean that you could just be a black jack dealer and be on the commission. The lady that I'm talking about, was a black jack dealer and a site manager and took care of the teller line, which had about 2 dozen tellers at the live meets. She would be the type of the person who would be good.

**Rep. Delmore:** I didn't mean to make light of that either, but the fact that we are looking at regulating and controlling all forms of gaming is pretty wide, pretty encompassing, and I would think that we would need someone who was qualified to be on the commission.

**Mike Suchy:** I was talking about that type of person to be on the commission, not to manage it, if you went to an Executive Director type of thing.

**Chairman DeKrey:** Thank you. We will close the hearing.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4011

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/12/07

Recorder Job Number: 4907

Committee Clerk Signature

*W. Pluise*

Minutes:

**Chairman DeKrey:** We will take up SCR 4011. What are the committee's wishes.

**Rep. Delmore:** I move a Do Pass.

**Rep. Wolf:** Second.

13 YES 0 NO 1 ABSENT

DO PASS

CARRIER: Rep. Meyer



Date: 3/12/07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 4011

House JUDICIARY Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Rep. Delmore Seconded By Rep. Wolf

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

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Meyer

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

REPORT OF STANDING COMMITTEE (410)  
March 12, 2007 4:17 p.m.

Module No: HR-46-5048  
Carrier: S. Meyer  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SCR 4011: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4011 was placed on the Tenth order on the calendar.**

2007 TESTIMONY

SCR 4011

Att #1  
2-5-07

## SENATE CONCURRENT RESOLUTION NO. 4011

### Members and Authority of the Lottery Advisory Commission

February 5, 2007

#### Members:

Representative RaeAnn Kelsch, Chairman  
Representative Lois Delmore  
Senator Jerry Klein  
Ms. Darlene Watne (former legislator)  
Mr. Laurel Thoreson (former legislator)

*Same to House*

#### Authority:

North Dakota Century Code § 53-12.1-04. Advisory commission - Penalty.

1. There is created the lottery advisory commission, which is composed of five members, three of whom are legislators selected by the chairman of the legislative council and two of whom are selected by the attorney general. The term of office is three years, expiring on June thirtieth with no more than two terms expiring in any one year. Of the first members appointed, one must be appointed for a term of one year, two must be appointed for terms of two years, and two must be appointed for terms of three years. No member may be appointed to more than two consecutive terms. Each member must be a citizen of the United States and a resident of this state. A chairman of the commission must be chosen annually from the membership of the commission by a majority of its members at the first meeting of the commission each fiscal year. A member may serve as chairman for more than one year.
2. The lottery advisory commission shall meet at least once a quarter and any additional meetings as the chairman deems necessary. Special meetings may be called by the chairman upon the written request of the director or any three members of the commission.
3. The lottery advisory commission shall advise the director and attorney general on policy and general operation of the lottery and shall serve as the audit committee.
4. A member of the lottery advisory commission who is not a permanent full-time state employee is to be compensated at a rate of seventy-five dollars per day and entitled to mileage and expenses as provided by law for state employees. A state employee who is a member of the commission must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency.
5. No member of the lottery advisory commission, employee of the lottery, or any individual who regularly resides in the same household as either of those individuals may directly or indirectly, individually, as a partner of a partnership, or a stockholder, director, or officer of a corporation, have an interest in the gaming system or advertising agency vendor of the lottery. A knowing violation of this subsection is a class B misdemeanor.

Att #2  
2-5-07

## SENATE CONCURRENT RESOLUTION NO. 4011

Role of the Lottery Advisory Commission  
February 5, 2007

*Same  
to House*

The Lottery Advisory Commission primarily serves as a policy advisor to the Attorney General and Director of the Lottery, and serves as the Audit Committee of the Lottery. The Commission provides an independent perspective on issues and operation of the Lottery and presents ideas and recommends solutions while representing the best interests of the state, public, and lottery industry. The Attorney General seriously considers all recommendations of the Commission.

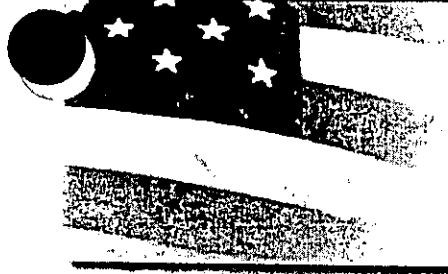
The Commission accesses the resources of the Office of Attorney General. The Commission relies on the Director to provide the Commission with vital data, progress reports, audit reports, compliance reports of the Multi-State Lottery Association, results of promotions, research, quarterly and annual financial statements, and information related to critical success factors for the Commission's review. The Commission's budget is contained in the Office of Attorney General's appropriation. The Commission meets at least on a quarterly basis.

The Attorney General and Director of the Lottery consult with the Commission on critical policies, plans, issues, contracts, timelines, and activities of the Lottery, including:

- Selecting retailers.
- Proposing new games.
- Hiring a lottery director.
- Proposing new services.
- Proposing laws and rules.
- Writing legislative reports.
- Proposing surveys or studies.
- Proposing special budget items.
- Developing a mission statement, logo, and slogan.
- Proposing advertising, promotional, and educational campaigns.
- Developing point-of-sale decals, brochures, banners, and posters.
- Developing the organization structure and employing key employees.
- Proposing ceremonial launches of games or celebrated anniversaries.
- Selecting vendors for the on-line gaming system and marketing services.
- Proposing policies on license suspensions and retailer sales incentive programs.



Your Gateway to North Dakota



# North Dakota Racing Commission



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**53-06.2-02. Racing commission - Members - Appointment - Term - Qualifications - Compensation.**

1. A North Dakota racing commission is established consisting of the chairman and four other members appointed by the governor. One of the members must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves for the unexpired portion of the term and may be reappointed. The terms of the commissioners must be staggered so that one term expires each July first. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission.
2. A person is ineligible for appointment to the commission if that person has not been a resident of this state for at least two years before the date of appointment. A person is also ineligible if that person is not of such character and reputation as to promote public confidence in the administration of racing in this state. A person who has a financial interest in racing cannot be a member of the commission and cannot be employed by the commission. Failure to maintain compliance with this subsection is grounds for removal from the commission or from employment with the commission. For purposes of this section, a person has a financial interest in racing if that person has an ownership interest in horses running at live or simulcast meets conducted or shown in this state subject to this chapter or rules of the commission, is required to be licensed under this chapter or the rules of the commission, or who derives any direct financial benefit from racing, individually or by or through an entity or other person, as regulated by this chapter or the rules of the commission.
3. Commission members are entitled to seventy-five dollars per day for compensation, and mileage and expense reimbursement as allowed to other state employees.

**53-06.2-03. Director of racing - Appointment - Qualifications - Salary - Duties - Other personnel.**

1. The commission shall appoint a director of racing. The commission shall establish the director's qualifications and salary.
2. The director shall devote such time to the duties of the office as the commission may prescribe. The director is the executive officer of the commission and shall enforce the rules and orders of the commission. The director shall perform other duties the commission prescribes.
3. The director may employ other persons as authorized by the commission.

**53-06.2-04. Duties of commission.** The commission shall:

1. Provide for racing under the certificate system.
2. Set racing dates.

3. Adopt rules for effectively preventing the use of any substance, compound items, or combinations of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racehorse, unless specifically authorized by the commission.
4. Supervise and check the making of parimutuel pools, parimutuel machines, and equipment at all races held under the certificate system.
5. Adopt rules governing, restricting, or regulating bids on licensees' concessions and leases on equipment.
6. Consider all proposed extensions, additions, or improvements to the buildings, stables, or tracks on property owned or leased by a licensee.
7. Exclude from racetracks or simulcast parimutuel wagering facilities any person who violates any rule of the commission or any law.
8. Determine the cost of inspections performed under subsection 3 of section 53-06.2-05 and require the licensee to pay that cost.

**53-06.2-05. Powers of commission.** The commission may:

1. Compel the production of all documents showing the receipts and disbursements of any licensee and determine the manner in which such financial records are to be kept.
2. Investigate the operations of any licensee and enter any vehicle or place of business, residence, storage, or racing of any licensee on the grounds of a licensed association to determine whether there has been compliance with the provisions of this chapter and rules adopted under this chapter, and to discover and seize any evidence of noncompliance.
3. Request appropriate state officials to perform inspections necessary for the health and safety of spectators, employees, participants, and horses that are lawfully on a racetrack.
4. License all participants in the racing and simulcast parimutuel wagering industry and require and obtain information the commission deems necessary from license applicants. The commission may obtain from the bureau of criminal investigation, without charge, criminal history record information as required in the licensing process.
5. Receive moneys from the North Dakota horse racing foundation for deposit in the purse fund, breeders' fund, or racing promotion fund in accordance with subsection 6 of section 53-06.2-11.
6. Adopt additional rules for the administration, implementation, and regulation of activities conducted pursuant to this chapter. The commission shall deposit any fees collected under authority of this subsection in the racing commission operating fund. Subject to legislative appropriation, the commission may spend the fees for operating costs of the commission.



