

North Dakota
Racing Commission
BISMARCK, NORTH DAKOTA

Audit Report

For the Biennium Ended
June 30, 2015

Office of the State Auditor
Division of State Audit

**LEGISLATIVE AUDIT AND FISCAL REVIEW
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STATE AUDITOR
ROBERT R. PETERSON



PHONE
(701) 328 - 2241
FAX
(701) 328 - 1408

STATE OF NORTH DAKOTA
OFFICE OF THE STATE AUDITOR
STATE CAPITOL
600 E. BOULEVARD AVENUE - DEPT. 117
BISMARCK, NORTH DAKOTA 58505

Transmittal Letter

May 24, 2016

The Honorable Jack Dalrymple, Governor
Members of the North Dakota Legislative Assembly
Mr. Gunner LaCour, Director of Racing

We are pleased to submit this audit of the North Dakota Racing Commission for the biennium ended June 30, 2015. This audit resulted from the statutory responsibility of the State Auditor to audit or review each state agency once every two years. The same statute gives the State Auditor the responsibility to determine the contents of these audits.

In determining the contents of the audits of state agencies, the primary consideration was to determine how we could best serve the citizens of the state of North Dakota. Naturally we determined financial accountability should play an important part of these audits. Additionally, operational accountability is addressed whenever possible to increase efficiency and effectiveness of state government.

The in-charge auditor for this audit was Jacqueline Ressler. Dina Cashman, CPA was the staff auditor. Cindi Pedersen, CPA was the audit manager. Inquiries or comments relating to this audit may be directed to the audit manager by calling (701) 328-2241. We wish to express our appreciation to Director LaCour and his staff for the courtesy, cooperation, and assistance they provided to us during this audit.

Respectfully submitted,

A handwritten signature in cursive script that reads "Bob Peterson".

Robert R. Peterson
State Auditor

Executive Summary

Introduction

The North Dakota Racing Commission is the regulatory body in charge of regulating live and simulcast racing in North Dakota and administers three special funds for the benefit of the horse racing industry for North Dakota. The Breeders' Fund was established to financially reward breeders or owners of North Dakota bred horses. The Purse Fund was established to supplement and improve purses offered at racetracks in the state. The Racing Promotion Fund was established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state as necessary. The Commission is made up of five members appointed by the Governor and the office staff consists of a Director of Racing and an Administrative Assistant.

The Legislative Audit and Fiscal Review Committee (LAFRC) requests that certain items be addressed by auditors performing audits of state agencies. Those items and the Office of the State Auditor's responses are noted below.

Responses to LAFRC Audit Questions

1. What type of opinion was issued on the financial statements?

Financial statements were not prepared by the North Dakota Racing Commission in accordance with generally accepted accounting principles so an opinion is not applicable. The agency's transactions were tested and included in the state's basic financial statements on which an unmodified opinion was issued.

2. Was there compliance with statutes, laws, rules, and regulations under which the agency was created and is functioning?

Yes.

3. Was internal control adequate and functioning effectively?

Yes.

4. Were there any indications of lack of efficiency in financial operations and management of the agency?

No.

5. Has action been taken on findings and recommendations included in prior audit reports?

The North Dakota Racing Commission has implemented the recommendation included in the prior audit report.

6. *Was a management letter issued? If so, provide a summary below, including any recommendations and the management responses.*

Yes, a management letter was issued and is included on page 13 of this report, along with management's response.

LAFRC Audit Communications

7. *Identify any significant changes in accounting policies, any management conflicts of interest, any contingent liabilities, or any significant unusual transactions.*

There were no significant changes in accounting policies, no management conflicts of interest were noted, no contingent liabilities were identified or significant unusual transactions.

8. *Identify any significant accounting estimates, the process used by management to formulate the accounting estimates, and the basis for the auditor's conclusions regarding the reasonableness of those estimates.*

The North Dakota Racing Commission's financial statements do not include any significant accounting estimates.

9. *Identify any significant audit adjustments.*

Significant audit adjustments were not necessary.

10. *Identify any disagreements with management, whether or not resolved to the auditor's satisfaction relating to a financial accounting, reporting, or auditing matter that could be significant to the financial statements.*

None.

11. *Identify any serious difficulties encountered in performing the audit.*

None.

12. *Identify any major issues discussed with management prior to retention.*

This is not applicable for audits conducted by the Office of the State Auditor.

13. *Identify any management consultations with other accountants about auditing and accounting matters.*

None.

14. *Identify any high-risk information technology systems critical to operations based on the auditor's overall assessment of the importance of the system to the agency and its mission, or whether any exceptions identified in the six audit report questions to be addressed by the auditors are directly related to the operations of an information technology system.*

ConnectND Finance and Human Resource Management System (HRMS) are high-risk information technology systems critical to the North Dakota Racing Commission.

Audit Objectives, Scope, and Methodology

Audit Objectives

The objectives of this audit of the North Dakota Racing Commission for the biennium ended June 30, 2015 were to provide reliable, audited financial statements and to answer the following questions:

1. What are the highest risk areas of the North Dakota Racing Commission's operations and is internal control adequate in these areas?
2. What are the significant and high-risk areas of legislative intent applicable to the North Dakota Racing Commission and are they in compliance with these laws?
3. Are there areas of the North Dakota Racing Commission's operations where we can help to improve efficiency or effectiveness?

Audit Scope

This audit of the North Dakota Racing Commission is for the biennium ended June 30, 2015. We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The North Dakota Racing Commission's sole location is its Bismarck office which was included in the audit scope.

Audit Methodology

To meet the objectives outlined above, we:

- Prepared financial statements from the legal balances on the state's accounting system tested as part of this audit and the audit of the state's Comprehensive Annual Financial Report and developed a discussion and analysis of the financial statements.
- Performed detailed analytical procedures including computer-assisted auditing techniques. These procedures were used to identify high-risk transactions and potential problem areas for additional testing.
- Tested internal control and compliance with laws and regulations which included selecting representative samples to determine if controls were operating effectively and to determine if laws were being followed consistently. Non-statistical sampling was used and the results were projected to the population. Where applicable, populations were stratified to ensure that particular groups within a population were adequately represented in the sample, and to improve efficiency by gaining greater control on the composition of the sample.
- Interviewed appropriate agency personnel.

- Queried the ConnectND (PeopleSoft) system. Significant evidence was obtained from ConnectND.
- Observed the North Dakota Racing Commission's processes and procedures.
- Performed a detailed review of the licensing of Service Providers and Totalizator Companies including:
 - Established policies and procedures;
 - Qualifications of staff;
 - Licensing;
 - Inspections;
 - Enforcement processes; and
 - Management analysis processes.

In aggregate there were no significant limitations or uncertainties related to our overall assessment of the sufficiency and appropriateness of audit evidence.

Discussion and Analysis

The accompanying financial statements have been prepared to present the North Dakota Racing Commission's revenues and expenditures on the legal (budget) basis. The accompanying financial statements are not intended to be presented in accordance with generally accepted accounting principles (GAAP).

For the biennium ended June 30, 2015, operations of the North Dakota Racing Commission were primarily supported by racing tax and unclaimed ticket and breakage revenue collected on pari-mutual wagering. This is supplemented by appropriations from the state's general fund.

Financial Summary

Revenue consisted primarily of racing taxes and unclaimed tickets and breakage revenue, as well as license and registration fees. Other revenue during the audited period included interest and reimbursement from service providers for the simulcast auditor. Total revenues were \$1,448,750 for the year ended June 30, 2015, as compared to \$1,182,246 for the year ended June 30, 2014. The increase in total revenue for the audited period reflects primarily the increase in racing tax. All other revenues remained fairly constant.

Total Expenditures of the North Dakota Racing Commission were \$1,115,644 for the year ended June 30, 2015, as compared to \$1,099,281 for the prior year. The increase in total expenditures for the audit period reflects primarily the increase in race promotion grants and breeder award payments. All other expenditures remained fairly constant.

Fund Balance Summary

The fund balances in the North Dakota Racing Commissions' Breeders' Fund, Racing Promotion Fund and Purse Fund have all increased substantially since 2013.

The Fund Balance Table in Appendix A, on page 12, shows the balances of the North Dakota Racing Commission's funds as of calendar years ended 2011-2015.

Financial Statements

Statement of Revenues and Expenditures

| | <u>June 30, 2015</u> | <u>June 30, 2014</u> |
|---|----------------------|----------------------|
| <u>Revenues:</u> | | |
| Racing Tax | \$1,054,120 | \$780,290 |
| Breakage | 295,238 | 302,334 |
| Licenses and Registration Fees | 74,080 | 79,865 |
| Interest and Investment Earnings | 684 | 510 |
| Unclaimed Tickets/Reimbursement from Simulcast Auditor | 24,598 | 19,157 |
| Miscellaneous Revenue | 30 | 90 |
| Total Revenues | <u>\$1,448,750</u> | <u>\$1,182,246</u> |
| <u>Expenditures:</u> | | |
| Racing Promotion Grants | \$ 401,569 | \$ 393,600 |
| Purse Supplements | 240,000 | 263,540 |
| Salaries and Benefits | 176,889 | 193,268 |
| Breeder Award Payments | 124,625 | 107,465 |
| Professional Fees and Services | 76,361 | 60,772 |
| Operating Fees and Services | 25,618 | 19,507 |
| Travel | 22,672 | 18,939 |
| Professional Development | 15,500 | 13,995 |
| IT – Data Processing | 10,502 | 4,873 |
| Rentals/Leases – Building/Land | 8,348 | 8,348 |
| Miscellaneous Expenses | 5,623 | 7,204 |
| Office Supplies | 4,993 | 4,179 |
| Postage | 1,909 | 1,922 |
| Printing | 1,035 | 1,669 |
| Total Expenditures | <u>\$1,115,644</u> | <u>\$1,099,281</u> |

Statement of Appropriations

For The Biennium Ended June 30, 2015

| Expenditures by Line Item: | <u>Original Appropriation</u> | <u>Final Appropriation</u> | <u>Expenditures</u> | <u>Unexpended Appropriation</u> |
|---------------------------------------|-----------------------------------|--------------------------------|---------------------|-------------------------------------|
| Accrued Leave Payments | \$ 3,789 | \$ 3,789 | | \$ 3,789 |
| Racing Commission | 551,862 | 551,862 | \$ 519,590 | 32,272 |
| Totals | <u>\$ 555,651</u> | <u>\$ 555,651</u> | <u>\$ 519,590</u> | <u>\$ 36,061</u> |
| Expenditures by Source: | | | | |
| General Fund | \$ 389,244 | \$ 389,244 | \$ 389,044 | \$ 200 |
| Other Funds | 166,407 | 166,407 | 130,546 | 35,861 |
| Totals | <u>\$ 555,651</u> | <u>\$ 555,651</u> | <u>\$ 519,590</u> | <u>\$ 36,061</u> |

Expenditures Without Appropriations Of Specific Amounts:

The Breeders' Fund has a continuing appropriation authorized by North Dakota Century Code section 53-06.2-11 (\$278,405 of expenditures for this biennium).

The Purse Fund has a continuing appropriation authorized by North Dakota Century Code section 53-06.2-11 (\$503,540 of expenditures for this biennium).

The Racing Promotion Fund has a continuing appropriation authorized by North Dakota Century Code section 53-06.2-11 (\$913,388 of expenditures for this biennium).

Internal Control

In our audit for the biennium ended June 30, 2015, we identified the following areas of the North Dakota Racing Commission's internal control as being the highest risk:

Internal Controls Subjected to Testing:

- Controls surrounding the processing of revenues.
- Controls surrounding the processing of expenditures.
- Controls surrounding the processing of payroll.
- Controls relating to compliance with legislative intent.
- Controls surrounding the ConnectND (PeopleSoft) system.

The criteria used to evaluate internal control is published in the publication *Standards for Internal Control in the Federal Government* issued by the Comptroller General of the United States (Green Book, GAO-14-704G). Agency management must establish and maintain effective internal control in accordance with policy of the Office of Management and Budget (OMB Policy 216) and, for programs receiving federal funds, the Code of Federal Regulation as set forth by the federal government (2 CFR 200.303).

We gained an understanding of internal control surrounding these areas and concluded as to the adequacy of their design. We also tested the operating effectiveness of those controls we considered necessary based on our assessment of audit risk. We concluded internal control was adequate.

Auditors are required to report deficiencies in internal control that are significant within the context of the objectives of the audit. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect: (1) misstatements in financial or performance information; (2) violations of laws and regulations; or (3) impairments of effectiveness or efficiency of operations, on a timely basis. Considering both qualitative and quantitative factors, we did not identify any significant deficiencies in internal control.

Compliance With Legislative Intent

In our audit for the biennium ended June 30, 2015, we identified and tested the North Dakota Racing Commission's compliance with legislative intent for the following areas we determined to be significant and of higher risk of noncompliance:

- Proper collection and deposit of taxes on pari-mutuel racing (North Dakota Century Code 53-06.2-11).
- Compliance with the limit of racing promotion funds used for operating expenses (North Dakota Century Code 53-06.2-11(6)).
- Proper collection of bonds or letters of credit payable to the state of North Dakota for all license applicants (North Dakota Century Code 53-06.2-08(3)).
- Proper use and authorization of the following legally restricted funds:
 - Breeders' Fund (North Dakota Century Code 53-06.2-01)
 - Purse Fund (North Dakota Century Code 53-06.2-01)
 - Racing Promotion Fund (North Dakota Century Code 53-06.2-01)
- Proper use of the State Treasurer (State Constitution, Article X, Section 12)
- Compliance with appropriations (2013 North Dakota Session Laws chapter 54).
- Compliance with OMB's Purchasing Procedures Manual.
- Adequate blanket bond coverage of employees (NDCC section 26.1-21-08).
- Compliance with fixed asset requirements including record-keeping and inventory.
- Compliance with payroll-related laws including statutory salaries for applicable appointed positions and certification of payroll.

The criteria used to evaluate legislative intent are the laws as published in the *North Dakota Century Code* and the *North Dakota Session Laws*.

Government Auditing Standards require auditors to report all instances of fraud and illegal acts unless they are inconsequential within the context of the audit objectives. Further, auditors are required to report significant violations of provisions of contracts or grant agreements, and significant abuse that has occurred or is likely to have occurred.

The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*. Thus, we concluded there was compliance with the legislative intent identified above.

While we did not find any items that were required to be reported in accordance with *Government Auditing Standards*, we noted a certain inconsequential or insignificant instance of non-compliance that we have reported to management of the North Dakota Racing Commission in a management letter dated May 24, 2016.

Operations

Our audit of the North Dakota Racing Commission included review of operations surrounding the licensing of Service Providers and Totalizator Companies.

Background

The North Dakota Century Code Chapter 53-06.2-05 authorizes the North Dakota Racing Commission to license all participants in the racing and simulcast pari-mutuel wagering industry and require and obtain information the commission deems necessary from license applicants.

Our audit of the North Dakota Horse Racing Commission's licensing of Service Providers and Totalizator Companies was designed and conducted to meet the following objectives:

- Was professional competence upheld through the hiring, training, and evaluating process so as to ensure effective compliance with rules and regulations by all staff?
- Are regulated individuals required to get and maintain a license to certify that certain standards are met for operating within the racing industry?
- Has a systematic process been developed to monitor the activities of regulated individuals to ensure applicable requirements are being followed so as to adequately protect the public?
- Are regulations properly and effectively enforced in order to achieve the goals intended by the government such as safeguarding health and safety?
- Is there a systematic process for analyzing program-related information, making appropriate adjustments to improve the effectiveness and efficiency of the program and reporting relevant summary information to the public and policy-makers about the results of Service Provider and Totalizator Company licensing?

Our audit determined the objectives were met, except for an inconsequential matter that we have reported to the management of the North Dakota Racing Commission in a management letter dated May 24, 2016.

Appendix A

Fund Balance Table – Calendar Year Ended

| | <u>2011</u> | <u>2012</u> | <u>2013</u> | <u>2014</u> | <u>2015</u> |
|--------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| <u>Breeders Fund:</u> | | | | | |
| Beginning Fund Balance | \$ 630,224 | \$ 694,729 | \$ 719,789 | \$ 732,576 | \$ 841,396 |
| Revenue | 176,534 | 157,355 | 155,984 | 256,893 | 311,000 |
| Expenses | 112,030 | 132,294 | 143,198 | 148,073 | 194,868 |
| Ending Fund Balance | <u>\$ 694,729</u> | <u>\$ 719,789</u> | <u>\$ 732,576</u> | <u>\$ 841,396</u> | <u>\$ 958,528</u> |
| <u>Purse Fund:</u> | | | | | |
| Beginning Fund Balance | \$ 173,096 | \$ 231,747 | \$ 172,208 | \$ 110,271 | \$ 191,925 |
| Revenue | 238,651 | 186,461 | 168,603 | 256,654 | 310,595 |
| Expenses | 180,000 | 246,000 | 230,540 | 175,000 | 240,000 |
| Ending Fund Balance | <u>\$ 231,747</u> | <u>\$ 172,208</u> | <u>\$ 110,271</u> | <u>\$ 191,925</u> | <u>\$ 262,520</u> |
| <u>Racing Promotion Fund:</u> | | | | | |
| Beginning Fund Balance | \$ 155,672 | \$ 130,562 | \$ 143,280 | \$ 190,847 | \$ 452,537 |
| Revenue | 143,735 | 166,171 | 263,906 | 673,564 | 631,868 |
| Expenses | 168,845 | 153,453 | 216,339 | 411,874 | 596,076 |
| Ending Fund Balance | <u>\$ 130,562</u> | <u>\$ 143,280</u> | <u>\$ 190,847</u> | <u>\$ 452,537</u> | <u>\$ 488,329</u> |
| Total Funds | <u>\$ 1,057,038</u> | <u>\$ 1,035,277</u> | <u>\$ 1,033,694</u> | <u>\$ 1,485,858</u> | <u>\$ 1,709,377</u> |

Management Letter (Informal Recommendations)

May 24, 2016

Mr. Gunner LaCour
Director of Racing
North Dakota Racing Commission
500 North 9th Street
Bismarck, ND 58501-4509

Dear Mr. LaCour:

We have performed an audit of the North Dakota Racing Commission for the biennium ended June 30, 2015, and have issued a report thereon. As part of our audit, we gained an understanding of the North Dakota Racing Commission's internal control structure to the extent we considered necessary to achieve our audit objectives. We also performed tests of compliance as described in the same report.

Our audit procedures are designed primarily to enable us to report on our objectives including those related to internal control and compliance with laws and regulations and may not bring to light all weaknesses in systems and procedures or noncompliance with laws and regulations which may exist. We aim, however, to use our knowledge of your organization gained during our work to make comments and suggestions which we hope will be useful to you.

In connection with the audit, gaining an understanding of the internal control structure, and tests of compliance with laws and regulations referred to above, we noted certain conditions we did not consider reportable within the context of your audit report. These conditions relate to areas of general business practice or control issues that have no significant bearing on the administration of federal funds. We do, however, want to present our recommendations to you for your consideration and whatever follow-up action you consider appropriate. During the next audit we will determine if these recommendations have been implemented, and if not, we will reconsider their status.

The following present our informal recommendations.

LEGISLATIVE INTENT

Informal Recommendation 15-1: We recommend the North Dakota Racing Commission follow the Office of Management and Budget's State Procurement Guidelines for all purchases.

OPERATIONS

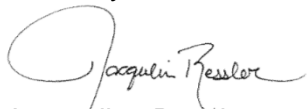
Informal Recommendation 15-2: We recommend the North Dakota Racing Commission prepare documented procedures for Totalizator Company and Service Provider licensing in the following areas:

- Licensing
- Inspections
- Enforcement

Management of North Dakota Racing Commission agreed with these recommendations.

I encourage you to call me or an audit manager at 328-2241 if you have any questions about the implementation of recommendations included in your audit report or this letter.

Sincerely,



Jacqueline Ressler
Auditor in-charge

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Division of State Audit

Office of the State Auditor
600 East Boulevard Avenue – Department 117
Bismarck, ND 58505-0060

(701) 328-2241