

**NORTH DAKOTA ADMINISTRATIVE CODE**

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**for the**  
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**TITLE 81**

**Tax Commissioner**



**JULY 1998**

**CHAPTER 81-01.1-01**

**81-01.1-01-02. Definitions.** As used in this article and in the provisions of North Dakota Century Code title 57, unless otherwise required, all terms and phrases have the same meaning as defined in the North Dakota Century Code, and, in addition:

1. "Assessment" means the determination and imposition of tax by the tax commissioner of any state tax due and owing based upon information on a tax return, upon information obtained through an audit, or upon the best information available. The term does not include a self-assessment made by a taxpayer on a tax return, a calculation of tax made by a taxpayer with the assistance of the tax commissioner, or an adjustment made due to a mathematical or clerical error on a tax return.
2. "Audit" means an examination or investigation by the tax commissioner to determine the accuracy of information on a tax return or to determine whether a tax liability exists.
3. "Determination" means a decision by the tax commissioner on a refund or an assessment of tax. The term does not include a self-assessment made by a taxpayer on a tax return, a calculation of tax made by a taxpayer with the assistance of the tax commissioner, or an adjustment made due to a mathematical or clerical error on a tax return.
4. "Field audit" means any audit where taxpayer's books and records are examined at the taxpayer's place of business.
5. "Mathematical error" or "clerical error" means:

- a. An error in addition, subtraction, multiplication, or division shown on any tax return.
  - b. An incorrect use of any table provided by the tax commissioner with respect to any tax return if such incorrect use is apparent from the existence of other information on the tax return.
  - c. An entry on a tax return of an item that is inconsistent with another entry of the same or another item on such tax return.
  - d. An omission of information that is required to be supplied on the tax return to substantiate an entry on the tax return.
  - e. An entry on a tax return of a deduction or credit in an amount that exceeds a statutory limit.
- 6. "Notice" means a communication in writing issued by the tax commissioner or the taxpayer.
  - 7. "Notice of determination" means notice provided by the tax commissioner to the taxpayer, pursuant to subsection 3 of North Dakota Century Code section 57-38-39, North Dakota Century Code sections 57-39.2-15, 57-40.2-13, and 57-40.3-12, and subsection 3 of section 81-09-02-02.
  - 8. "Notice of reconsideration" means notice to taxpayer pursuant to subsection 5 of North Dakota Century Code section 57-38-39, subsection 8 of North Dakota Century Code section 57-38-40, subsection 6 of section 81-09-02-02, and subsection 7 of section 81-09-02-03.
  - 9. "Notice of refund change" means notice provided to the taxpayer, as provided in subsection 10 of North Dakota Century Code section 57-38-40, North Dakota Century Code section 57-39.2-25, and subsection 3 of section 81-09-02-03, that all or part of the requested refund is denied.
  - 10. "Office audit" means any audit where a taxpayer's books and records are examined in the tax commissioner's office.
  - 11. "Tax form" means a document prescribed by the tax commissioner requesting specific information, and includes a document submitted to the tax commissioner by means of electronic transmission, such as wires, cables, electromagnetic waves, light waves, or similar media now in existence or that may be devised.
  - 12. "Tax return" means a tax form containing facts required and sufficient information from which the tax commissioner can

determine a tax liability and includes information returns. The terms "tax form" and "tax return" are not synonymous.

13. "Taxpayer" means an individual, partnership, firm, corporation, joint venture, association, estate, fiduciary, trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number who is or may be required to file a tax return under North Dakota Century Code title 57.

**History:** Effective July 1, 1985; amended effective May 1, 1991; November 1, 1996; July 1, 1998.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 57-01-02, 57-01-11

## CHAPTER 81-03-01.1

### 81-03-01.1-06. Income tax exemption for new and expanding business.

1. When a taxpayer is granted an exemption from income tax pursuant to North Dakota Century Code chapter 40-57.1, the exemption must be prorated, when necessary, in the first and last years in order to exempt income for a period not to exceed sixty months.
2. The amount of the yearly income tax exemption for new and expanding business is limited to income earned from the new business or expansion in each tax year reduced by the amount of federal tax assignable to the North Dakota exempt income which was included in federal taxable income.
3. When the project operator is a partnership, S corporation, or limited liability company, the income tax exemption flows through to the partners, shareholders, and members.
4. The conditions for reapplication set forth in North Dakota Century Code chapter 40-57.1 apply to the income tax exemption. A project operator must reapply for the income tax exemption if these conditions are met.
5. The office of the state tax commissioner must be notified of any changes in ownership of a new industry which has been granted an income tax exemption. A change of ownership includes transfer of a partnership interest, a stock interest in a subchapter S corporation or a membership in a limited liability company.
6. The income tax exemption may not be claimed by an individual taxpayer on North Dakota form 37-S.
7. A taxpayer with both exempt and nonexempt activities shall prorate its income pursuant to the provisions of North Dakota Century Code chapter 57-38.1.
  - a. If the taxpayer has only North Dakota activity, exempt income must be determined by multiplying income from all activities, exempt and nonexempt, by a fraction, the numerator of which is the sum of its exempt property, sales, and payroll factors and the denominator of which is three.

#### EXAMPLE:

Facts:	Exempt Plant	Other North Dakota Activity	Total North Dakota Activity
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Property	\$ 5,000,000	\$10,000,000	\$15,000,000
Payroll	750,000	1,000,000	1,750,000
Sales	20,000,000	35,000,000	55,000,000

Apportionable income \$50,000,000

Federal tax liability \$17,500,000

Determine North Dakota exempt income:

- (1) Compute apportionment factor of exempt activities.

Property factor = \$ 5,000,000/\$15,000,000 = .333333  
Payroll factor = \$ 750,000/\$ 1,750,000 = .428571  
Sales factor = \$20,000,000/\$55,000,000 = .363636  
1.125540/3 = .375180

- (2) Compute exempt income before-federal-tax-deduction.

Apportionable income	\$50,000,000
Apportionment-factor-of-exempt activities	.375180
Federal tax liability	\$17,500,000
Exempt-income-before-federal-tax-deductions	\$18,759,000
North Dakota income after federal tax deduction	\$32,500,000
Apportionment factor of exempt activities	.375180
Exempt income	\$12,193,350

- (3)--Compute--federal--tax--deduction--assignable--to--exempt activity--

Federal-tax-liability-----	\$17,500,000
Apportionment-factor-of-exempt activities	.375180
Federal-tax-deduction-assignable-----	\$-6,565,650

- (4)--Compute-exempt-income--

Exempt-income-before-federal-tax-deductions	\$18,759,000
Federal-tax-deduction-assignable-----	-6,565,650
Exempt-income-----	\$12,193,350

- b. If the taxpayer has multistate business activity, North Dakota income must first be determined by including all exempt and nonexempt activity in apportionable income and in the apportionment factor. North Dakota exempt income is then determined as in subdivision a.

EXAMPLE:

Multistate corporation

Facts: Utilize the same facts in the prior example, and add:

Total activity within and without North Dakota

Property	\$100,000,000
Payroll	\$ 5,000,000
Sales	\$200,000,000

Determine North Dakota exempt income:

- (1) Compute the North Dakota apportionment factor, including tax-exempt activity.

Property factor	=	\$15,000,000/\$100,000,000	=	.150000
Payroll factor	=	\$ 1,750,000/\$ 5,000,000	=	.350000
Sales factor	=	\$55,000,000/\$200,000,000	=	.275000
				<u>.775000/3 = .258333</u>

- (2) Compute the apportionment factor of the North Dakota exempt activities. For this example, the computation would be the same as that in paragraph 1 of subdivision a and would yield a factor of .375180.

- (3) Compute exempt income before-federal-tax-deduction.

Apportionable income	\$50,000,000
North Dakota apportionment factor	.258333
Income apportioned to North Dakota before federal tax deduction	\$12,916,650
Apportionment-factor-exempt-activities	.375180
Exempt-income-before-federal-tax-deduction	-----\$-4,846,069

- {4}--Compute--federal--tax--deduction--assignable--to--exempt activity--

Federal tax liability	\$17,500,000
North Dakota apportionment factor	.258333
Federal tax deduction	\$ 4,520,827
Apportionment-factor-exempt-activities	.375180
Federal-tax-deduction--assignable--to--exempt-activities	-----\$-1,696,124

- {5}--Compute-exempt-income--

Exempt-income-before-federal-tax-deduction	-----\$-4,846,069
Federal-tax-deduction--assignable--to	\$1,696,124

**exempt-activities**

<u>North Dakota income after federal</u>	<u>\$ 8,395,823</u>
<u>tax deduction</u>	
<u>Apportionment factor of exempt</u>	<u>.375180</u>
<u>activities</u>	
Exempt income	\$ 3,149,945

- c. When a partial exemption on a project or plant has been granted, the percentage of the project's nonexempt property, payroll, and sales would be added to the other North Dakota taxable activity's factors. For instance, a twenty percent exemption would mean eighty percent of the project's property, payroll, and sales would be added to the other North Dakota factors creating a taxable activity.
- d. When a company has only one operating facility which has been granted a partial exemption, North Dakota taxable income shall be computed based on total income of the operation, and a percentage of the income which is equal to the percentage of the exemption shall be deducted from the total.

**History:** Effective March 1, 1990; amended effective June 1, 1992; August 1, 1994; April 1, 1995; July 1, 1998.

**General Authority:** NDCC 57-38-56

**Law Implemented:** NDCC 40-57.1

## CHAPTER 81-03-04

### **81-03-04-01. Corporation required to report and pay estimated tax and interest - Refund of overpayment.**

1. Any corporation may elect to make a payment of estimated income tax with the tax commissioner.
2. A corporation is required to make a payment of estimated tax with the tax commissioner if:
  - a. The corporation's previous year's state income tax liability exceeded five thousand dollars; and
  - b. The corporation reasonably expects the current state income tax liability to be in excess of five thousand dollars.
3. For the purpose of this section, tax liability is defined as the amount of North Dakota tax due computed after the application of allowable credits and before the application of estimated payments.
4. When making payment of estimated income tax, a corporation has the option of basing the estimation on the tax liability for the previous year or on an estimate of the liability for the current tax year.
5. The payment of estimated income tax must be made on or before the fifteenth day of the fourth month of the current corporate tax year. The original payment of estimated income tax may be amended any time before the fifteenth day of the first month of the tax year following the current tax year.
6. A corporation shall pay the estimated tax liability in four equal installments payable on the fifteenth day of the fourth, sixth, and ninth month of the current tax year and the fifteenth day of the first month of the following tax year. As an alternative to paying in quarterly installments, a corporation may pay the entire estimated amount on the fifteenth day of the fourth month of the current tax year.
7. For taxable years beginning after December 31, 1986, the provisions for recurring seasonal income as provided in section 6655(e) of the Internal Revenue Code are recognized for state income tax purposes.
8. For taxable years beginning after December 31, 1990, the provisions for the annualized or adjusted seasonal method of determining estimated income under section 6655 of the

Internal Revenue Code are recognized for state income tax purposes.

9. For purposes of subsection 5 of North Dakota Century Code section 57-38-62:

- a. An amended return filed on or before the due date, including extensions for filing the original return, is the corporation's return for that taxable year.
- b. An audit assessment does not affect the calculation of estimated tax payments.

10. Interest shall apply in the following conditions:

- a. A corporation did not pay the estimated tax on or before the quarterly due date.
- b. The quarterly estimated payments were underpaid by more than ten percent of the actual tax liability for the current tax year divided by four. However, no interest will apply if the quarterly estimated payments equaled the previous year's total tax divided by four.

11. ~~Interest--is--computed--from--the--due--date--of--the--quarterly installment--to--the--date--of--actual--payment.~~ Estimated tax payments, received as a result of an amendment to the originally estimated tax, will have interest computed from the date paid to the date due in the related quarters.

12. If the total amount of estimated tax payments exceed the total amount of tax required to be paid for the current tax year, the overpayment will be refunded.

13. a. If the total amount of estimated tax payments exceeds the anticipated tax liability for the tax year by more than five hundred dollars, a quick refund may be requested. The request for refund must be filed on forms provided by the tax commissioner. In addition, the request must be filed after the close of the tax year and before the original due date of the tax return. No interest will be paid on a quick refund.

b. If a quick refund of estimated income tax results in a corporation's failure to meet the requirements of North Dakota Century Code section 57-38-62, interest provisions will apply.

**History:** Effective July 1, 1985; amended effective November 1, 1987; November 1, 1991; August 1, 1994; April 1, 1996; July 1, 1998.

**General Authority:** NDCC 57-38-56

**Law Implemented:** NDCC 57-38-62

## CHAPTER 81-03-05.2

**81-03-05.2-01. Definitions.** As used in these sections and for the administration of North Dakota Century Code chapter 57-38.4, unless the context otherwise requires:

1. "Assets" means both tangible and intangible property valued at original cost less depreciation, amortization, or depletion as reflected on the corporation's balance sheet prepared according to generally accepted accounting principles.
2. "Average of property and payroll" means average of property and payroll as defined pursuant to chapter 81-03-09 and North Dakota Century Code chapters 57-38.1 and 57-59.
3. "Commissioner" means the tax commissioner of the state of North Dakota.
4. "80/20 corporation" means a corporation that:
  - a. Is incorporated in the United States.
  - b. Is eligible to be included in a federal consolidated return as defined in subsection 5 of North Dakota Century Code section 57-38.4-01.
  - c. Has eighty percent or more of the average of its property and payroll assigned to locations in foreign countries.
5. "Foreign corporation" means a corporation incorporated outside the United States.
6. "Foreign country" means a country other than the United States or a possession of the United States.
7. "Income from an 80/20 corporation" means net book income for financial statement purposes. However, a corporation's net book income cannot be offset by a net book loss from another 80/20 corporation. ~~In-addition,--when--calculating--net--book income,--an--expense--cannot-be-taken-for-federal-income-taxes that-are-eliminated-through-the--application--of--foreign--tax credits.~~
8. "Net book income for financial statement purposes" as used herein means the results of operations as determined using the accrual method of accounting and generally accepted accounting ~~principals~~ principles as adopted by the American institute of certified public accountants. If a corporation has more than one financial statement, it must use the first statement in the following priority:

- a. Financial statements required to be filed with the securities and exchange commission.
  - b. Financial statements audited by an independent certified public accountant.
  - c. Income statements prepared for a nontax purpose required to be provided to the federal government, state government, or a political subdivision of state government.
  - d. Income statements prepared for credit purposes, for reporting to stockholders or other owners, or for any other nontax purpose. An unaudited report that is accompanied by an independent auditor's review report has priority over another unaudited statement.
- 9. "New corporation" means a corporation that either has not filed or was not required to file an income tax return after the 1979 tax year.
  - 10. "Property, payroll, and sales" means property, payroll, and sales as defined in chapter 81-03-09 and North Dakota Century Code chapters 57-38.1 and 57-59.
  - 11. "State" means each of the fifty states and the District of Columbia.
  - 12. "Taxpayer" means a corporation that is required to file an income tax return in North Dakota.
  - 13. "Transaction" means an event that causes a change in a corporation's assets, liabilities, or owner's equity.
  - 14. "United States" means the fifty states and the District of Columbia.

**History:** Effective July 1, 1989; amended effective March 1, 1990; April 1, 1995; July 1, 1998.

**General Authority:** NDCC 57-38-56

**Law Implemented:** NDCC 57-38.4

**81-03-05.2-04. Elements of the water's edge combined report.**

- 1. A taxpayer who elects to use the water's edge method shall include the income and the apportionment factors of the water's edge group in its combined report. The aforementioned group must include the following corporations:
  - a. A United States parent corporation.

- b. An affiliated corporation incorporated in the United States, excluding, however, an 80/20 corporation.
  - c. An affiliated corporation incorporated in a possession of the United States as described in Internal Revenue Code sections 931 through 936.
  - d. A domestic international sales corporation as described in Internal Revenue Code sections 991 through 994.
  - e. A foreign sales corporation as described in Internal Revenue Code sections 921 through 927.
  - f. An export trade corporation as described in Internal Revenue Code sections 970 through 972.
  - g. A foreign corporation which derived gain or loss from disposing of a United States real property interest but only to the extent the gain or loss was recognized under Internal Revenue Code section 897.
  - h. A foreign corporation if over fifty percent of its voting stock is owned, directly or indirectly, by a member of the water's edge group, and if more than twenty percent of the average of its property and payroll is assignable to a location within the United States or its possessions.
2. Income for the water's edge group must be computed on the same basis as federal taxable income, except as provided for in the following subdivisions and in subsection 2 of North Dakota Century Code section 57-38.4-02, and plus or minus the adjustments provided for in North Dakota Century Code section 57-38-01.3 with the exception of subdivision c of subsection 1 of North Dakota Century Code section 57-38-01.3:
- a. Transactions between members of the water's edge group must be eliminated.
  - b. Transactions between a member of the water's edge group and an affiliated corporation that has been excluded from the group must be included.
  - c. If a corporation is included in the water's edge group but it is not required to file a federal income tax return, the equivalent of its federal taxable income must not include a deduction for foreign taxes based on income.
  - d. For the purpose of computing federal taxable income, a foreign sales corporation must include the foreign trade income which is exempt from federal income tax under the Internal Revenue Code.

3. The factors used to apportion the income of the water's edge group must be determined pursuant to North Dakota Century Code chapters 57-38.1 and 57-59, chapter 81-03-09, and the following subdivisions:
  - a. Transactions between members of the water's edge group must be eliminated.
  - b. Transactions between any member of the water's edge group and an affiliated corporation that has been excluded from the group must be included.
  - c. The property, payroll, and sales of an 80/20 corporation, a dividend payor corporation, or any other affiliated corporation that has been excluded from the water's edge group must not be included in the apportionment factors of the group.

**History:** Effective July 1, 1989; amended effective August 1, 1994;  
July 1, 1998.

**General Authority:** NDCC 57-38-56

**Law Implemented:** NDCC 57-38-01.3, 57-38.1, 57-38.4, 57-59

## CHAPTER 81-04.1-02

**81-04.1-02-01.** Sales to the state of North Dakota, other states, any subdivisions of North Dakota, and sales by municipal corporations. Gross receipts from sales of tangible personal property or from furnishing taxable services to this state or any of its political subdivisions, departments, agencies, or institutions are exempt from sales tax. ~~Sales or furnishing taxable services to any other state or to the political subdivisions or municipalities of any state are exempt from sales tax unless these entities are subject to sales tax in their home state.~~

Retail sales or furnishing of services to the public by any state, subdivisions, departments, or institutions of any state, are subject to sales tax.

**History:** Effective June 1, 1984; amended effective August 1, 1994; July 1, 1998.

**General Authority:** NDCC 57-39.2-19, 57-40.2-13; S.L. 1993, Ch. 561

**Law Implemented:** NDCC 57-39.2-01, 57-39.2-02.1, 57-39.2-03.2, 57-39.2-03.3, 57-39.2-04; S.L. 1993, Ch. 561

## CHAPTER 81-04.1-04

**81-04.1-04-10. Vending machines.** Gross receipts derived from coin-operated vending machines are subject to sales tax if the price per article exceeds fifteen cents. In the absence of a written agreement stipulating division of gross receipts between the vending machine owner and the location operator, the vending machine owner is responsible for sales tax on gross receipts derived from the vending machine.

~~Sales tax is included in the gross receipts from coin-operated vending machines and must be deducted to arrive at gross receipts subject to sales tax (taxable sales). Taxable sales are calculated as follows: taxable sales = gross receipts divided by 105% (1.05).~~

The purchaser of a vending machine is liable for sales tax on a vending machine purchased in this state or for use tax on a vending machine purchased outside of this state regardless of whether a license fee is paid to any governmental authority for operating the vending machine.

**History:** Effective June 1, 1984; amended effective November 1, 1987; March 1, 1990; July 1, 1998.

**General Authority:** NDCC 57-39.2-19

**Law Implemented:** NDCC 57-39.2-01, 57-39.2-02.1, 57-39.2-03.2, 57-39.2-03.3, 57-40.2-02.1

## CHAPTER 81-05.1-01

**81-05.1-01-05. Purchases by Indians.** Purchases of motor vehicles by Indians are subject to the motor vehicle excise tax for titling purposes, unless the purchase occurs on an Indian reservation by an enrolled member of the tribe or by the tribe. ~~It is presumed that such vehicles are intended for use upon public highways in the state of North Dakota.~~

Motor vehicles owned and operated by Indian mission schools are exempt from payment of motor vehicle excise tax.

**History:** Effective June 1, 1984; amended effective July 1, 1998.

**General Authority:** NDCC 57-40.3-12

**Law Implemented:** NDCC 39-04-18, 57-40.3-02, 57-40.3-04, 57-40.3-08

## CHAPTER 81-08-02

**81-08-02-04. Coal severance tax rate.** The-coal-severance-tax rate-is-imposed-at-a-minimum-rate-of-eighty-five-cents-per--ton--of--two thousand--pounds--{907.18--kilograms}--of-coal-severed; which-rate-shall increase-by-one-cent-per-ton-of-two-thousand-pounds--{907.18--kilograms} for-each-four-points-of-increase-in-the-June-1979-wholesale-price-index. The-revised-level-of-the-wholesale-price-index-as-of-June-1979--for--all commodities--as-prepared-by-the-bureau-of-labor-statistics-in-the-United States-department-of-labor-is-hereby-found-to--be--two--hundred--thirty-three-and-five-tenths.

The--coal--severance-tax-rate-on-coal-severed-during-the-period-of July-first-through-December-thirty-first-of-any-calendar-year--shall--be the--same--for--all--coal-severed-during-that-period-except-as-otherwise provided-and-the-tax-rate-on-coal-severed-during-the-period--of--January first--through-June-thirtieth-of-any-calendar-year-shall-be-the-same-for all-coal-severed-during-that-period-except-as-otherwise-provided.

The--coal--severance--tax-rate-on-coal-severed-during-any-calendar half-year-period-shall-be-determined-by-the-tax-commissioner--and--made available-to-coal-mine-owners-and-operators-prior-to-such-period.

For--purposes--of--determining-the-coal-severance-tax-rate-on-each ton-{907.18-kilograms}---of--coal--severed--in--any--calendar--half-year period;--the--tax--commissioner--shall--compute--the-amount-by-which-the wholesale-price-index-for-the-month-of-May-or--November--preceding--that half-year--period---increased--over-the-June-1979-wholesale-price-index; the-tax-rate-per-ton-of-two-thousand-pounds-{907.18-kilograms}--of--coal severed--in--that--half-year--period-shall-be-eighty-five-cents-plus-one cent-for-each-four-points-of-such-increase-in-the-wholesale-price-index; except--that--such--tax-rate-shall-not-be-less-than-the-highest-tax-rate per-ton-of-two-thousand-pounds-{907.18--kilograms}---for--any--preceding calendar-half-year-period.

For--purposes--of--computation--of--the-tax-rate-for-each-calendar half-year-period;--a-fractional-point-increase--in--the--wholesale--price index--shall-be-disregarded-if-less-than-one-half-point-and-treated-as-a full-point-if-one-half-point-or-more;--for--example;--if--the--June--1979 wholesale--price--index--of--two--hundred--thirty-three--and-five-tenths increased-to-three-hundred-thirteen-in-May-1985;--the-tax--rate--per--ton {907.18--kilograms}--for-the-July-1-through-December-31;--1985;--half-year period-would-be-one-dollar-and-five-cents. Repealed effective July 1, 1998.

**History:** Amended-effective-September-1;--1979;--July-1;--1985.

**General Authority:** NDEC-57-61-08

**Law Implemented:** NDEC-57-61-01

**81-08-02-05. Coal severance tax in lieu of sales or use taxes on coal.** Coal on which the North Dakota coal severance tax is imposed is not subject to retail sales or use taxes imposed by North Dakota Century Code chapters 57-39.2 and 57-40.2.

Coal mined outside of North Dakota either before or after July 1, 1975, and before July 1, 1997, and coal mined in North Dakota before July 1, 1975, shall be subject to the retail sales and use tax laws, North Dakota Century Code chapters 57-39.2 and 57-40.2, if sold at retail in this state or purchased at retail for storage, use, or consumption in this state. Coal mined outside of North Dakota after July 1, 1997, except for coal used for heating buildings in this state and coal used in agricultural processing or sugar beet refining plants located within this state or adjacent states, shall be subject to sales and use taxes of six cents per million British thermal units, North Dakota Century Code chapters 57-39.2 and 57-40.2, if sold at retail in this state or purchased at retail for storage, use, or consumption in this state.

**History:** Amended effective July 1, 1998.

**General Authority:** NDCC 57-61-08

**Law Implemented:** NDCC 57-61-01

## CHAPTER 81-08-03

**81-08-03-07. Byproducts revenue exempt from taxation.** For Effective January 1, 1997, through December 31, 2000, for any given month, the allowed exemption of revenue derived from the sale of byproducts other than the sale of carbon dioxide for use in enhanced recovery of oil or natural gas may not exceed ~~twenty~~ thirty-five percent of the sum of total gross receipts from the sale of synthetic natural gas during the month plus total gross receipts from the sale of byproducts during the month. Effective after December 31, 2000, for any given month, the allowed exemption of revenue derived from the sale of byproducts other than the sale of carbon dioxide for use in enhanced recovery of oil or natural gas may not exceed twenty percent of the sum of total gross receipts from the sale of synthetic natural gas during the month plus total gross receipts from the sale of byproducts during the month. Gross receipts from the sale of carbon dioxide for use in enhanced recovery of oil or natural gas are not subject to tax but are included in total gross receipts for the purpose of the percentage calculation.

**History:** Effective November 1, 1987; amended effective July 1, 1989; November 1, 1991; July 1, 1998.

**General Authority:** NDCC 57-60-12

**Law Implemented:** NDCC 57-60-01, 57-60-02, 57-60-03

## CHAPTER 81-09-02

### 81-09-02-17. Definition of gas base rate adjustment and tax rate.

The gas base rate adjustment and the tax rate on taxable gas production reported in MCF for fiscal years beginning July 1, 1992, and subsequent years, are as follows:

FISCAL YEAR	BASE RATE ADJUSTMENT	TAX RATE PER MCF
July 1, 1992, through June 30, 1993	1.018494	\$ .0407
July 1, 1993, through June 30, 1994	1.002642	\$ .0401
July 1, 1994, through June 30, 1995	1.036988	\$ .0415
July 1, 1995, through June 30, 1996	0.961691	\$ .0385
July 1, 1996, through June 30, 1997	0.861295	\$ .0345
July 1, 1997, through June 30, 1998	1.1664	\$ .0467

**History:** Effective August 1, 1994; amended effective April 1, 1995; April 1, 1996; July 1, 1998.

**General Authority:** NDCC 57-51-21

**Law Implemented:** NDCC 57-51-02.2

### 81-09-02-20. Waiver of requirement to file producer's report.

1. Beginning August 1, 1997, the commissioner may waive the producer's requirement to file a monthly oil or gas report. To qualify for a waiver the producer must file an application for waiver with the commissioner. The producer must receive written approval from the commissioner before a waiver of the filing requirement will become effective.
2. All tax due on oil sold from a producing property, for which the filing requirement has been waived, must be reported and paid on the purchaser's monthly report. A waiver does not release a producer from any responsibility to remit tax due. A producer's period of obligation will be determined by the filing date of the purchaser's return. A producer must continue to maintain production records for inspection by the commissioner.
3. A producer must continue to report and remit the tax on all oil not sold at the well including any oil used, lost, stolen, or otherwise unaccounted for after it has been produced even though a waiver has been received.
4. The commissioner may terminate the waiver at any time by providing written notice to the producer. The producer will be required to file a return effective for the production month following the month in which the notice of termination is issued. The producer may terminate the waiver by providing

the commissioner with written notice that a return will be  
filed in the next succeeding month.

**History:** Effective July 1, 1998.

**General Authority:** NDCC 57-51-21

**Law Implemented:** NDCC 57-51-06

## ARTICLE 81-10.1

**STAFF COMMENT.** Article 81-10.1 contains all new material and is not underscored so as to improve readability.

## ARTICLE 81-10.1

### FINANCIAL INSTITUTIONS TAX

Chapter  
81-10.1-01                      General

#### CHAPTER 81-10.1-01 GENERAL

Section  
81-10.1-01-01              Subchapter S Election  
81-10.1-01-02              Receipts Factor - Net Gains  
81-10.1-01-03              Short Period Returns

**81-10.1-01-01. Subchapter S election.** If a corporation elects to file its federal tax return under subchapter S of the Internal Revenue Code of 1986, as amended, "federal taxable income" means the income or loss as computed on Schedule K of the S-corporation's federal return.

**History:** Effective July 1, 1998.  
**General Authority:** NDCC 28-32-02  
**Law Implemented:** NDCC 57-35.3-01

**81-10.1-01-02. Receipts factor - Net gains.** For purposes of computing the receipts factor, "net gains" means the sum of all transactions resulting in gains for a particular category of receipts. If the net result is a loss, the amount included in the receipts factor is zero.

**Example:**

Taxpayer sells ten loans or ten pools of loans. Nine of the loans (or pools) result in a gain of \$1,000 each. One of the loans (or pools) results in a loss of \$1,000. The amount to include in the receipts factor as net gains is \$9,000. If the results were reversed (\$9,000 loss and \$1,000 gain), the amount included in the receipts factor is \$1,000.

**History:** Effective July 1, 1998.  
**General Authority:** NDCC 28-32-02  
**Law Implemented:** NDCC 57-35.3-15

**81-10.1-01-03. Short period returns.**

1. A financial institution as defined in subdivisions a through j of subsection 2 of North Dakota Century Code section 57-35.3-01, which previously reported income under North Dakota Century Code chapter 57-38 on a fiscal year basis, and is now required to report under North Dakota Century Code chapter 57-35.3 on a calendar year basis, must file a short period return for the fiscal year beginning in 1997 and ending on December 31, 1997.

2. A financial institution as defined in subdivisions a through j of subsection 2 of North Dakota Century Code section 57-35.3-01 which:

- a. Has not previously conducted business in North Dakota;
- b. Reports its income on a fiscal year basis for federal income tax purposes; and
- c. Is required to report under North Dakota Century Code chapter 57-35.3 on a calendar year basis;

must file a short period return for the first year in which the financial institution does business in North Dakota. The first short period return shall report the income from the date the financial institution started doing business in North Dakota to the end of the calendar year.

**History:** Effective July 1, 1998.  
**General Authority:** NDCC 28-32-02  
**Law Implemented:** NDCC 57-35.3-01, 57-35.3-03, 57-35.3-06



**TITLE 82**

**Teachers' Fund for Retirement,  
Board of Trustees of the**



**MAY 1998**

**CHAPTER 82-01-01**

**82-01-01-01. Organization of the teachers' fund for retirement.**

**1. Organization and administration.**

- a. History. The 1913 legislative assembly created the teachers' insurance and retirement fund by legislation codified as North Dakota Century Code chapter 15-39. This chapter provided a retirement program for public, nonpublic, and certain college teachers. In 1971, the legislative assembly repealed North Dakota Century Code chapter 15-39 and enacted North Dakota Century Code chapter 15-39.1 which created the present teachers' fund for retirement. The 1973 legislative assembly provided for teacher retirement options by enacting North Dakota Century Code chapter 15-39.2. The primary objective of the teachers' fund for retirement is to provide income security to retired teachers.
- b. Board of trustees. A seven-member board of trustees, as established by North Dakota Century Code section 15-39.1-05 15-39.1-05.1, is responsible for managing the fund.
- c. Qualified tax status of fund.
  - (1) Qualified plan. The fund is a qualified employee pension plan under sections 401 and 501 of the Internal Revenue Code of 1986, as amended [United States Code title 26].

(2) Exclusive benefit and purpose. As a qualified employee pension plan, all assets of the fund are held in trust for the exclusive benefit of members and their beneficiaries. Fund assets may not be diverted or used for any purpose other than to provide pension benefits and other incidental benefits allowed by law.

d. Investment of the fund. The assets of the fund are invested and managed by the North Dakota state investment board. The state investment board invests the fund's assets in accordance with the "prudent investor" rule.

**2. Description of portion of organization and functions subject to North Dakota Century Code chapter 28-32.**

a. Overview. The teachers' fund for retirement is an "administrative agency" within the definition of that term under subsection 1 of North Dakota Century Code section 28-32-01.

b. Rulemaking. North Dakota Century Code section 15-39.1-07 authorizes the board of trustees to adopt rules as may be necessary to fulfill the responsibilities of the board. The board follows the procedures established in North Dakota Century Code chapter 28-32 in adopting rules. The rules adopted by the board implement various statutory provisions set forth in North Dakota Century Code chapter 15-39.1.

c. Administration. Administration rules for the state retirement and investment office as they pertain to the teachers' fund for retirement are contained in title 103, North Dakota Administrative Code.

**3. Inquiries.** General inquiries and questions relating to policies of the board may be addressed to the executive director:

Executive Director  
1930 Burnt Boat Drive  
P.O. Box 7100  
Bismarck, North Dakota 58502-7100

**History:** Amended effective August 1, 1983; November 1, 1985; September 1, 1990; November 1, 1994; January 1, 1998; May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 28-32-02.1

## CHAPTER 82-02-01

**82-02-01-01. Definitions.** Unless made inappropriate by context, all words used in this title have the meanings given to them under North Dakota Century Code chapter 15-39.1. The following definitions are not established by statute and apply for the purpose of this title:

1. "Account balance" or "value of account" means the teacher's assessments plus interest at an annual rate of six percent compounded annually monthly.
2. "Administrative" means to manage, direct, or superintend a school district or other participating employer.
3. "Benefit service" means employment service used to determine benefits payable under the fund.
- 3- 4. "Covered employment" means employment as a teacher.
5. "Extracurricular services" means outside of the regular curriculum of a school district or other participating employer which includes advising, directing, monitoring, or coaching athletics, music, drama, journalism, and other supplemental programs.
- 4- 6. "Participating employer" means the employer of a teacher.
- 5- 7. "Salary reduction or salary deferral amounts under U.S.C. 125, 401(k), 403(b), or 457" means amounts deducted from a member's salary, at the member's option, to a-qualified-section-125 cafeteria-plan;-401(k)-plan;-403(b)-plan;-or-a-457-plan these plans. These reductions or deferrals are part of salary when calculating retirement contributions. Amounts contributed to a--qualified-section-125;-401(k);-403(b);-or-a-457-plan by the employer cannot on behalf of the member to these plans may not be counted as retirement salary when calculating retirement contributions. Member contributions paid by the employer under IRC 414(h) pursuant to a salary reduction agreement do not reduce salary when calculating retirement contributions.
8. "Special teachers" include certified special education teachers, guidance counselors, speech therapists, social workers, psychologists, librarians, and other certified staff members provided they are under contract with a school district or other participating employer to provide teaching, supervisory, administrative, or extracurricular services.
9. "Supervisory" means to have general oversight or authority over students or teachers, or both, of a school district or other participating employer.

10. "Teaching" means to impart knowledge or skills to students or teachers, or both, by means of oral or written lessons, instructions, and information.
- 6- 11. "Vested" means the status attained by a teacher when the teacher has paid assessments ~~for a period of~~ to earn five years of service credit for covered employment in this state.
12. "Written agreement" means a teaching contract, school board minutes, or other official document evidencing a contractual relationship between a teacher and participating employer.

**History:** Effective September 1, 1990; amended effective May 1, 1992; May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1, 15-39.1-07

## CHAPTER 82-03-01

**82-03-01-01. Vested teachers' withdrawal from fund - Refund.** When a teacher who is vested terminates covered employment, the teacher may claim a refund of assessments paid to the fund during membership. A teacher wishing to claim a refund of assessments must request an application from the administrative office, complete the form, and return it for processing. Once the application has been processed, the refund will be paid after one hundred twenty calendar days have expired from the last date of covered employment.

The waiting period may be waived by the board if the teacher produces evidence that the teacher will not be returning to covered employment in North Dakota. The following written evidence is required before the board will grant a waiver:

1. ~~Copy--of-the-teacher's-resignation-letter~~ Proof of resignation or nonrenewal of contract;
2. Proof that the teacher's employer has accepted the resignation, i.e., letter or copy of official school board minutes; and
3. Proof that the individual has either accepted noncovered employment or permanently relocated out of state, or a medical statement from a medical doctor attesting to nonemployment during the upcoming school year for medical reasons.

No refund can be issued to a teacher who has terminated a teaching position only for the summer months or for a leave of absence.

**History:** Effective September 1, 1990; amended effective April 1, 1994; May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-20

**82-03-01-04. Repurchase of forfeited service credit.** An individual who has forfeited service credit under section 82-03-01-03 may repurchase such service upon returning to teach or becoming an active dual member in accordance with the following:

1. ~~The An active teacher must have earned at least one year of benefit service credit following the return--to--teaching~~ may immediately repurchase forfeited service credit upon returning to TFFR-covered employment. If the repurchase payment is made within five years ~~from--the--date-of-initial-eligibility of~~ returning to teach, the repurchase cost must be the amount withdrawn plus interest.

2. An active member of the public employees retirement system or the highway patrol retirement system may repurchase withdrawn service credit from the fund. If the repurchase is made within five years from the date of initial eligibility or July 1, 1987, the repurchase cost must be the amount withdrawn plus interest.
3. If the repurchase payment is not made within five years, the cost of the remaining service credit will be calculated on an actuarial equivalent basis.
4. The cost may be paid in a lump sum or in installments. Installments may be made monthly, quarterly, semiannually, or annually for up to five years. Interest is charged on the unpaid balance based on the actuarially assumed investment return rate in effect at the time the member signs the installment agreement.
5. If a teacher retires prior to full payment of the repurchase amount, service credit will be granted in proportion to the actual principal payments made or the teacher may elect to make a lump sum payment to complete the purchase or elect to have the payments included in a refund of the account balance.
6. If a teacher passes away prior to full payment of the repurchase amount, service credit will be granted in proportion to the actual principal payments made or the designated beneficiary may elect to make a lump sum payment to complete the purchase or elect to have the payments included in a refund of the account balance.

**History:** Effective September 1, 1990; amended effective May 1, 1992; April 1, 1994; May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-24

**82-03-01-05. Purchase of benefit service credit.** A teacher may purchase additional eligible benefit service credit in accordance with the following:

1. Out-of-state teaching service must be verified by the out-of-state retirement system under which the service was earned.
2. Military service must be verified by submitting military service discharge documents.
3. Professional education time must be verified by submitting an official transcript from the educational institution attended.
4. Legislative service must be certified by the teacher's participating employer and must indicate the number of

uncompensated days and salary information as required by the fund.

5. Service as a federal administrator or teacher must be verified by the federal agency which employed the teacher.

In all cases, the purchase cost must be on an actuarial equivalent basis determined by applying the actuarial factors adopted by the board.

The cost may be paid in a lump sum or in installments. Installments may be made monthly, quarterly, semiannually, or annually for up to five years. Interest is charged on the unpaid balance at the actuarial assumption rate for investment earnings.

If a teacher retires prior to full payment of the purchase amount, service credit will be granted in proportion to the actual principal payments made, or the teacher may elect to make a lump sum payment to complete the purchase or elect to have the payments included in a refund of the account balance.

If a teacher passes away prior to full payment of the purchase amount, service credit will be granted in proportion to the actual principal payments made or the designated beneficiary may elect to make a lump sum payment to complete the purchase or elect to have the payments included in a refund of the account balance.

**History:** Effective September 1, 1990; amended effective May 1, 1992; April 1, 1994; May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-24

**82-03-01-06. Veterans' Reemployment Rights-Act rights.** A member may be entitled to credit for military service and may purchase service credit for military service under Veterans'-Reemployment-Rights-Act applicable federal veterans' rights acts provided that the military service interrupted teachers' fund for retirement covered employment and an honorable discharge was received.

~~Veterans--eligible--to--purchase--service-credit-for-this-military time-must-apply-for-and-purchase-that-time--prior--to--retirement:---The purchase--of--this--additional-service-credit-must-be-in-accordance-with the-following:~~

- ~~1.--Member--shall--provide--teachers'--fund-for-retirement-with-an official-copy-of-military-discharge-papers--(i.e.,--DD214)--as proof-of-eligibility.~~
- ~~2.--Cost--may--be--paid--in--a--lump--sum--or-under-an-installment agreement--(section-82-03-01-05):~~
- ~~3.--The-employer,-at-the-time-the-member-enters-eligible-military, is-responsible-for-the-employer-contributions.~~

4:--All--retired--members--who--are--eligible--to--purchase--under  
Veterans'-Reemployment-Rights-Act-may--purchase--this--service  
time:--Benefits--will--be--adjusted--the--month-following-the  
completion-of-the-purchase.

All--eligible--members--for--Veterans'-Reemployment-Rights-Act-who-have  
purchased-the-service-under-section-82-03-01-05--or--previous--teachers'  
fund--for--retirement--board--policies--are-eligible-for-a-refund-of-the  
overpaid-amount-plus-interest-on-the-overpayment-made.

History: Effective May 1, 1992; amended effective May 1, 1998.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-24, 15-39.2-01.2; 38 USC 2021-2026

## CHAPTER 82-04-01

**82-04-01-04.** Rollover contributions not permitted for service purchases. Teachers are not permitted to roll over to the fund any moneys from other pension--plans;--individual--retirement--accounts; tax-sheltered--annuities;--or--other--plans--of--deferred---compensation qualified plans that meet the requirements of IRC section 408 to repurchase previously withdrawn service credit and to purchase additional service credit. Under IRS requirements:

1. The rollover must come from a 401(a) plan (including 401(k) and 401(c) Keogh plans) or a conduit IRA whose deposits came only from a qualified 401(a).
2. The fund may not accept rollovers from regular IRA plans, 403(b) tax-deferred annuity plans, 457 deferred compensation plans, or other non-401(a) qualified retirement plans.

The amount rolled over to TFFR cannot exceed the cost of the credit to be purchased. The rollover distribution must be received directly from the section 401(a) qualified plan or conduit IRA.

**History:** Effective September 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-15

## CHAPTER 82-05-01

**82-05-03-01. When benefit payments begin - Direct deposit.** If the teacher terminates covered employment or becomes eligible for retirement benefits within the first fifteen days of the month, retirement benefits are paid beginning the fifteenth day of the month. If a teacher terminates covered employment or becomes eligible for retirement benefits after the first fifteen days of the month, retirement benefits are paid beginning the first day of the following month.

Annuity payments will be directly deposited to a teacher's account in a bank, credit union, savings and loan, or other financial institution provided that the financial institution is an automated clearing house (ACH) financial participant. The teacher must complete the official direct deposit form provided by the fund.

**History:** Effective September 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-10

**82-05-03-02. Death benefits - Proof of death.** Death benefits will not be paid until the teacher's beneficiary or legal heir submits to the fund proof of the teacher's death. A death certificate will normally be required as proof of death, but in certain cases, the ~~retirement--officer~~ executive director may accept proof other than a death certificate.

**History:** Effective September 1, 1990; amended effective April 1, 1994; May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-17

## CHAPTER 82-06-01

**82-06-01-01. Suspension of benefits.** ~~The fund will suspend the payment of benefits to any retired teacher less than seventy years of age who returns to covered employment and whose earnings exceed the maximum allowed for continued eligibility for social security benefits. The suspension is effective on the first of the month following the date when the teacher's earnings for any fiscal year of the fund exceeds the maximum allowed under this section.~~ Repealed effective May 1, 1998.

**History:** Effective-September-1,-1990-

**General Authority:** NDCC-15-39.1-07

**Law Implemented:** NDCC-15-39.1-19.1

## CHAPTER 82-07-01

**82-07-01-01. Definitions.** The following definitions govern the determination of disability benefits under the fund:

1. "Medical examination" means an examination conducted by a medical doctor or a psychologist licensed to practice in North Dakota that includes a diagnosis of the disability, the treatment being provided for the disability, the prognosis and classification of the disability, and a statement indicating how the disability prevents the individual from performing the duties of a teacher.
2. "Permanent disability" means a condition of "total disability" that is static or deteriorating and the prognosis does not indicate an anticipated recovery from the disability.
3. "Temporary disability" means a condition of "total disability" that is expected to last at least twelve months, but is not considered permanent.
4. "Total disability" means any medically determinable physical or mental impairment that is expected to last for a continuous period of not less than twelve months and results in the individual's inability to perform the duties of a teacher. "Total disability" includes conditions of "temporary disability" and "permanent disability" as defined in this section.

**History:** Effective September 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-18

**82-07-01-02. Disability retirement eligibility.** A teacher, with at least one year of service credit, who ~~suffers--from~~ has a "total disability" is eligible for disability retirement benefits if the teacher became totally disabled while employed as a teacher and otherwise complies with the requirements of article 82-07. ~~If the teacher is eligible for normal retirement benefits, the teacher is not eligible for disability retirement benefits.~~

**History:** Effective September 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-18

**82-07-01-03. Determination of disability - Procedures.** The following procedures govern the determination of disability benefits under the fund:

1. Application process.

- a. Application for disability benefits must be made within six months from the last date of covered employment on the form provided by the fund.
- b. If the fund member is unable or unwilling to file an application, the teacher's employer or legal representative may file the teacher's disability application.
- c. The application must describe the disability, explain the cause of the disability, the limitations caused by the disability, the treatment being followed, the efforts by the employer and the employee to implement reasonable accommodations, and the effect of the disability on the individual's ability to perform as a teacher.
- d. Applicants shall be provided information on potential services offered by the office of vocational rehabilitation.
- e. The employer's statement of disability must provide information about the teacher's sick leave benefits, explain how the disability affects the performance of the teaching duties, include a detailed listing of job duties, and describe efforts to provide reasonable accommodation for the teacher.

2. Medical examination process.

- a. The applicant for disability retirement must provide the fund with medical examination reports.
- b. An initial medical examination should be completed by the teacher's attending or family physician on the medical examination form provided by the fund. If deemed necessary by the fund's medical consultant, an additional examination must be completed by a specialist in the disability involved. Available medical or hospital reports may be accepted in lieu of a medical examination report if deemed acceptable by the fund's medical consultant.
- c. The fund is not liable for any costs incurred by the applicant in undergoing medical examinations and completing and submitting the necessary medical examination reports, medical reports, and hospital reports.
- d. A medical examination report is not necessary if the applicant provides written proof documenting eligibility for disability benefits under the Social Security Act. In

such cases, the applicant is eligible for disability benefits under North Dakota Century Code section 15-39.1-18 without submitting further medical information to the fund but is subject to recertification requirements specified in this chapter.

**3. Medical consultant review.**

- a. The fund shall retain a medical doctor to act as its consultant and evaluate and make recommendations on disability retirement applications.
- b. The medical consultant shall review all medical information provided by the applicant.
- c. The medical consultant shall advise the board regarding the medical diagnosis and whether the condition is a "total disability".

**4. Decision.**

- a. The board shall consider applications for disability retirement at regularly scheduled board meetings. The discussion concerning disability applications must be confidential and closed to the general public.
- b. The applicant must be notified of the time and date of the meeting and may attend or be represented.
- c. The ~~retirement-officer~~ executive director shall provide to the board for its consideration a case history brief that includes membership history, medical examination summary, and the medical consultant's conclusions and recommendations.
- d. The board shall make the determination for eligibility at the meeting unless additional evidence or information is needed.
- e. The executive director may make an interim determination concerning eligibility for disability retirement benefits when the medical consultant's report verifies that a total disability exists. However, the board must review the interim determination and make a final determination at its next regularly scheduled board meeting unless additional evidence or information is needed.
- f. The applicant shall be notified in writing of the decision.
- g. If awarded the applicant is determined to be eligible for disability benefits, the disability annuity is payable on, or retroactive to, the first day of the month following

the teacher's ~~termination-from-covered~~ last day of paid employment.

- h. If the applicant is determined not to be eligible for disability benefits, the executive director shall advise the applicant of the appeal procedure.

5. **Redetermination and recertification.**

- a. A disabled annuitant is subject to redetermination and recertification to maintain eligibility. The schedule for redetermination and recertification must be as follows:

(1) Temporary disability. On July first, following the first anniversary date of disability retirement, and every two years thereafter (unless normal retirement is reached). No further recertification is required after the fourth recertification of temporary disability has been filed and accepted. Basis recovery will begin when the member reaches normal retirement age.

(2) Permanent disability. On July first, following the second anniversary date of disability retirement, and five years thereafter unless normal retirement is reached. No further recertification is required after the second recertification of permanent disability has been filed and accepted. Basis recovery will begin when the member reaches normal retirement age.

- b. The fund may require additional recertifications, or waive the necessity for a recertification, if the facts warrant this action.

When a member who is drawing disability benefits is also eligible for normal retirement benefits at the time disability benefits commence, recertification will cease according to the following schedule:

Before age 60	Age 65
At or after age 60, before age 65	5 years
At or after age 65, before age 69	Age 70
At or after age 69	1 year

Basis recovery will also begin according to the above schedule.

- c. The fund will send a recertification form to the disabled annuitant to be completed and sent back to the fund.
- d. The fund may require the disabled annuitant to be reexamined by a doctor at the annuitant's own expense.

The submission of medical reports by the teacher, and the review of those reports by the fund's medical consultant, may satisfy the reexamination requirement.

- e. The ~~retirement--officer--will~~ executive director must make the redetermination and recertification decision and bring the matter to the board only if warranted. The disability annuitant may appeal an adverse recertification decision to the board in the same manner as the initial determination.
- f. If it is determined that the disability annuitant was not eligible for benefits during any time period when benefits were provided, the executive director may do all things necessary to recover the erroneously paid benefits.

**History:** Effective September 1, 1990; amended effective April 1, 1994; May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-18

## CHAPTER 82-07-02

**82-07-02-01.** ~~Aggrieved--parties'--rights~~ Right to formal hearing and appeal. Any applicant aggrieved by a decision of the board may initiate a formal administrative action against the board in accordance with North Dakota Century Code chapter 28-32 (Administrative Agencies Practice Act). ~~The board shall appoint an independent hearing officer from the attorney general's office to officiate the hearing and make findings of fact, conclusions of law, and order.~~ The applicant must file a request for a formal hearing within thirty days after notice of the initial decision has been mailed or delivered. If an appeal is not filed within the thirty-day period, the initial decision of the board is final. If a request for a formal hearing is timely filed, notice of the hearing must be served at least thirty days before the date set for the hearing. The board shall request appointment of an administrative law judge from the office of administrative hearings to conduct the hearing and make recommended findings of fact, conclusions of law, and order. The board shall either accept the administrative law judge's recommended findings of fact, conclusions of law, and order or adopt its own findings of fact, conclusions of law, and order. The applicant may appeal the final decision resulting from this procedure to the district court in accordance with the Administrative Agencies Practice Act.

**History:** Effective September 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-18

## CHAPTER 82-07-03

**82-07-03-01. Forms of disability benefits.** Except for the level income with social security, all optional forms of retirement benefits are available to members entitled to disability retirement annuities. ~~If an optional form is selected and the member returns to covered employment, the option selected will apply to the teacher's subsequent retirement.~~

**History:** Effective September 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-18

## CHAPTER 82-07-04

**82-07-04-01. Suspension of disability benefits.** ~~When a member receiving disability retirement benefits returns to covered employment, it must be presumed that the member does not suffer from a "total disability" and the disability benefits will immediately cease.~~

1. When a member receiving disability retirement benefits is not recertified as eligible for continued benefits, the board shall presume the member does not have a "total disability" and the disability benefits must cease on the first day of the month following the date the member is not recertified eligible for continued benefits.
2. When a member receiving disability retirement benefits returns to covered employment, the board shall do one of the following:
  - a. Presume the member does not have a "total disability" and, pursuant to subsection 3 of North Dakota Century Code section 15-39.1-18, suspend the member's disability benefits on the first day of the month following the date the member returns to regular employment.
  - b. If the member consents, allow continued payment of the disability benefit for up to six months during the member's covered employment to permit a member who has partially recovered from the disability to return to regular employment on a trial basis. If the member terminates the covered employment prior to the end of the trial period as set by the board, the board shall not deem the member recovered under North Dakota Century Code section 15-39.1-18, and the member's benefits must continue as permitted under North Dakota Century Code chapter 15-39.1 and this title. If, at the end of the trial period, the member has not terminated the covered employment, the board shall presume the member does not have a "total disability" and shall suspend the member's disability benefits on the first day of the month following the date the member's trial period ends pursuant to North Dakota Century Code section 15-39.1-18.

**History:** Effective September 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-18, 15-39.1-19.1

## CHAPTER 82-08-01

**82-08-01-02. Qualified domestic relations order procedures.** Upon receipt of a domestic relations order, the ~~retirement-officer~~ executive director shall:

1. Send an initial notice to each person named therein, together with an explanation of the procedures followed by the fund.
2. If the teacher or alternate payee receives any distribution that should not have been paid per the order, the teacher or alternate payee is designated a constructive trustee for the amount received and shall immediately notify the retirement and investment office and comply with written instructions as to the distribution of the amount received.
3. Review the domestic relations order to determine if it ~~is a~~ qualified-order follows the model language format in section 82-08-01-03.
4. Forward the domestic relations order to the fund's legal counsel and actuarial consultant for their review and recommendation to the board.
5. The board shall review the domestic relations order and make the final determination of a qualified order.
6. The domestic relations order must be considered a qualified order when the executive director notifies the parties the order is approved by the board and a certified copy of the court order has been submitted to the fund office.
7. If the order is determined to be qualified within eighteen months of receipt:
  - a. Send notice to all persons named in the order and any representatives designated in writing by such person that a determination has been made that the order is a qualified domestic relations order.
  - b. Comply with the terms of the order.
  - c. Distribute the amounts as outlined in the order.
- 5- 8. In the event that the order is determined not to be a qualified domestic relations order or a determination cannot be made as to whether the order is qualified or not qualified within eighteen months of receipt of such order:
  - a. Send written notification of such to all parties.

- b. Apply the qualified domestic relations order prospectively only if determined after the expiration of the eighteen-month period the order as modified, if applicable, is a qualified domestic relations order.

**History:** Effective September 1, 1990; amended effective May 1, 1992; April 1, 1994; May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-12.2

**82-08-01-03. Format for a qualified domestic relations order.** A qualified domestic relations order must be substantially in the following form:

ACTIVE OR INACTIVE MEMBERS

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Plaintiff,  
  
-vs-  
\_\_\_\_\_,  
Defendant.

QUALIFIED DOMESTIC  
RELATIONS ORDER

Case No. \_\_\_\_\_

.....

This Order is intended to meet the requirements of a "Qualified Domestic Relations Order" relating to the North Dakota Teachers' Fund for Retirement, hereafter referred to as the "Plan". The Order is made pursuant to North Dakota Century Code section 15-39.1-12.2. The Order is an integral part of the judgment entered on [DATE OF DIVORCE] granting a divorce to the above-entitled parties. [This Order is also drawn pursuant to the laws of the state of North Dakota relating to the equitable distribution of marital property between spouses and former spouses in actions for dissolution of a marriage.] or [This Order is drawn pursuant to the laws of the state of North Dakota relating to the provision of child support to a minor child in actions for dissolution of a marriage.]

**BACKGROUND INFORMATION**

[MEMBER'S NAME AND SOCIAL SECURITY NUMBER] is the participating member whose last known address is [MEMBER'S ADDRESS]. The member's date of birth is [MEMBER'S D.O.B.].

[ ALTERNATE PAYEE'S NAME AND SOCIAL SECURITY NUMBER ] is the alternate payee whose last known address is [ ALTERNATE PAYEE'S ADDRESS ]. The alternate payee's date of birth is [ ALTERNATE PAYEE'S D.O.B. ].

The participating member and the alternate payee were married on [ DATE OF MARRIAGE ].

IT IS HEREBY ORDERED THAT:

#### **I. BENEFITS**

Benefits under the plan are distributed as follows: (Choose one)

1. The alternate payee is awarded [        % ] of the member's accrued annuity benefit as of [ DATE OF DIVORCE ]; (OR)
2. The alternate payee is awarded [ \$        ] of the member's accrued annuity benefit as of [ DATE OF DIVORCE ].

#### **II. TIME OF BENEFIT RECEIPT**

Benefit payments to the alternate payee will begin: (Choose one)

1. When the participating member reaches normal retirement age under the plan. (OR)
2. When the participating member qualifies for early retirement. (Note: Benefits in this event are payable even if the member has not separated from covered employment.) (OR)
3. When the alternate payee reaches [ DATE OR EVENT ]. (Note: The date or event must be after the date participating member would qualify for early retirement.) (OR)
4. When the participating member retires.

#### **III. DURATION OF PAYMENTS TO ALTERNATE PAYEE**

NOTE: Choose the appropriate optional language as applicable under the following rules:

- Choose option A if the benefits to the alternate payee are to be paid over the alternate payee's life. Option A must be chosen if the benefits to the alternate payee are to begin before the member's benefits are in pay status.
- Choose option B if the benefits to the alternate payee are to be paid over the member's life under the single life annuity option with no surviving spouse annuity benefits upon the member's death.

- Choose option C if the benefits to the alternate payee are to be paid over the member's life under one of the plan's joint and survivor or term certain and life options with the alternate payee as the survivor beneficiary for continuing annuity payments upon the member's death.

A. OVER LIFE OF THE ALTERNATE PAYEE (Choose one)

1. The payments shall be made to the alternate payee on a monthly basis over the life of the alternate payee and shall cease upon the alternate payee's death. The payment shall be calculated on the basis of a single life annuity and will be actuarially adjusted based upon the plan's assumptions to reflect the life expectancy of the alternate payee.

(OR)

2. The payments shall be made to the alternate payee on a monthly basis over the life of the alternate payee and calculated on the basis of:

(Choose one)

(a) a 5-year term certain and life option; (OR)

(b) a 10-year term certain and life option.

Upon the alternate payee's death, payments will continue to the alternate payee's designated beneficiary under the term certain and life option identified above.

B. OVER THE LIFE OF THE PARTICIPATING MEMBER (SINGLE LIFE ANNUITY)

The payments shall be made to the alternate payee on a monthly basis over the life of the participating member and shall cease upon the member's death.

C. OVER THE LIFE OF THE PARTICIPATING MEMBER (SURVIVOR OR TERM CERTAIN AND LIFE ANNUITY)

The payments shall be made to the alternate payee on a monthly basis over the life of the participating member with a continuing monthly annuity payable to the surviving alternate payee after the member's death. The amount of the payments to the alternate payee will be calculated on the basis of:  
(Choose one)

(a) a 100% joint and survivor annuity option (OR)

(b) a 50% joint and survivor annuity option (OR)

(c) a 5-year term certain and life option (OR)

(d) a 10-year term certain and life option.

**IV. MEMBER WITHDRAWS FROM RETIREMENT SYSTEM (Choose one)**

- A. If the participating member discontinues employment and withdraws the member account in a lump sum the alternate payee shall receive [\_\_\_\_\_] % of the member's account balance as of [DATE OF DIVORCE] accumulated with interest as required by the Plan from the divorce date until the refund is paid; (OR)
- B. If the participating member discontinues employment and withdraws the member account in a lump sum, the alternate payee shall receive [\$\_\_\_\_\_] from the member's account balance accumulated with interest as required by the Plan from [DATE OF DIVORCE] until the refund is paid. [Note: The dollar amount in this option cannot exceed the member's account balance.]

**V. LIMITATIONS OF THIS ORDER (Order must reflect all provisions of this section.)**

- A. This order recognizes the existence of the right of the alternate payee to receive all OR a portion of the benefits payable to the participating members as indicated above.
- B. Nothing contained in this Order shall be construed to require any Plan or Plan administrator:
1. To provide to the alternate employee payee any type or form of benefit or any option not otherwise available to the participating member under the Plan.
  2. To provide the alternate payee benefits, as determined on the basis of actuarial value, not available to the participating member.
  3. To pay any benefits to the alternate payee which are required to be paid to another alternate payee under another order previously determined by the Plan administrator to be a qualified domestic relations order.
  4. To apply the provisions of this Order to disability benefits that the participating member may be entitled to receive.
- C. If the alternate payee dies prior to beginning receipt of benefits under this order, the entire amount that may be due to the alternate payee reverts to the participating member.

[If payment option B or C is elected:]

Upon the alternate payee's death after payments begin, any remaining benefits due will revert to the participating member, or if the participating member is deceased, to the participating member's beneficiary.

- D. If the participating member dies prior to retirement, the alternate payee will receive \_\_\_\_\_% share of the member's survivor benefits as of [DATE OF DIVORCE].
- E. The benefit enhancements provided by the North Dakota legislature for service during the marital relationship which are adopted after the end of the marital relationship apply to the alternate payee's portion of benefits under this order.
- F. If participant or alternate payee receives any distribution that should not have been paid per this Order, the participant or alternate payee is designated a constructive trustee for the amount received and shall immediately notify RIO and comply with written instructions as to the distribution of the amount received.
- G. Alternate payee is ORDERED to report any payments received on any applicable income tax return in accordance with Internal Revenue Code provisions or regulations in effect at the time any payments are issued by RIO. The plan is authorized to issue Form 1099R, or other applicable form on any direct payment made to alternate payee. Plan participant and alternate payee must comply with Internal Revenue Code and any applicable regulations.
- H. Alternate payee is ORDERED to provide the plan prompt written notification of any changes in alternate payee's mailing address. RIO shall not be liable for failing to make payments to alternate payee if RIO does not have current mailing address for alternate payee at time of payment.
- I. Alternate payee shall furnish a certified copy of this Order to RIO.
- J. The Court retains jurisdiction to amend this Order so that it will constitute a qualified domestic relations order under the plan even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If RIO determines at any time that changes in the law, the administration of the plan, or any other circumstances make it impossible to calculate the portion of a distribution awarded to alternate payee by this Order and so notifies the parties, either or both parties shall immediately petition the Court for reformation of the Order.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_

(Judge Presiding)

OR

RETIRED MEMBERS

This Order is intended to meet the requirements of a "Qualified Domestic Relations Order" relating to the North Dakota Teachers' Fund for Retirement, hereafter referred to as the "Plan". The Order is made pursuant to North Dakota Century Code section 15-39.1-12.2. The Order is an integral part of the judgment entered on [ DATE OF DIVORCE ] granting a divorce to the above-entitled parties. [This Order is also drawn pursuant to the laws of the state of North Dakota relating to the equitable distribution of marital property between spouses and former spouses in actions for dissolution of a marriage.] or [This Order is drawn pursuant to the laws of the state of North Dakota relating to the provision of child support to a minor child in actions for dissolution of a marriage.]

**BACKGROUND INFORMATION**

[ MEMBER'S NAME AND SOCIAL SECURITY NUMBER ] is the participating member whose last known address is [ MEMBER'S ADDRESS ]. The member's date of birth is [ MEMBER'S D.O.B. ].

[ ALTERNATE PAYEE'S NAME AND SOCIAL SECURITY NUMBER ] is the alternate payee whose last known address is [ ALTERNATE PAYEE'S ADDRESS ]. The alternate payee's date of birth is [ ALTERNATE PAYEE'S D.O.B. ].

The participating member and the alternate payee were married on [ DATE OF MARRIAGE ].

IT IS HEREBY ORDERED THAT:

**I. BENEFITS**

Benefits to the participating member under the plan are distributed as follows: (Choose one)

1. The alternate payee is awarded [ % ] of the monthly retirement benefit as of [ DATE OF DIVORCE ]; (OR)
2. The alternate payee is awarded [ \$ ] of the monthly retirement benefit as of [ DATE OF DIVORCE ].

**II. TIME OF BENEFIT RECEIPT.**

The benefits are payable to the alternate payee in the month following receipt of this order by the plan or plan administrator as the participating member is currently retired and receiving benefits under the Plan.

### III. DURATION OF BENEFITS TO ALTERNATE PAYEE

NOTE: Choose the appropriate optional language as applicable under the following rules:

- Choose option A if the benefits to the alternate payee are to be paid over the alternate payee's life.
- Choose option B if the benefits to the alternate payee are to be paid over the member's life under the single life annuity option with no surviving spouse annuity benefits upon the member's death.
- Choose option C if the benefits to the alternate payee are to be paid over the member's life under one of the plan's joint and survivor or term certain and life options with the alternate payee as the survivor beneficiary for continuing annuity payments upon the member's death.

#### A. OVER LIFE OF THE ALTERNATE PAYEE (Choose one)

1. The payments shall be made to the alternate payee on a monthly basis over the life of the alternate payee and shall cease upon the alternate payee's death. The payments shall be calculated on the basis of a single life annuity and will be actuarially adjusted based upon the Plan's assumptions to reflect the life expectancy of the alternate payee.

Upon the member's death, the alternate payee, if living, will receive the survivor benefits, if any, payable to the alternate payee under the annuity option existing at the time of the member's death.

(OR)

2. The payments shall be made to the alternate payee on a monthly basis over the life of the alternate payee and calculated on the basis of: (Choose one)

(a) a 5-year term certain and life option; (OR)

(b) a 10-year term certain and life option.

Upon the alternate payee's death, payments will continue to the alternate payee's designated beneficiary under the term certain and life option identified above.

Upon the member's death, the alternate payee, if living, will receive the survivor benefits, if any, payable to the alternate payee under the annuity option existing at the time of the member's death.

B. OVER THE LIFE OF THE PARTICIPATING MEMBER (SINGLE LIFE ANNUITY)

The payments shall be made to the alternate payee on a monthly basis over the life of the participating member and shall cease upon the member's death.

C. OVER THE LIFE OF THE PARTICIPATING MEMBER (SURVIVOR OR TERM CERTAIN AND LIFE ANNUITY)

The payments shall be made to the alternate payee on a monthly basis over the life of the participating member with a continuing monthly annuity payable to the surviving alternate payee after the member's death. The amount of the payments to the alternate payee will be calculated on the basis of: (Choose the survivor annuity option in existence at the time of the divorce or legal separation. NOTE: The option indicated may not result in a change from the existing original option elected by the member.)

- (1) 100% joint and survivor option (OR)
- (2) 50% joint and survivor option (OR)
- (3) 5-year term certain and life option (OR)
- (4) 10-year term certain and life option.

IV. LIMITATIONS OF THIS ORDER (Order must reflect all provisions of this section.)

- A. This order recognizes the existence of the right of the alternate payee to receive all OR a portion of the benefits payable to the participating members as indicated above.
- B. Nothing contained in this Order shall be construed to require any Plan or Plan administrator:
  - 1. To provide to the alternate employee payee any type or form of benefit or any option not otherwise available to the participating member under the Plan.
  - 2. To provide the alternate payee benefits, as determined on the basis of actuarial value, not available to the participating member.
  - 3. To pay any benefits to the alternate payee which are required to be paid to another alternate payee under another order previously determined by the Plan administrator to be a qualified domestic relations order.

4. To apply the provisions of this Order to disability benefits that the participating member may be entitled to receive.
- C. If the alternate payee dies prior to receipt of benefits under this order, the entire amount that may be due to the alternate payee reverts to the participating member.
- D. The benefit enhancements provided by the North Dakota legislature for service during the marital relationship which are adopted after the end of the marital relationship apply to the alternate payee's portion of benefits under this order.
- E. If the participant or alternate payee receives any distribution that should not have been paid per this Order, the participant or alternate payee is designated a constructive trustee for the amount received and shall immediately notify RIO and comply with written instructions as to the distribution of the amount received.
- F. Alternate payee is ORDERED to report any payments received on any applicable income tax return in accordance with Internal Revenue Code provisions or regulations in effect at the time any payments are issued by RIO. The plan is authorized to issue form 1099R, or other applicable form on any direct payment made to alternate payee. Plan participant and alternate payee must comply with the Internal Revenue Code and any applicable regulations.
- G. Alternate payee is ORDERED to provide the plan prompt written notification of any changes in alternate payee's mailing address. RIO shall not be liable for failing to make payments to alternate payee if RIO does not have current mailing address for alternate payee at time of payment.
- H. Alternate payee shall furnish a certified copy of this Order to RIO.
- I. The Court retains jurisdiction to amend this Order so that it will constitute a qualified domestic relations order under the plan even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If RIO determines at any time that changes in the law, the administration of the plan, or any other circumstances make it impossible to calculate the portion of a distribution awarded to alternate payee by this Order and so notifies the parties, either or both parties shall immediately petition the Court for reformation of the Order.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Judge Presiding)

**History:** Effective April 1, 1994; amended effective January 1, 1998;  
May 1, 1998.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-12.2

**ARTICLE 82-09**

**CONFIDENTIALITY OF RECORDS**

[Repealed effective May 1, 1998]



**TITLE 89**  
**Water Commission**



**JUNE 1998**

**CHAPTER 89-02-01**

**89-02-01-01. Intent.** This chapter establishes rules for processing applications for permits to drain certain ponds, sloughs, or lakes, or sheetwater, or or any series thereof, and meandered lakes, as required by North Dakota Century Code sections 61-15-08 and 61-32-03.

**History:** Amended effective December 1, 1979; August 1, 1994; February 1, 1997; June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-15-08, 61-32-03

**89-02-01-02. Definitions.** Unless the context otherwise requires, the following definitions apply:

1. "Assessment drain" means any drain constructed pursuant to North Dakota Century Code chapter 61-16.1 or 61-21.
2. "Board" means the board of managers of a water resource district.
3. "District" means water resource district.
4. "Drain" includes any natural watercourse opened, or proposed to be opened, and improved for the purpose of drainage and any artificial drains of any nature or description constructed for such purpose, including dikes and other appurtenant works. This definition may include more than one watercourse or artificial channel constructed for the aforementioned purpose when the watercourses or channels drain land within a practical drainage area.

5. "Lake" means a well-defined basin which characteristically holds water throughout the year. Lakes go dry only after successive years of below normal runoff and precipitation.
6. "Lateral drain" for the purpose of regulating the drainage of water means a drain constructed after the establishment and construction of the original drain or drainage system and which flows into such original drain or drainage system from outside the limits of the original drain.
7. "Maintenance" means removal of silt and vegetation from a drain. Maintenance does not include deepening or widening a drain.
8. "Meandered lake" means any pond, slough, or lake which has had its boundaries established by metes and bounds in the survey of public lands by the government of the United States.
9. "Party of record" means each person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.
10. "Person" means a person, firm, partnership, association, corporation, or any other type of private legal relationship, and any governmental organization, which includes any agency of the United States, a state agency, and any political subdivision of the state.
11. "Pond" means a well-defined land depression or basin that holds water in normal years throughout the summer. Ponds generally go dry only in years of below normal runoff and precipitation.
12. "Series of ponds, sloughs, ~~or~~ lakes, or sheetwater" means two or more ponds, sloughs, ~~or~~ lakes, or sheetwater that are hydrologically linked naturally or artificially.
13. "Sheetwater" is defined by North Dakota Century Code section 61-32-03, which provides that sheetwater means shallow water that floods land not normally subject to standing water.
14. "Slough" includes two types:
  - a. Seasonal slough: a depression which holds water in normal years from spring runoff until mid-July. In years of normal runoff and precipitation, a seasonal slough is usually not tilled but can be used for hayland or pasture. In low runoff, dry years, these areas generally are tilled for crop production, but commonly reflood with frequent or heavy summer or fall rains.
  - b. Temporary slough: a shallow depressional area that holds water or is waterlogged from spring runoff until early

June. In years of normal runoff and precipitation, a temporary slough is usually tilled for crop production. In years of high runoff or heavy spring rain, a temporary slough may not dry out until mid-July and generally would not be tilled but may be used for hayland or pasture. A temporary slough frequently refloods during heavy summer and fall rains.

- 14- 15. "State engineer" means the state engineer, appointed pursuant to North Dakota Century Code section 61-03-01, or the state engineer's designee.
- 15- 16. "Supplemental public hearing" means a hearing held to review evidence not contained in the record of the state engineer's public hearing.
- 16- 17. "Watercourse" is defined by North Dakota Century Code section 61-01-06. That section provides: "A watercourse entitled to the protection of the law is constituted if there is a sufficient natural and accustomed flow of water to form and maintain a distinct and a defined channel. It is not essential that the supply of water should be continuous or from a perennial living source. It is enough if the flow arises periodically from natural causes and reaches a plainly defined channel of a permanent character." Watercourse, for the purposes of this chapter, also means an outlet channel utilized to carry drained water from the outlet of the drain to a watercourse, as defined by section 61-01-06.
- 17- 18. "Watershed" means the area which drains into a slough; pond, or slough, lake, or sheetwater, or any series thereof.

**History:** Amended effective December 1, 1979; October 1, 1982; February 1, 1997; June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-15-08, 61-32-03

**89-02-01-03. Permit required.**

1. A permit is required before any person may construct a drain for the purpose of draining waters from a slough; pond, or slough, lake, or sheetwater, or any series thereof, having a watershed of eighty acres [32.37 hectares] or more.
2. A permit is required before any person may drain by pumping a slough; pond, or slough, lake, or sheetwater, or any series thereof, having a watershed of eighty acres [32.37 hectares] or more.
3. A permit is required before any person may drain, cause to be drained, or attempt to drain any meandered lake.

4. A permit is required for an assessment drain constructed pursuant to North Dakota Century Code chapter 61-16.1 or 61-21.
5. A permit is required for the construction of any lateral drain.
6. A permit is required before any person may modify the drainage authorized in the original permit. Modification of drainage includes deepening and widening of a drain, or the extension of any drain.
7. A permit is required before any person may fill a pond, slough, ~~or lake~~, or sheetwater which has a watershed of eighty acres [32.37 hectares] or more, for the purpose of causing the pond, slough, ~~or lake~~, or sheetwater to be drained by elimination of all or a portion of the existing storage.
8. ~~A permit is required before any person may drain temporary ponding if the surface area of the temporary ponding is eighty acres [32.37 hectares] or more.~~

**History:** Amended effective December 1, 1979; October 1, 1982; February 1, 1997; June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-15-08, 61-32-03

**89-02-01-08. Referral of applications to appropriate district.**

Upon receipt of a properly completed application, the state engineer shall determine whether the application involves drainage of statewide or interdistrict significance using the factors set out in section 89-02-01-09. The state engineer shall attach to the application any comments, recommendations, and engineering data that may assist the appropriate district in making a determination on the application. The application must then be referred to the appropriate district within which is found a majority of the watershed or drainage area of the pond, slough, ~~or lake~~, or sheetwater, or any series thereof.

**History:** Amended effective December 1, 1979; October 1, 1982; February 1, 1997; June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-15-08, 61-32-03

## **CHAPTER 89-02-05.1**

**STAFF COMMENT.** Chapter 89-02-05.1 contains all new material and is not underscored so as to improve readability.

### **CHAPTER 89-02-05.1 LICENSES FOR EMERGENCY DRAINAGE**

#### **Section**

89-02-05.1-01	Scope of Chapter
89-02-05.1-02	Definitions
89-02-05.1-03	Emergency Drain - Licensure to be Temporary
89-02-05.1-04	Emergency Defined
89-02-05.1-05	Form of Application for an Emergency Drain
89-02-05.1-06	Procedure for Consideration of Emergency Drain Applications
89-02-05.1-07	Decision on Emergency License Application - Conditions
89-02-05.1-08	Requirement for Permanent Drainage Application
89-02-05.1-09	Closure of Temporary Drain
89-02-05.1-10	License Does Not Absolve Liability for Damages

**89-02-05.1-01. Scope of chapter.** This chapter contains rules concerning temporary emergency drainage licenses.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-02. Definitions.** Unless the context otherwise provides, the following definitions apply:

1. "Application" means an application for licensure for an emergency drain.
2. "Board" means the board of the water resource district in which the emergency drainage license is sought.
3. "Drain" means any structure or construction which changes the water surface area of a pond, slough, lake, or sheetwater, or any series thereof, having a watershed of eighty acres [32.37 hectares] or more.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-03. Emergency drain - Licensure to be temporary.** A license received under this chapter has a duration of not more than six months unless extended as provided in this chapter.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-04. Emergency defined.** An emergency for purposes of this chapter is a situation which if not addressed immediately will cause significant damage to persons or property which would not occur under normal circumstances. An emergency may exist as a result of an extremely wet cycle. However, damages caused by deliberate acts of any individual do not constitute an emergency under this chapter unless the damage can be alleviated without harm to other persons or property.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-05. Form of application for an emergency drain.** Applications for an emergency drainage license must be written and must contain the following information:

1. Landowner's name and address.
2. Legal description of land on which the emergency drain will be located.
3. A map showing the location of the drain.
4. An estimate of the surface acreage of the pond, slough, lake, or sheetwater, or any series thereof, and the volume of water to be drained by the emergency drain.
5. A list of all landowners whose land is adjacent to the course the water drained will take for a distance of one mile [1.6 kilometers] downstream, along with the addresses and telephone numbers of these landowners.
6. Copies of any written permission received from downstream landowners.
7. A compilation of any written or oral refusals from downstream landowners to give permission.
8. A description of the emergency.

9. Written permission allowing the state engineer and board to inspect the drain.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-06. Procedure for consideration of emergency drain applications.** An application for an emergency drain must be sent simultaneously to the board and the state engineer. The application will be reviewed for completeness by the board and the state engineer. The board and state engineer shall also make a preliminary determination as to the existence of an emergency. As soon as possible, a conference call or an onsite meeting among the board, the state engineer, and other affected parties, as determined by the state engineer, must be held. The applicant or any other affected party may make a statement concerning the emergency drainage application during the conference call or onsite meeting. Any conference call or onsite meeting must be electronically recorded. During the call or meeting, but after all parties have been given an opportunity to present their views, the board shall make a recommendation to the state engineer whether or not the license should be granted.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-07. Decision on emergency license application - Conditions.** After completion of the conference call or onsite meeting, the state engineer shall consider the written information received, the matters discussed during the conference call or onsite meeting, and the recommendation of the board. Based upon this information, the state engineer shall decide whether the emergency license should be granted. If the license is granted, the state engineer may place any condition upon it which the state engineer deems necessary to protect public or private interests. A condition may include a requirement for a bond. The license must contain a condition limiting the duration of the license to a timeframe of not greater than six months.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-08. Requirement for permanent drainage application.** If the drain is to be permanent, the applicant shall submit a drainage permit application to the state engineer in accordance with chapter 89-02-01. If the application is submitted no later than thirty days prior to the date the emergency license expires, the term of the emergency license is extended until final action on the drainage permit

application has been taken unless the state engineer determines that the drain should be closed to prevent damage to public or private interests.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-09. Closure of temporary drain.** If an application for a permanent drainage permit is not submitted thirty days prior to the date the emergency license expires, the applicant shall immediately make preparations for closure of the drain unless the applicant has applied in writing for an extension from the state engineer and that extension has been granted. Preparations must include entering by other individuals, obtaining any permission necessary from other landowners, and obtaining any permission or authorizations necessary. Closure of the drain must be completed on or before the license expiration date. The applicant shall keep the board and the state engineer informed of the applicant's progress in closing the drain.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-10. License does not absolve liability for damages.** The receipt of a license for emergency drainage does not relieve an applicant from liability for damages resulting from any activity conducted pursuant to the license.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

## CHAPTER 89-03-01

**89-03-01-01.5. Sale of excess water by an incorporated municipality or rural water system.** Any incorporated municipality or rural water system that appropriates water in excess of its current needs pursuant to North Dakota Century Code section 61-04-06.2 may sell the excess water provided:

1. The municipality or rural water system is supplying all the demands of its inhabitants or members;
2. The agreement for sale of water is terminable by the incorporated municipality or rural water system upon six months' notice to the purchasing entity; and
3. The agreement for sale is approved by the state engineer.

This section does not apply to agreements for the sale of water entered into prior to November 1, 1989.

**History:** Effective November 1, 1989; amended effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-04-06.2, 61-02-27



## CHAPTER 89-03-03

**89-03-03-04. Definition of reasonably necessary for the future water requirements of the a municipality or rural water system.** "Reasonably necessary for the future water requirements of the a municipality or rural water system" means the amount of water estimated to be required thirty years in the future. The total quantity of water a municipality or rural water system may hold under all permits for municipal use may not exceed the quantity the municipality or rural water system can reasonably expect to use thirty years in the future.

**History:** Effective November 1, 1989; amended effective August 1, 1994; June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-04-06.2, 61-04-23, 61-04-24, 61-04-25

## CHAPTER 89-08-02

### 89-08-02-02. Contents of application and approval of the application.

1. A completed application for a construction permit must be submitted to the state engineer and contain:
  - a. A completed application form;
  - b. Plans and specifications for the proposed construction which, in the case of a high-hazard dam, medium-hazard dam, or low-hazard dam over twenty-four feet [7.31 meters] in height, must be prepared by an a professional engineer registered in North Dakota;
  - c. Evidence recognized in a court of law sufficient to establish a prima facie case of a property right in the property that will be affected by the construction of the dam, dike, or other device; and
  - d. Any additional data or information required by the state engineer.
2. Within forty-five days after receipt of a completed application by the state engineer, the state engineer shall complete an initial review of the application. In the case of a dam, if the state engineer determines the proposed dam is a high-hazard dam, medium-hazard dam, or low-hazard dam over twenty-four feet [7.31 meters] in height, and the plans and specifications were not prepared by an a professional engineer registered in North Dakota, the applicant shall submit plans and specifications prepared by an engineer, except for cases of an emergency. The state engineer shall forward the completed application along with any changes, conditions, or modifications to the water resource board of the district where the proposed project is to be located.
3. The board, within forty-five days of receiving the application from the state engineer, shall consider the application and suggest any changes, conditions, or modifications to the state engineer.
4. If the state engineer determines an emergency exists, the state engineer may issue a temporary permit to construct a dam, dike, or other device capable of impounding, obstructing, or diverting more than twelve and one-half acre-feet. A temporary permit shall have a duration of not more than six months unless extended by the state engineer.

**History:** Effective November 1, 1989; amended effective June 1, 1998.

**General Authority:** NDCC 28-32-02, 61-03-13  
**Law Implemented:** NDCC 61-16.1-38

89-08-02-03. Permit does not absolve liability for damages. The receipt of a permit, including a permit for emergency construction, does not relieve an applicant from liability for damages resulting from any activity conducted pursuant to the permit.

**History:** Effective June 1, 1998.  
**General Authority:** NDCC 28-32-02, 61-03-13  
**Law Implemented:** NDCC 61-16.1-38



**TITLE 92**  
**Workers Compensation Bureau**



MAY 1998

CHAPTER 92-01-02

**92-01-02-25. Permanent impairment disputes.** A dispute as to the percentage of an employee's permanent impairment must be resolved in accordance with this section.

1. Definitions. In this section:

- a. "Dispute" means an employee has reached maximum medical improvement in connection with a work injury and has been evaluated for permanent impairment, and there is a disagreement arising from the evaluation that affects the amount of the award.
- b. "Maximum medical improvement" means the level of recovery at which further recovery from an injury or disease is not anticipated based on reasonable medical probability and clinical findings over a period of time indicate the medical condition is stable.
- c. "Medical specialists" means those medical professionals who have had instruction in the use of the American medical association's "Guides to the Evaluation of Permanent Impairment" relating to the evaluation of permanent impairment, agree to have their names listed by the bureau as medical specialists, and who are:
  - (1) Licensed chiropractors who are board-certified chiropractic orthopedists.
  - (2) Licensed physicians who are board-certified medical specialists.

- d. "Potentially eligible for an impairment award" means the medical evidence in the claim file indicates an injured employee has reached maximum medical improvement and has a significant permanent impairment caused by the work injury.
2. All permanent impairment reports must include the opinion of the doctor on the cause of the impairment and must contain an apportionment if the impairment is caused by both work and nonwork-related injuries or conditions.
3. The bureau shall establish a list of medical specialists within the state. The bureau may include in the list medical specialists from other states if there is an insufficient number of specialists in a particular specialty within the state who agree to be listed. In the event of a dispute, the bureau shall furnish the list of appropriate specialists to the employee. The bureau and the employee, if they cannot agree on an independent medical specialist, shall choose a specialist by striking names of medical specialists from the appropriate specialty until a name is chosen.
4. If there is a dispute involving an employee who resides outside of North Dakota, the bureau may require the employee to return to this state for an independent evaluation. If the bureau approves an independent evaluation in another state, the bureau and the employee, if they cannot agree on a specialist, shall choose a specialist by striking names from a list of approved medical specialists in the other state, if a list is available, or from some comparable list of appropriate medical specialists in that state.
5. Upon receiving a permanent impairment rating report from the doctor the bureau shall audit the report and shall issue an order a decision awarding or denying permanent impairment benefits.

**History:** Effective November 1, 1991; amended effective January 1, 1996; April 1, 1997; May 1, 1998.

**General Authority:** NDCC 65-02-08

**Law Implemented:** NDCC 65-05-12.2

**92-01-02-49.1. Determination of employment status.** A person may apply to the bureau for a determination of whether that person is an employer as that term is defined by North Dakota Century Code title 65. A person claiming not to be an employer under the Workers Compensation Act has the burden of proving by a preponderance of the evidence that the person is not an employer. The request for a determination must be in writing and must be supported by evidence of the employment status of the requesting party. If the party is asserting an independent contractor relationship, the party must submit copies of written contracts, if any, establishing the relationship. The bureau may

request, and the party shall ~~promptly~~ provide promptly, any additional relevant information bearing on the issue of the employer status of the party. After review of the evidence, the bureau shall issue an ~~administrative-order~~ its decision determining the employment status of the requesting party under North Dakota Century Code title 65. This determination is effective for no more than one year from the date of the ~~order~~ decision and may be reconsidered or revoked at any time by the bureau. The requesting party has a continuing obligation to notify the bureau of any material change in that party's business relationships, and a failure to notify the bureau of a material change shall nullify the bureau's certification as of the date of the change.

**History:** Effective January 1, 1996; amended effective May 1, 1998.

**General Authority:** NDCC 65-02-08

**Law Implemented:** NDCC 65-09-01

**92-01-02-51. Amnesty period for employers, employees, and providers.** A sixty-day-amnesty period provided for persons who willfully have made false claims or false statements to obtain payment from the bureau, or who willfully have misrepresented payroll and as a result have not paid the proper amount of premium, is established for the period to begin ~~Tuesday,--January-16,--1996~~ Friday, May 15, 1998, and to end ~~Friday,--March-15,--1996~~ Monday, July 13, 1998. The request for amnesty must be received, in writing, at the bureau no later than five p.m. central standard daylight time on ~~March-15,--1996~~ July 13, 1998.

**History:** Effective January 1, 1996; amended effective May 1, 1998.

**General Authority:** NDCC 65-02-08

**Law Implemented:** NDCC 65-02-25

## CHAPTER 92-01-03

**92-01-03-03. Request for assistance - Timely request for consideration or rehearing.** A request to assist with the resolution of a dispute that arises from an order must be made in writing within thirty days from the date the order is issued to the claimant. An oral request is sufficient to toll the statutory time limit for requesting reconsideration or rehearing if that request is followed by a written request for assistance which is received by the program within ten days after the oral request was made. ~~Any written request to assist with the resolution of a dispute, including one submitted within ten days after an oral request is made under this section, is sufficient to satisfy the requirement of requesting reconsideration or rehearing of a decision made or an order issued by the bureau.~~

**History:** Effective April 1, 1996; amended effective May 1, 1998.

**General Authority:** NDCC 65-02-08

**Law Implemented:** NDCC 65-02-27

### **92-01-03-04. Procedure for dispute resolution.**

1. A claimant may contact the program for assistance with any issue or dispute at any time. ~~Within thirty days of the date the order is issued, the~~ The claimant shall contact the bureau workers' adviser program to request assistance with the a dispute arising from the an order within thirty days of the date the order is issued.
2. In an attempt to resolve the dispute, the worker adviser may contact any interested parties. After oral or written contact has been made with the appropriate interested parties, the worker adviser will attempt to accomplish a mutually agreeable resolution of the dispute between the bureau and the claimant. The worker adviser may facilitate the discussion of the dispute but may not modify ~~an informal~~ a decision ~~or an order~~ issued by the bureau.
3. If the dispute is not resolved, the case may be assigned to an informal benefits conference. The worker adviser will remain in contact with all interested parties until the informal benefits conference is held.
4. If a claimant has attempted to resolve the dispute and an agreement cannot be reached ~~through the informal benefits conference,~~ a program completion form will be completed by the worker adviser. The worker adviser will serve the program completion form on the claimant and will advise the claimant of the right to pursue the dispute through hearing ~~or appeal.~~ To pursue a formal rehearing of the claim, the claimant must file a petition request for rehearing within thirty days after

the program completion form is served-on-the-claimant---The request-must-be-filed-pursuant-to-North--Dakota--Century--Code section-28-32-14 mailed.

5. If an agreement is reached, a written copy of that agreement will be sent to the bureau's legal department for the drafting of an order based upon the agreement.
6. The program will take action within thirty days from the date that a request for assistance was received by the program from the claimant.

**History:** Effective April 1, 1996; amended effective May 1, 1998.

**General Authority:** NDCC 65-02-08

**Law Implemented:** NDCC 65-02-27

**STAFF COMMENT.** Chapter 92-01-04 contains all new material and is not underscored so as to improve readability.

**CHAPTER 92-01-04  
MODIFIED WORKERS COMPENSATION COVERAGE**

Section	
92-01-04-01	Definitions
92-01-04-02	Applicability of Statutes and Other Regulations - Risk Management Program Requirements
92-01-04-03	Classification of Inmates - Costs of Administration
92-01-04-04	Inmate Health Care Services
92-01-04-05	Vocational Rehabilitation Services
92-01-04-06	Health Care Services and Wage-Loss Benefits Paid When Not in Custody
92-01-04-07	Disability, Vocational Rehabilitation Allowance, and Permanent Partial Impairment Benefits - Subsequent Period of Incarceration

**92-01-04-01. Definitions.**

1. "Custody" means incarceration in a facility operated by the department or under contract with the department.
2. "Department" means the department of corrections and rehabilitation.
3. "Inmate" means a person in the custody of the department.
4. "Penitentiary" means the North Dakota state penitentiary and its affiliated facilities.
5. "Prison industries work program" means any inmate work program operated through roughrider industries.
6. "Released from custody" means released on parole, released on community corrections placement, released on conditional pardon, or discharged from any facility operated by the department or under contract with the department.
7. "Subsequent period of incarceration" means incarceration resulting from revocation of parole, revocation of conditional pardon, revocation of community corrections release, or revocation of probation, or incarceration pursuant to a criminal judgment.
8. "Wages", for purposes of calculating disability benefits under the program of modified workers' compensation, means the money

an inmate earns while working in a prison industries work program, before deductions from earnings. The term does not include the reasonable value of room, board, medical care, or other services provided by the department and does not include income from any source other than working in a prison industries work program.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 65-02-08, 65-06.2-06

**Law Implemented:** NDCC 65-06.2-04, 65-06.2-06

**92-01-04-02. Applicability of statutes and other regulations - Risk management program requirements.** Unless otherwise provided by statute or rule, if the department has elected to provide modified workers' compensation coverage to inmates working in a prison industries work program, North Dakota Century Code title 65 and North Dakota Administrative Code articles 92-01, 92-02, and 92-05 apply. The department shall disclose to the bureau the name of any business or entity with whom the department contracts to establish a prison industries work program for purposes of allowing the bureau and the risk management fund the opportunity to assess the loss prevention practices of that business or entity to ensure minimal risk to inmates working in a prison industries work program. The department shall annually provide to the bureau documentation of excess coverage or reinsurance.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 65-02-08, 65-06.2-06

**Law Implemented:** NDCC 65-06.2-04, 65-06.2-05, 65-06.2-06

**92-01-04-03. Classification of inmates - Costs of administration.** Inmates working in a prison industries work program are in a single classification under roughrider industries. The account for this classification will be billed an annual amount equal to the bureau's minimum premium charge established under section 92-01-02-20 to cover the expense of issuing coverage. The department shall annually reimburse to the bureau all allocated loss adjustment expenses, including all claim benefit costs, and all administrative expenses, incurred in the classification during the preceding year. The bureau will calculate and charge to roughrider industries a cost of claims administration so that the ratio of the administrative charge to allocated loss adjustment expenses in the classification is equal to the ratio of the bureau's overall administrative expenses to total allocated loss adjustment expenses.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 65-02-08, 65-06.2-06

**Law Implemented:** NDCC 65-06.2-04, 65-06.2-06

**92-01-04-04. Inmate health care services.** The department, through the penitentiary, has control over and may direct health care

services for an inmate, including the selection of treating and consulting physicians and all other health care provides. The department shall schedule health care services, including medical and diagnostic services, chiropractic services, and ancillary services such as physical and occupational therapy, which are determined to be medically necessary for an inmate who is injured while working in a prison industries work program, according to applicable department rules, policies, and procedures. The department, through the penitentiary, is responsible for payment of all health care services according to applicable penitentiary policies and procedures while the inmate is in custody.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 65-02-08, 65-06.2-06

**Law Implemented:** NDCC 65-06.2-04, 65-06.2-05, 65-06.2-06

**92-01-04-05. Vocational rehabilitation services.** If the bureau and the department determine that an injured inmate is in need of vocational rehabilitation services, the department, through the penitentiary, may provide vocational rehabilitation services to that inmate. Vocational rehabilitation services include penitentiary education programs, penitentiary vocational training programs, penitentiary vocational rehabilitation programs, penitentiary college programs, and institutional work.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 65-02-08, 65-06.2-06

**Law Implemented:** NDCC 65-06.2-04, 65-06.2-05, 65-06.2-06

**92-01-04-06. Health care services and wage-loss benefits paid when not in custody.** If an inmate who has sustained a compensable injury while working in a prison industries work program has been released from custody, the bureau shall provide and pay for health care services and procedures for that former inmate according to North Dakota Century Code title 65 and North Dakota Administrative Code title 92. The bureau shall also pay wage-loss benefits under North Dakota Century Code chapter 65-05 based on the inmate's wage earned while working in a prison industries work program.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 65-02-08, 65-06.2-06

**Law Implemented:** NDCC 65-06.2-04, 65-06.2-05, 65-06.2-06

**92-01-04-07. Disability, vocational rehabilitation allowance, and permanent partial impairment benefits - Subsequent period of incarceration.** Payment of disability benefits, vocational rehabilitation allowance, or permanent partial impairment benefits must be discontinued during any subsequent period of incarceration in any federal, state, regional, or local correctional facility.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 65-02-08, 65-06.2-06

**Law Implemented:** NDCC 65-06.2-04, 65-06.2-05, 65-06.2-06



**TITLE 93**

**Private Investigative and Security Board**



MAY 1998

CHAPTER 93-02-01

**93-02-01-01. Qualifications for private investigator's license.**

A person is qualified to receive a license as a private investigator:

1. Who can show by certified birth certificate or naturalization certificate proof of being at least eighteen years of age.
2. Who is a high school graduate or holder of the equivalent of a high school diploma, or who has at least three years training and experience in a public law enforcement agency or in providing private investigative services.
3. Who has not been convicted in any jurisdiction of a felony or a class A misdemeanor involving an act of violence or intimidation as defined in North Dakota Century Code chapters 12.1-16 through 12.1-25; prostitution as set forth in North Dakota Century Code chapter 1.1-29, and applicable federal and local laws; obscenity as set forth in North Dakota Century Code chapter 12.1-27.1, and applicable federal and local laws; controlled substances as set forth in North Dakota Century Code chapter 19-03.1, and applicable federal and local laws; or any other felony offense; unless the board determines that the offense does not have a direct bearing upon the person's ability to serve the public as a private investigator and the person has been sufficiently rehabilitated pursuant to the provisions of North Dakota Century Code section 12.1-33-02.1, or a full pardon has been granted.
4. Who--is--not--and--never--has--been--confined--or--committed--as--a--mentally--ill--person;--as--defined--by--North--Dakota--Century--Code--chapter--25-03.1;--to--a--hospital--or--other--institution;--unless

~~the person is no longer suffering from disability as a mentally ill person.~~

- 5- Who has passed an examination conducted by or under the supervision of the board, to determine competency to receive a license as a private investigator.
- 6- 5. Who has filed with the board a bond as required by section 93-02-01-08.

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04

**Law Implemented:** NDCC 43-30-04, 43-30-06

**93-02-01-02. Qualifications for detective agency license.** Any person hiring another person to perform private investigative services must obtain a detective agency license. ~~Any individual who applies~~ An applicant for a detective agency license must be licensed as a private investigator in this state and have at least two consecutive years of experience as an investigator in any jurisdiction or the United States. A corporation, partnership, or association which applies for a detective agency license must have at least one member of the partnership or corporate officers of the corporation who is a licensed private investigator in this state with at least two consecutive years experience as an investigator in any jurisdiction of the United States.

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04

**Law Implemented:** NDCC 43-30-09

**93-02-01-03. Qualifications of detective agency personnel.**

1. For the purposes of this chapter, employee includes any person performing any private investigative services for a detective agency on a contractual basis.
2. A detective agency may only employ a person, who is licensed as a private investigator or registered as a provider of private investigative services, to assist in the work of the detective agency and the conduct of its business in any capacity of performing private investigative service work.
3. Any employee performing any private investigative service work for a detective agency in this state, except those specifically exempted by statute, must meet the qualifications specified to obtain a private investigator's license found in subsections 1, 2, 3, and 4 of section 93-02-01-01.
4. ~~Any person employed by a detective agency to provide on a full-time, or substantially full-time basis private investigative services for the detective agency must also be individually licensed as a private investigator.~~ Any person

employed by a detective agency to provide private investigative services ~~on-less-than-a-substantially--full-time~~ basis; need only be registered as a provider of private investigative services as required in this section. Any person employed by a detective agency who does not provide any private investigative services need not be registered or licensed.

5. Any unlicensed employee doing any private investigative service work for any detective agency; must be registered with the board by the holder of the detective agency license as an employee providing private investigative services. Registration must be on the form as provided by the board and must be filed within at least seven ~~fourteen~~ days after the start of the ~~employee's---employment~~ employee doing investigative work at the detective agency. The registration form must include the employee's name, any alias, date and place of birth, current address and telephone number, history of formal education, all residences during the immediately preceding five years, all employment or occupations engaged in during the immediately preceding five years, history of prior private investigative experience, history of military service (including branch and dates of service and type of discharge), a list of all arrests, convictions, and pending criminal actions in any jurisdiction, a color photograph acceptable to the board taken within the immediately preceding six months, and general physical description (including height, weight, and color of eyes and hair). The registration form must also include a signed authorization by the employee for a criminal records and background investigation check (waiver clause), the name and license number of employing detective agency, the dates of investigative employment with that agency, and any other information as the board may require.
6. The detective agency is responsible for any activities of its licensed or registered employees and may be subject to administrative action by the board for the activities of its licensed or registered employees.

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04

**Law Implemented:** NDCC 43-30-04

**93-02-01-06. Criminal records and background investigation check.** Before issuing a license to an applicant for a private investigator's license, or before approving the registration of employees of a detective agency, the board may conduct or cause to be conducted a criminal records and background investigation check on the applicant. If required by state statute, the board must have on file a nationwide criminal history on the applicant or registrant.

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04  
**Law Implemented:** NDCC 43-30-04

**93-02-01-14. Carrying of firearms in the course of providing private investigative service.** Carrying and the use of firearms by private investigators and registered employees of detective agencies must be in accordance with all existing state and federal laws, including certification and licensing when necessary. It is unlawful for any person while providing private investigative services to carry a firearm unless the individual carrying the firearm has completed the same requirements for firearms training as is required for North Dakota peace officers. A person providing investigative services must have one thousand hours of investigative or security officer service to carry a firearm.

**History:** Effective March 1, 1990; amended effective May 1, 1998.  
**General Authority:** NDCC 43-30-04  
**Law Implemented:** NDCC 43-30-04

## CHAPTER 93-02-02

**93-02-02-01. Qualifications for private security service personnel.** A person is qualified to register as an apprentice private security officer, security officer, or commissioned security officer:

1. Who can show by certified birth certificate or naturalization certificate proof of being at least eighteen years of age.
2. Who is a high school graduate or holder of the equivalent of a high school diploma, or who has at least three years training and experience in a public law enforcement agency or in providing private security services.
3. Who has not been convicted in any jurisdiction of a felony or a class A misdemeanor involving an act of violence or intimidation as defined in North Dakota Century Code chapters 12.1-16 through 12.1-25; prostitution as set forth in North Dakota Century Code chapter 12.1-29, and applicable federal and local laws; obscenity as set forth in North Dakota Century Code chapter 12.1-27.1, and applicable federal and local laws; controlled substances as set forth in North Dakota Century Code chapter 19-03.1, and applicable federal and local laws; or any other felony offense; unless the board determines that the offense does not have a direct bearing upon the person's ability to serve the public as a person providing private security service and the person has been sufficiently rehabilitated pursuant to North Dakota Century Code section 12.1-33-02.1, or a full pardon has been granted.
4. ~~Who is not and never has been confined or committed as a mentally ill person, as defined by North Dakota Century Code chapter 25-03.1, to a hospital or other institution, unless the person is no longer suffering from disability as a mentally ill person.~~

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04

**Law Implemented:** NDCC 43-30-05, 43-30-06

**93-02-02-02. Qualifications as an apprentice security officer.** To qualify for registration as an apprentice private security officer, a person:

1. Must complete a minimum of sixteen hours of classroom instruction, relating to the provision of private security services before being uniformed and assigned to duty. This instruction ~~must~~ may include the apprentice security officer training curricula contained in appendix A ~~plus~~ first aid training ~~as required by the board~~; and other instruction as

determined by the employer for the particular assignment intended. However, a person may be employed by a private security agency for up to thirty days within any calendar year without having received the training required by this subsection, provided that the person is directly supervised onsite by a security officer or commissioned security officer employed by the private security agency.

2. Must receive a minimum of sixteen hours of field training, under the supervision of a security officer who has a minimum of two thousand hours of active service in that grade or equivalent combination of training and experience as defined in section 93-02-02-07, or under the supervision of a commissioned security officer, before being allowed to perform duties without direct supervision. The training must be at a ratio of no more than four trainees to one security officer.

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04

**Law Implemented:** NDCC 43-30-04

**93-02-02-06. Qualifications for trainers.** Classroom instruction required of apprentice security officers, security officers, or commissioned security officers must be conducted by trainers certified by the ~~attorney-general--or--the~~ board. Minimum requirements for certification as a trainer are either:

1. Two thousand hours of active service as a security officer;
2. Equivalent combination of training and experience as defined in section 93-02-02-07;
3. One-year experience as an instructor in a relevant discipline at an education institution or educational agency; ~~or~~
4. A degree from any educational institution in a nonrelevant discipline plus at least a minor in a relevant discipline; or
5. Certification from an accredited vocational education provider.

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04

**Law Implemented:** NDCC 43-30-04

**93-02-02-08. Licensing of persons providing private security.** Any person providing private security services shall obtain a private security license from the board unless the person is registered as an employee of a licensed private security agency. To be eligible for this license, the person must be a commissioned security officer, ~~either-by registration-or-by-the-equivalency-provisions-as-defined-in-section~~

93-02-02-07; and have passed an examination conducted by or under the supervision of the board.

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04

**Law Implemented:** NDCC 43-30-05, 43-30-06

**93-02-02-10. Registration of private security service personnel.**

1. Any person doing private security service work for any private security agency shall register with the board's office as an apprentice security officer, security officer, or commissioned security officer.
2. Registration must be filed with the board at least seven within fourteen days after the start of the employee's employment at the private security agency. The registration must include the employee's name, any alias, date and place of birth, current address and telephone number, a list of all arrests, convictions (felony and misdemeanor), and pending criminal actions in any jurisdiction, as well as appropriate information relating to the registrant's training classification and rank or grade. The registration must also include a signed authorization by the employee for a criminal records and background investigation check (waiver clause), and any other information as the board may require.
3. For purposes of this chapter, "employee" includes any person performing any private security services for a private security agency on a contractual basis.
4. Each person initially registering with the board as either an apprentice security officer, security officer, or commissioned security officer shall pay the one-time fee to be paid for the issuance of a private security training certificate as required by North Dakota Century Code section 43-30-16.
5. The private security agency is responsible for any activities of its licensed or registered employees and may be subject to administrative action by the board for the activities of its licensed or registered employees.

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04

**Law Implemented:** NDCC 43-30-05, 43-30-16

**93-02-02-13. Criminal records and background investigation check.**

Before issuing a license to an applicant for a private security license or private security agency license, or before approving the registration of an employee as a provider of private security services, the board may conduct or cause to be conducted a criminal records and background

investigation check on the applicant or registrant. If required by state statute, the board must have on file a nationwide criminal history on the applicant or registrant.

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04

**Law Implemented:** NDCC 43-30-04

#### **93-02-02-14. Prohibitions.**

1. No person while providing private security services ~~not an employee of any private security agency~~ may wear, carry, use, display, or possess any identification, badge, uniform, patch, insignia, or make or utter any statement that could or might reasonably lead any person to believe or assume that the person or employee, has any police power or is a member of any governmental law enforcement agency or is in any way associated with any governmental law enforcement agency.
2. No person while providing private security services ~~not an employee of a private security agency~~ may use, control, possess, or own any motor vehicle of any kind which is marked or identified by any sign, insignia, decal, equipment, device, or contrivance, that could or might reasonably lead the general public to believe or assume that the vehicle has some or any official designation or is a vehicle of or belonging to any governmental law enforcement agency.
3. No person while providing security services ~~not an employee of any private security agency~~ may wear, carry, display, or possess, any type of uniform, badge, patch, or insignia which includes the word "police", the great seal of the state of North Dakota, or the seal of any political subdivision.
4. No person while providing private security services ~~not an employee of any private security agency~~ may wear, carry, use, display, or possess any identification, badge, uniform, patch, insignia, sign, decal, or other form of identification which indicates any type of common or customary military rank unless the identification of rank is used with and as an integral part of the uniform or identification as described in this section.
5. No ~~person providing private security services not an employee of a private security agency~~; provider of private security services including the holder of a private security agency private security agency license, may be employed full time or part time in any capacity wherein such person has any police-type powers or access to any official law enforcement records.

6. No person providing private security services nor an employee of any private security agency may solicit or accept any commission or deputation that in any way involves the authority to use or employ, or the use or employment of, any police-type powers, except that of a special deputy sheriff, or special police officer, and then, only in the case of an emergency or disaster and only for the immediate time of the emergency or disaster.
7. As used in this section, positions with police-type powers do not include official volunteer civil defense positions or membership in the national guard, reserve, or regular armed forces of the United States, but do include positions or membership in the military police, security police, or similar police functions of the regular armed forces of the United States.

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04

**Law Implemented:** NDCC 12.1-13-04, 37-01-26

## CHAPTER 93-02-03

### 93-02-03-05. Suspension, revocation, or refusal to renew license.

In addition to the causes for suspension, revocation, or refusal to renew a license listed in North Dakota Century Code section 43-30-23, the board may either refuse to renew, suspend, or revoke ~~a--license--of any--person--or--agency,~~ or place on probationary status any licensee, or issue a letter of reprimand for any of the following causes:

1. Failure or refusal to furnish information required by statute, rule, or request of the board.
2. Making or causing to be made any false entry or written statement of fact in application for license, reports, or other written information to be filed with the board.
3. Fraud in the taking of examination for licensing.
4. Carrying a weapon in violation of any statute or rule specifically regulating the carrying of weapons by private investigators or private security personnel, or in violation of any state and federal laws.
5. Violation of sections 93-02-01-07 and 93-02-02-14.
6. Violation of any of the rules regulating the provision of private investigative services or private security services (chapters 93-02-01, 93-02-02, and 93-03-03).

**History:** Effective March 1, 1990; amended effective May 1, 1998.

**General Authority:** NDCC 43-30-04

**Law Implemented:** NDCC 43-30-12

**TITLE 99**  
**State Gaming Commission**



**MAY 1998**

**ARTICLE 99-01.2**

**GAMES OF CHANCE**

[Repealed effective May 1, 1998]

**STAFF COMMENT.** Article 99-01.3 contains all new material and is not underscored so as to improve readability.

## **ARTICLE 99-01.3**

### **GAMES OF CHANCE**

#### **Chapter**

99-01.3-01	Organization Licenses and Local Permits
99-01.3-02	General Rules
99-01.3-03	Accounting Rules
99-01.3-04	Bingo
99-01.3-05	Raffles
99-01.3-06	Pull Tabs, Club Special, Tip Board, Seal Board, Coin Board, and Punchboard
99-01.3-07	Sports Pools
99-01.3-08	Twenty-One
99-01.3-09	Poker
99-01.3-10	Calcuttas
99-01.3-11	Paddlewheels
99-01.3-12	Pull Tab Dispensing Devices
99-01.3-13	Bingo Card Dispensing Devices
99-01.3-14	Eligible Uses
99-01.3-15	Distributors
99-01.3-16	Manufacturers of Pull Tabs, Paper Bingo Cards, and Pull Tab and Bingo Card Dispensing Devices

### **CHAPTER 99-01.3-01 ORGANIZATION LICENSES AND LOCAL PERMITS**

#### **Section**

99-01.3-01-01	Ineligible Organizations
99-01.3-01-02	Site Authorization
99-01.3-01-03	License
99-01.3-01-04	Reporting a Change in Information
99-01.3-01-05	Local Permit

**99-01.3-01-01. Ineligible organizations.** An organization or a closely connected organization is ineligible for a license or local permit if either organization's actual primary purpose is to conduct games, either organization has failed to resolve an imbalance involving its gaming or trust account according to section 99-01.3-03-05, it is delinquent in paying any tax, interest, penalty, or monetary fine due, or either organization was convicted of violating this article or North Dakota Century Code chapter 12.1-28 or 53-06.1. Except for an

educational organization, a county, city, state, political subdivision, or federal entity is not eligible for a license or local permit. A nonprofit social, hobby, trade, business, professional, or other similar club or association is not a public-spirited organization.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01, 53-06.1-01.1

#### **99-01.3-01-02. Site authorization.**

1. An eligible organization shall obtain a site authorization for a site within a city or county from the governing body of that city or county. A separate site authorization is required for each site. A site authorization is issued by a governing body and approved by the attorney general. It may be issued for a site located on public or private property and may be restricted. Restrictions may include types of games, days of the week, and designation of an area at a site where games will be conducted. An organization shall comply with a restriction of a site authorization until an amended site authorization is issued by a governing body and approved by the attorney general. A site authorization must describe the gaming area designated by an organization that restricts where games may only be conducted and played. No restroom may be part of the gaming area. A governing body may revoke or suspend a site authorization based on good cause.
2. A governing body may issue a site authorization to two or more organizations to conduct games at the same site if the site authorizations restrict the organizations to different days of the week. However, more than one organization may be issued a site authorization for a fairground or similar open space of land.
3. For an initial application for a site authorization for an organization that desires to be recognized as a public-spirited organization, a governing body of a city or county shall determine whether the organization qualifies by examining:
  - a. A copy of an organization's articles of incorporation, charter, bylaws, or similar document to determine its primary purpose and date of origin; and
  - b. A copy of an organization's statements of revenues and expenses for the two preceding years to determine whether the primary purpose has been achieved within this state for both years. A governing body shall examine a copy of the minutes of a board of director's meeting which must include a resolution that states the intended use of net proceeds. An organization's financial officer or

president shall attest to the accuracy of this information.

4. If a special event as determined by a local governing body is held which does not exceed fourteen days, if no more than two events are held per quarter, if written approval is granted by a local governing body, and if the monthly rent amount does not increase, an organization may temporarily use more twenty-one tables at a site than a site authorization allows.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-03

#### **99-01.3-01-03. License.**

1. An organization may not conduct games at a site unless a site authorization is approved by the attorney general and it receives from the attorney general a license for that city or county. If the attorney general determines that an organization's actual primary purpose does not qualify it as an eligible organization, the attorney general shall deny the application or revoke the license.
2. An application must include information prescribed by the attorney general and is subject to approval by the attorney general. A license is effective for one year beginning July first and ending June thirtieth.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-03

**99-01.3-01-04. Reporting a change in information.** If information on a site authorization or license application that is filed with the attorney general becomes inaccurate or outdated in a material way, including a change in an organization's primary purpose or articles of incorporation, an organization shall provide the attorney general, in writing, items of change and a copy of any new documents within fourteen days following the change. This rule does not apply to restrictions of a site authorization or an amended rental agreement.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

#### **99-01.3-01-05. Local permit.**

1. A local permit is issued by a city or county governing body. It may be issued for a site located on public or private

property and may be restricted. Restrictions may include types of games, days of the week, and designation of an area at a site where games will be conducted. A governing body may revoke or suspend a local permit based on good cause.

2. A local permit is required for each site at which games have been authorized. An organization may be issued two or more local permits at the same time; however, the award of prizes, in the aggregate for raffles, bingo, and sports pools, may not exceed six thousand dollars per year.
3. When a governing body issues a local permit, it shall assign a local permit number, specify the period for which it is effective, and send a copy of it to the attorney general within fourteen days from when it was issued. An organization that has a license may not at the same time have a local permit.
4. An organization may receive one or more local permits to conduct bingo, raffles, and or sports pools from a city or county governing body during a fiscal year July first to June thirtieth. However, for a calendar year raffle, a local permit may be issued for a calendar year January first to December thirty-first. The maximum primary merchandise and cash prizes must be according to the gaming law. A donated merchandise prize is valued at its retail price when it is acquired.
5. For bingo, an organization shall comply with section 99-01.3-04-01 through 99-01.3-04-03. For a raffle, an organization shall comply with sections 99-01.3-05-01 through 99-01.3-05-05. For a sports pool, an organization shall comply with section 99-01.3-07-01.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-03, 53-06.1-06

**CHAPTER 99-01.3-02  
GENERAL RULES**

Section	
99-01.3-02-01	Definitions
99-01.3-02-02	Record Check
99-01.3-02-03	Restrictions and Requirements
99-01.3-02-04	Equipment Acquisitions and Use
99-01.3-02-05	Lessor and Organization - Restrictions
99-01.3-02-06	Rental Agreement
99-01.3-02-07	Gaming Manager, Shift Manager, and Reporting Violations
99-01.3-02-08	Currency of Play, Credit Play, and Borrowing From Gaming Funds
99-01.3-02-09	Persons Restricted From Playing Games
99-01.3-02-10	Training and Acknowledgment of the Gaming Law and Rules
99-01.3-02-11	Independent Contractor Services Restricted
99-01.3-02-12	Audit and Inspection of Facilities and Records
99-01.3-02-13	Denial, Suspension, or Revocation of a License

**99-01.3-02-01. Definitions.** As used in this article:

1. "Attorney general" includes an agent of the attorney general.
2. "Bar" means retail alcoholic beverage establishment.
3. "Bar employee" is a person, employed by a bar that is not operated by an organization, who redeems winning pull tabs or bingo cards, or both, involving a dispensing device for an organization.
4. "Cash on hand" means coin, currency, and checks, plus an IOU due from another source of cash or nongaming funds, less an IOU owed to another source of cash or nongaming funds.
5. "Cash prize" means coin, currency, marketable security, and a similar item that can be readily redeemed or converted into legal tender. Cash prize does not include precious metal bullion, a coin of precious metal that has a market value greater than its face value, or a merchandise gift certificate. The value of a marketable security is its cost.
6. "Cash profit" means:
  - a. For bingo, excluding a dispensing device, total ending cash on hand, less starting cash on hand and prizes paid by check, for a bingo session.
  - b. For a raffle, total receipts less prizes paid by cash and check.

- c. For a commingled game of pull tabs, total ending cash on hand, less starting cash on hand and cash prizes paid by check, for a day's activity.
  - d. For a commingled game of pull tabs and bingo involving a dispensing device, total currency withdrawn from a dispensing device, less the value of daubers sold, credits paid on a credit redemption register, cash long or short from an employee bank, and prizes paid, for an interim period.
  - e. For a club special, tip board, seal board, and punchboard, the total daily difference between ending cash on hand and starting cash on hand and less prizes paid by check, for the game.
  - f. For a coin board, the total daily difference between ending cash on hand and starting cash on hand, less prizes paid by check and cost of coins, for the game.
  - g. For a sports pool, the total daily difference between ending cash on hand and starting cash on hand, less prizes paid by check.
  - h. For twenty-one, total ending cash on hand, plus drop box cash, less total starting cash on hand, for a day's activity.
  - i. For poker, total ending cash on hand, less starting cash on hand, for a day's activity.
  - j. For calcuttas, total ending cash on hand, less starting cash on hand, prizes paid by check, and refunds to players, for the event.
  - k. For paddlewheels described by subsection 1 of section 99-01.3-11-01, total ending cash on hand, less starting cash on hand and prizes paid by check, for a paddlewheel ticket card.
  - l. For paddlewheels described by subsection 2 of section 99-01.3-11-01, total ending cash on hand, plus drop box cash, less starting cash on hand, for a day's activity.
7. "Conduct of games" means the direct operation of a game on a site, including placing pull tabs or bingo cards in or withdrawing currency from a dispensing device.
8. "Deal" in pull tabs means each box or bag or series of boxes or bags containing one game with the same serial number. "Deal" in bingo means each box of bingo cards, regardless of the serial number.

9. "Employee" includes a person employed by an organization, an employee of a temporary employment agency who provides services to an organization, and a volunteer of an organization.
10. "Flare" refers to a flare, master flare, or prize flare:
- a. Flare. A flare is a display with the state gaming stamp affixed which describes a punchboard, sports-pool board, calcutta board, deal of pull tabs, club special, tip board, coin board, seal board, and deal of bingo cards involving a dispensing device. The flare for a punchboard is its face sheet. A flare for a sports-pool board, calcutta board, coin board, club special, tip board, and seal board is the game board.
  - b. Master flare. A master flare for a game of pull tabs is the same as a "flare" but it does not have a state gaming stamp affixed. A master flare for paddlewheels is described by subsection 4 of section 99-01.3-15-06.
  - c. Prize flare. A prize flare is a posted display which describes a winning bingo pattern and prize amount involving bingo cards used in a dispensing device.
11. "Gaming equipment" means a game piece or device specifically designed for use in conducting games, including integral components of a dispensing device such as a currency validator, processing board, and EPROM microchip or other data storage device. The term excludes fill and credit slips and a bingo dauber.
12. "Inside information" is any information about the status of a game when that game is conducted that may give a person an advantage over another person who does not have that information, regardless if the person uses or does not use the information, when providing that information is prohibited by the gaming law or rules. It includes information provided through written, verbal, or nonverbal communications that implies or expresses the number of unsold chances; relationship of a game's cash on hand to its ideal adjusted gross proceeds; number of unredeemed top tier or minor winning game pieces that is not posted, value of a hole card in twenty-one, number under the tape of a sports-pool board, or number under a seal.
13. "Member" means a person described by bylaws or articles of incorporation of an organization.
14. "Primary game" is the principal game conducted on a site. Determining factors include frequency of conduct, square footage used, duration of time conducted, and volume of activity.

15. "Volunteer" is a member of an organization who conducts games for no compensation. A volunteer may receive a gift not exceeding a total retail value of fifteen dollars for a consecutive twenty-four-hour period, cash tips, and reimbursement for documented business expenses. No gift may be cash or convertible into cash. See definition of employee.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-02-02. Record check.**

1. Unless a person is not required to have a record check according to subsection 5, an organization or distributor may not employ the person as an "employee" until the organization or distributor has initiated a record check on the person, or the person has independently requested a record check from the bureau of criminal investigation within one year prior to employment. However, an organization or distributor may temporarily employ a person pending a record check.
2. An organization or distributor shall initiate a record check of a person by submitting a "request for record check" form to the attorney general within fourteen days from when the person begins temporary employment. If the attorney general determines that a fingerprint card or special authorization form, or both, are necessary, the attorney general shall provide this card or form, or both, to an organization or distributor which shall submit the card or form, or both, to the attorney general within ten days from when the card or form, or both, were received. An organization or distributor may only request a record check of a person who has a written promise of employment or who is temporarily employed pending the result of the record check. A person shall attest to the accuracy of the information on the form and authorize the attorney general to release information on any criminal record found, including a copy of the bureau of criminal investigation's criminal history record information, to an organization or distributor which requested the record check.
3. If a person is not employed or does not have a written promise of employment from an organization or distributor and desires a record check, the person may independently request a record check from the bureau of criminal investigation according to North Dakota Century Code section 12-60-16.6. If a person has requested a record check from the bureau of criminal investigation, the person shall provide an organization or distributor with a copy of the bureau of criminal investigation's letter on whether a criminal record was found and, if applicable, a copy of the bureau of criminal investigation's criminal history record information. An

organization or distributor shall review this report to determine whether a person is eligible for employment as an employee according to subdivision a or b of subsection 5 of North Dakota Century Code section 53-06.1-06. An organization or distributor shall provide a copy of the bureau of criminal investigation's letter and information to the attorney general.

4. For the purpose of this section, the definition of an "employee" is:
  - a. A person who directly operates games on a site;
  - b. A person who is a shift or gaming manager;
  - c. A person who is employed by a bar that is not operated by an organization, and who is authorized by an organization under subsection 3 of section 99-01.3-12-02 to withdraw currency or a drop box from a pull tab or bingo card dispensing device;
  - d. A person who places a deal of pull tabs or bingo cards in a dispensing device, removes currency from the device, or reimburses a bar for redeemed pull tabs or bingo cards;
  - e. A person who is a member of a twenty-one drop box cash count team; or
  - f. A person who directly sells or distributes gaming equipment for a distributor.
5. These employees of an organization are not required to have a record check:
  - a. A volunteer, except a gaming manager;
  - b. An employee who is sixteen or seventeen years of age;
  - c. An employee who has an expired work permit and who continues to be employed by the same organization or distributor that the person was employed by when the work permit expired;
  - d. An employee who has had a record check done and, within one year of the record check, has become employed by a different organization or distributor than the person was employed by when the record check was done, and who provides the notification copy of a "request for record check" form and, if applicable, a copy of the bureau of criminal investigation's criminal history record information, to the new employing organization or distributor; or

- e. To the extent that the attorney general is authorized to exempt the following employees:
- (1) An employee who only conducts a calcutta, raffle, and or sports pool; or
  - (2) An employee employed by an organization that conducts games on no more than fourteen days during a calendar year.
6. The attorney general may require fingerprints of a person. A local law enforcement agency may charge a fee for taking fingerprint impressions.
  7. The fee for a record check is twenty dollars and is not refundable. However, if a federal agency or local law enforcement agency has done a record check, the attorney general may waive the fee. The fee must be remitted by an organization, distributor, or person with the request form.
  8. The attorney general shall do a record check and provide a copy of the "request for record check" form to an organization or distributor which requested the record check and the person on whom the record check was done. This copy must indicate whether a criminal record was found or not found. If a criminal record is found, the attorney general shall also provide an organization or distributor and person with a copy of the bureau of criminal investigation's criminal history record information. An organization or distributor shall review this report to determine whether a person is eligible for employment as an employee according to subdivision a or b of subsection 5 of North Dakota Century Code section 53-06.1-06.
  9. If a person is not eligible for employment but has been temporarily employed pending a record check, an organization or distributor, within five days of receiving the copy of the "request for record check" form, shall terminate the person's employment. This period cannot be extended.
  10. An organization or distributor shall retain the copy of a "request for record check" form for one year from the end of the month in which a person voluntarily separated from employment, a person was involuntarily separated from employment, or the organization or distributor received the copy and a person had not been temporarily employed pending a record check.
  11. If a person, while employed by an organization or distributor, pleads guilty to or has been found guilty of a felony or misdemeanor offense referenced by subdivisions a and b of subsection 5 of North Dakota Century Code section 53-06.1-06, the person must immediately notify the organization or

distributor. Upon notification, an organization or distributor, within five days, shall terminate the person's employment.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-02-03. Restrictions and requirements.**

1. An employee shall wear an identification tag while working in the gaming area of a site. The tag must clearly display a person's first name and first initial of the last name or the person's identification number, and organization's name. The tag must be worn on the upper one-third of a person's body. An organization shall provide a tag to a person and is equally responsible with the person that the tag is properly displayed.
2. An organization shall have the gaming law; chapter 99-01.3-02, general rules; chapter 99-01.3-03, accounting rules; and the rules chapter of each game type conducted at a site available in the gaming area for review by any person.
3. An organization shall have a policy manual on its conduct and play of games in the gaming area at a site available for review by any person. The manual must include policies for resolving a question, dispute, or violation of the gaming law or rules. The manual cannot include internal controls.
4. An organization shall maintain a list of all employees on a site including their name, address, and telephone number. The list must be safeguarded and be available to the attorney general and law enforcement officials.
5. An organization shall post a description of the "gaming area" of a site authorization for applying subsection 1, sections 99-01.3-02-05(3)(f), 99-01.3-02-08(2), 99-01.3-04-03(1)(f), 99-01.3-06-02(3)(d), 99-01.3-08-06(3), 99-01.3-12-02(2)(c), and 99-01.3-12-04(2)(c).
6. An organization's top official shall provide to the governing board and membership in writing each quarter information on an organization's adjusted gross proceeds; cash profit; cash long or short; net proceeds; excess expenses; reimbursement of excess expenses; and list of eligible uses. This information and how it was provided must be included in an organization's records. If an administrative complaint is issued to an organization, the top official shall disclose the allegation, in writing, to the board within seven days from the date the complaint was received. If an allegation is substantiated, the top official shall disclose to the board and membership,

in writing, the allegation and sanction imposed within ninety days of the final disposition of the complaint.

7. An organization or employee may not award a door prize unless:
  - a. No payment, service, or purchase is required of a person to be eligible;
  - b. No door prize may be a game piece or be drawn from a ticket bought for a meal, dance, or other activity;
  - c. Participation is open to any person at a site; and
  - d. No purchased ticket references a door prize drawing.
8. A person may not modify a state gaming stamp or flare, including a last sale prize. An organization may not, independent of a distributor, add or delete a last sale prize.
9. A person under the age of twenty-one may not conduct or play games, except bingo and raffles, and, at an alcoholic beverage establishment, may not be a member of a drop box cash count team. An employee under the age of eighteen may not count drop box cash. A person under the age of sixteen may not conduct bingo.
10. An employee or a bar employee may not provide inside information of a game to any person.
11. The attorney general may waive a rule when it is for the best interest of the gaming industry and public.
12. If an organization does not reapply for or relinquishes a license, it shall return its unplayed games to the attorney general or distributor within fourteen days. An organization may not destroy an unplayed or unreported game without permission of the attorney general.
13. When an organization disposes played deals of pull tabs and bingo cards, club specials, coin boards, tip boards, seal boards, and punchboards, the disposal method must assure complete destruction.

14. If an organization is forced to dispose accounting records or game pieces damaged in a natural or extraordinary disaster, it shall document each item disposed and provide a copy of the documentation to the attorney general within fourteen days before the disposal.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-02-04. Equipment acquisitions and use.**

1. An organization shall procure gaming equipment only from a distributor. However, an organization may:
  - a. Buy raffle tickets from a printer;
  - b. Buy or sell a used pull tab or bingo card dispensing device from or to a distributor or another organization provided that a distributor records the transaction on a sales invoice; or
  - c. Buy, sell, rent, lend, or give its own used playing cards, jar bar, twenty-one or poker table, bingo hard cards, bingo machine, flashboard, dealing shoe, discard holder, chip tray, paddlewheel, or paddlewheel table from or to any organization. An organization may not sell or otherwise provide any of these particular items, except playing cards, to any other person unless approval is obtained from the attorney general.
2. An organization may not use or knowingly permit its gaming equipment to be used for an illegal purpose.
3. An organization or an employee may not conduct or be in possession of a deal of pull tabs or bingo cards, club special, tip board, seal board, coin board, punchboard, sports-pool board, calcutta board, or series of paddlewheel ticket cards unless its flare has a gaming stamp.
4. If an organization or distributor suspects that a deal of pull tabs or bingo cards, club special, tip board, coin board, or punchboard may be defective, the organization or distributor shall comply with guidelines prescribed by the attorney general.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06, 53-06.1-14

**99-01.3-02-05. Lessor and organization - Restrictions.**

1. Except as prohibited by subdivision d of subsection 3, a lessor's oncall, temporary, or permanent employee may not, directly or indirectly, conduct games at a site as an organization employee on the same day the person is working in the area of the bar where alcoholic beverages are dispensed or consumed.
2. No game may be directly operated as part of a lessor's business. However, a lessor may donate a gift certificate or cash or merchandise prize, but not a dispensed alcoholic drink, to an organization.
3. A lessor, lessor's spouse, lessor's common household member, management, management's spouse, officer, board of directors member, or, lessor's employee or agent who approved the lease, may not:
  - a. As an officer or board member of an organization, participate in an organization's activity that is a conflict of interest with gaming;
  - b. Loan money to an organization;
  - c. Interfere with or attempt to influence an organization's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds. However, a lessor may recommend an eligible use. If the lessor violates this rule, the attorney general may suspend any or all games at the site for up to six months;
  - d. Conduct games at any of the organization's sites or play games at the lessor's site. Refer to the definition of "bar employee" for an exception to this rule;
  - e. Require an organization's employee to assist, for or without compensation, in a lessor's business at the site. However, an organization's employee may voluntarily order drinks for customers;
  - f. Station an automated teller machine or any other electronic device that provides a person with a cash advance or withdrawal in the gaming area; or
  - g. Count drop box cash.
4. Unless an organization or its employee has first received approval from the attorney general, follows guidelines prescribed by the attorney general, or an organization's employee patronizes a lessor in the normal course of a lessor's business, the organization or its employee may not buy a gift certificate or merchandise as a gaming prize from a

lessor, or buy merchandise, food, or alcoholic or nonalcoholic drinks for the lessor's employees or patrons.

5. An organization, employee, or bar may not, directly or indirectly, give a free game piece or alcoholic drink to a person to play a game or as a prize in a game at a site.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-02-06. Rental agreement.**

1. If an organization conducts games at a leased site, it shall have a rental agreement signed by authorized persons of both parties.
2. An agreement must contain:
  - a. Term of the agreement which must be on a fiscal year basis from July first to June thirtieth or, if a site authorization is for a shorter period, the term is for the shorter period. Except for a site where bingo is the primary game, an agreement may not exceed three years;
  - b. Monetary consideration;
  - c. The inclusion of this statement with proper selections made:

"The lessor agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, officers, board of directors, and an employee of the lessor who is in a position to approve or deny a lease may not, directly or indirectly, conduct or play games at the site. However, a bar employee may redeem a winning pull tab or bingo card involving a dispensing device on behalf of an organization";
  - d. If an organization provides a lessor with a temporary loan of funds for redeeming winning pull tabs and or bingo cards involving a dispensing device, a statement that the lessor agrees to repay the loan immediately when the organization discontinues using a device at the site; and
  - e. Statements that:
    - (1) Bingo is or is not the primary game conducted;
    - (2) Twenty-one or paddlewheels, or both (involving a playing table), is or is not conducted and the number of tables on which the rent is based;

- (3) Pull tabs is or is not conducted;
- (4) The rental agreement is automatically terminated, at a lessor's option, if an organization's license is suspended for more than fourteen days or revoked; and
- (5) An oncall, temporary or permanent employee, except a bar employee defined by subsection 3 of section 99-01.3-02-01 will not, directly or indirectly, conduct games at the site as an organization employee on the same day the employee is working in the area of the bar where alcoholic beverages are dispensed or consumed.

3. Rent must be a fixed dollar amount per month.

- a. A participatory or graduated rate arrangement is prohibited.
- b. If bingo is the primary game and it is not conducted through a dispensing device or if a site is leased by an organization that has the alcoholic beverage license for that site, the monthly rent must be reasonable. Factors include time usage, floor space, local prevailing rates, and available sites and services. An organization may pay seasonal expenses, such as snow removal, air-conditioning and heating, to a vendor.
- c. If bingo is not the primary game or if bingo is the primary game and it is conducted through a dispensing device, the maximum monthly rent must be according to subsection 5 of North Dakota Century Code section 53-06.1-11. Special considerations are:
  - (1) If two or more organizations conduct twenty-one or paddlewheels, or both, involving a table and pull tabs for less than a month at a temporary site which is a public or private premises, or if two or more organizations are issued site authorizations to conduct games at a site on different days of the week, the maximum monthly rent, in the aggregate, may not exceed the limit set by subsection 5 of North Dakota Century Code section 53-06.1-11; and
  - (2) If poker is conducted with twenty-one, paddlewheels, or pull tabs, no additional rent is allowed. Otherwise, the rent for poker must be reasonable.
- d. Except for applying subsections 3 or 4 of section 99-01.3-03-04, an organization or employee may not pay, nor may a lessor accept, any additional rent or expense from any source directly or indirectly for any other purpose, such as office or storage space, snow removal,

maintenance, or utilities. Except for a leased site at which bingo is the primary game conducted, an organization may not pay for any capital or leasehold improvements. Unless an organization or its employee has first received approval from the attorney general or an employee patronizes a lessor in the normal course of a lessor's business, the organization or its employees may not buy a gift certificate or merchandise as a gaming prize from the lessor or buy merchandise, food, or alcoholic or nonalcoholic drinks for the lessor's employees or patrons.

4. If there is a change in the monthly rent or any other material change to a rental agreement, the agreement must be amended and a copy of it provided to the attorney general fourteen days before its effective date.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06, 53-06.1-07.4

**99-01.3-02-07. Gaming manager, shift manager, and reporting violations.**

1. An organization shall designate one person as the gaming manager. A gaming manager may not be an employee of a temporary employment agency. A gaming manager is the person who manages and controls the overall gaming operation. A person may be a gaming manager for two or more organizations at the same time if each organization had total adjusted gross proceeds for the previous year ended June thirtieth of one hundred thousand dollars or less. When the gaming manager changes, an organization shall notify the attorney general on a prescribed form within fourteen days of the change.
2. An organization shall designate an employee at a site as a shift manager for each shift of each day. A shift manager shall be on the site during that shift and may not be an employee of a temporary employment agency. A shift manager is a person who is assigned the responsibility to regularly manage games at a site and ensure compliance with the gaming law and rules by an employee, lessor, and player.
3. An organization, distributor, or gaming or shift manager shall immediately report any material violation of the gaming law and rules and any gaming related criminal activity to the gaming division of the office of attorney general and a local law enforcement agency.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-02-08. Currency of play, credit play, and borrowing from gaming funds.**

1. Play of a game must be in United States currency. Play of a game must be on a cash basis. An organization may, by policy, accept checks. No credit may be extended to a player. The consideration to play a game must be paid before play. An employee may not loan money to a player, accept a postdated check, allow a player to alter a check, permit a player to establish an account by depositing cash for making periodic withdrawals, or any similar practice. An organization may allow a player to buy back a check with cash and may return a player's check to the player as part of a prize payout but may not unnecessarily delay the bank deposit of that check.
2. An organization may not station or allow to be stationed an automated teller machine or any other device that provides a person with a cash advance or withdrawal in the gaming area.
3. An employee may not borrow gaming funds as a personal loan or substitute a personal check for gaming funds.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-02-09. Persons restricted from playing games.**

1. An employee who is a shift or gaming manager may not play any game at any of the organization's sites. An employee who services a pull tab or bingo card dispensing device may not play the device at that site.
2. An employee may not play any game while on duty. However, if an organization's total gross proceeds for the previous fiscal year, for which tax returns were filed, was twenty-five thousand dollars or less, a volunteer who is not a bingo caller, shift manager, or gaming manager, may play bingo not involving a dispensing device while on duty.
3. An employee may not play pull tabs, including through a dispensing device, tip board, club special, coin board, or punchboard until after three hours of active play have occurred, or two deals have been added to a game of pull tabs, since the employee went off duty at that site. "Active" play means that a game has been available for play. A player may not provide and an employee may not accept an unopened pull tab as a tip.
4. An employee who is not a volunteer may play twenty-one while off duty at that site only on a table that has a video surveillance system.

5. A bar employee may not play bingo or pull tabs, which involve a dispensing device, while on duty. A bar employee may play bingo involving a device while off duty, and may play pull tabs involving a device while off duty after three hours of active play have occurred, or two deals have been added to the game, since the bar employee went off duty at that site, unless otherwise prohibited by subdivision d of subsection 3 of section 99-01.3-02-05.
6. An employee or bar employee taking a temporary break is still considered on duty.
7. If an organization allows an employee to play games at its site, it shall post the policy at that site.
8. A shift manager may not permit and an employee may not allow an employee's common household member, spouse, child, parent, brother, sister, or in-laws, at a site, to:
  - a. Play pull tabs of a game while the employee is on duty as a jar operator for that game, regardless if the employee takes a temporary break or rotates to conduct another game; or
  - b. Play twenty-one or paddlwheels at a table when the employee is dealing or is a wheel operator at that table.
9. An organization may prohibit a person from playing games at a site.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-02-10. Training and acknowledgment of the gaming law and rules.**

1. A gaming manager and bookkeeper, who have no previous gaming related experience as a gaming manager or bookkeeper, within ninety days of starting employment, and, within ninety days of each promulgation of rules, shall request training from the attorney general. The training must include the gaming law and rules, recordkeeping, internal control, and tax return.
2. An employee shall read and acknowledge in writing, within thirty days of employment and the effective date of new gaming laws or rules, that the person has read and understands the provisions of the gaming law and rules which relate to the person's job duties. The attorney general shall designate the provisions to be read. An acknowledgment must be dated, reference the provisions, and be part of the person's personnel file.

3. This section does not apply to an employee who only conducts a raffle, calcutta, or sports pool.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-02-11. Independent contractor services restricted.**

1. Only an organization member, employee, or member of an auxiliary to an organization may manage, control, or conduct games. An organization may employ, on a temporary basis of up to three months, a person to serve in an advisory capacity.
2. An organization may have an independent contractor provide only these gaming related services to it:
  - a. Summarize or audit a closed game;
  - b. Prepare budgets, financial statements, tax returns, payroll reports, and reconcile bank statements;
  - c. Perform bookkeeping services, write checks, reconcile inventory, and store records and played games. However, an independent contractor may not have signatory authority of a bank account;
  - d. Repair and store a dispensing device;
  - e. Train personnel how to conduct games and operate a dispensing device; and
  - f. Take a locked bank bag or locked drop box to a financial institution provided the independent contractor has no access key; and
  - g. An independent contractor that is a security agency or financial institution may count drop box cash.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-02-12. Audit and inspection of facilities and records.**

1. All records of an organization, distributor, and manufacturer are subject to audit by the attorney general, without notice. The audit may be performed at a site, office, or location chosen by the attorney general. Upon an audit, an organization, distributor, or manufacturer shall provide

records and assistance to the attorney general as requested. A person may not prohibit or impede an audit.

2. A site and an organization's, distributor's, and manufacturer's facility must at all times be open to inspection, without notice, by the attorney general or a local law enforcement official.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-02-13. Denial, suspension, or revocation of a license.**

1. The attorney general may deny, suspend, or revoke a license of an organization, distributor, or manufacturer when the applicant or licensee has:
  - a. Violated, failed, or refused to comply with any provision of the gaming law or rules or any other law of North Dakota or has knowingly allowed, caused, aided, abetted, or conspired with another person to cause the person to violate any provision of the gaming law or rules or any other law of North Dakota.
  - b. Falsified information on a license application or obtained a license by fraud, misrepresentation, concealment, or mistake;
  - c. Denied the attorney general access to a site or manufacturing facility, or failed to timely provide information requested or required by the gaming law or rules;
  - d. Misrepresented, or failed to disclose, a material fact to the attorney general; or
  - e. Engaged in any act or practice to defraud or cheat a person, or has used a device or scheme to defraud a person.
2. Upon revocation of a license, an organization, distributor, or manufacturer shall return the license and, if applicable, site authorization to the attorney general.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-03, 53-06.1-14, 53-06.1-16

**CHAPTER 99-01.3-03  
ACCOUNTING RULES**

Section	
99-01.3-03-01	Accounting Records and System of Internal Control
99-01.3-03-02	Gaming Account
99-01.3-03-03	Trust Account
99-01.3-03-04	Restrictions and Requirements
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99-01.3-03-12	Tax Return

**99-01.3-03-01. Accounting records and system of internal control.**

1. Except as otherwise provided by rule, an organization shall retain accounting records, including receipts documenting eligible uses and solicitations for net proceeds, for three years from the end of the quarter in which the activity was reported.
2. Except for an organization that has gross proceeds of twenty-five thousand dollars or less, only conducts a calcutta, raffle, sports pool, and or poker, or is involved only in conducting no more than two events during a fiscal year of July first through June thirtieth and each event lasts no more than fourteen calendar days, a governing board of the organization shall establish a written system of internal control, comprised of accounting and administrative controls. An organization may not permit any person to review this system, except the attorney general, law enforcement officials, authorized employees, and an adviser. If the attorney general determines that a system of internal control is inadequate, an organization shall remedy the inadequacy.
3. Accounting controls must include procedures and records that achieve these objectives:
  - a. Transactions are executed as authorized by management;
  - b. Gaming activity is properly recorded;

- c. Access to cash, games, and other assets is permitted as authorized by management; and
  - d. Assets recorded on records are periodically compared to actual assets and any differences are resolved.
4. Administrative controls must describe the interrelationship of employee functions and their division of responsibilities.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-03-02. Gaming account.**

1. An organization shall maintain at least one gaming account at a financial institution located in North Dakota. This account must be used for depositing gaming funds and transferring net proceeds to a trust fund account. For purposes of this rule, net proceeds is calculated as adjusted gross proceeds, less gaming and excise taxes, and less the greater of the actual gaming or allowable expenses. This transfer must be made by the last day of the quarter following the quarter in which the net proceeds were earned. The gaming account may be used for payment of expenses. An organization may transfer funds to its general account for payment of expenses. This account must be at a financial institution located in North Dakota.
2. Interest earned is other income. A service fee is an expense.
3. Except to reimburse the account for a negative imbalance, and to deposit raffle nongaming funds, bingo dauber receipts, and sales tax, an organization may not deposit nongaming funds into a gaming account.
4. If an organization buys a qualifying item of video surveillance equipment according to subsection 2 of section 99-01.3-08-04 and later sells or rents the item, it shall make a record of the transaction, deposit the gross receipts or rental income directly into its gaming account, and make a proper adjustment on the tax return.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-11

**99-01.3-03-03. Trust account.**

1. Unless an organization only conducts games for not more than two events per year and each event lasts no more than fourteen calendar days, an organization shall maintain at least one trust account at a financial institution located in North Dakota. Except to reimburse the account for a negative imbalance and as provided by subsection 5, this account must receive only funds from a gaming account. This account is used only to disburse net proceeds to eligible uses. A transfer of net proceeds to another trust account or to a closely connected organization is not a disbursement of net proceeds.
2. An organization shall disburse net proceeds within a reasonable period. However, if an organization does not reapply for a license before July first, relinquishes its license, or its license is revoked, all net proceeds must be disbursed within ninety days of this action unless an extension is approved in writing by the attorney general. The disbursement must be reported to the attorney general.
3. Except for transferring funds to another trust account, an organization may not transfer funds from a trust account to any other bank account. A disbursement must be payable directly to the ultimate use. However, an organization may make a payment directly to a credit card company for charges on a credit card if the credit card use is restricted to eligible uses and may only reimburse its general account for compensation that qualifies as an eligible use and which is paid from the general account. A reimbursement must be documented by a supporting schedule.
4. An organization may not deduct an actual loss on an investment of net proceeds in a marketable security on the tax return. Interest earned and actual gains on an investment of net proceeds in a marketable security must be disbursed to an eligible use. A service fee is an adjustment to the account's balance.
5. Unless an organization is exempt from maintaining a trust account, if it is involved in any of these types of transactions, it shall deposit the net proceeds or income directly into its trust account and make a proper adjustment on a tax return:
  - a. The organization receives net proceeds from another organization and the net proceeds have been designated for a specific eligible use which the recipient has paid for or will pay for with net proceeds, or the net proceeds have not been designated for a specific eligible use;

- b. The organization loans net proceeds and receives a repayment of principal or interest, or both; or
- c. A recipient returns net proceeds or reimburses the organization.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-03-04. Restrictions and requirements.**

1. An organization is allowed an expense according to subsection 2 of North Dakota Century Code section 53-06.1-11 and an additional expense for qualifying items of security and video surveillance equipment according to subsection 2 of section 99-01.3-08-04 or based on guidelines prescribed by the attorney general. The allowable expense amount may be used for any purpose that does not violate the gaming law or rules.
2. An organization may not base an employee's compensation on a participatory percentage of gross proceeds, adjusted gross proceeds, or net proceeds. An organization may pay a fixed bonus through an incentive program.
3. An organization may not pay or reimburse, nor may a lessor accept a payment or reimbursement from an organization, for any media advertising done by the lessor or any other person that is related to games at a site unless the organization's share of this expense is reasonably prorated to the benefit the organization receives and the media advertising is voluntary by the organization.
4. An organization may not pay or reimburse a lessor or share in the cost, nor may a lessor accept a payment, reimbursement, or sharing of the cost from an organization, of any sign advertising related to games at a site unless the sign is not owned by the lessor. If a lessor rents an advertising sign from a vendor, the organization's share of this expense must be prorated to the benefit the organization receives and the sign advertising is voluntary to the organization.
5. A player's check returned by a bank as unpaid for any reason and which is uncollectible after a good faith effort of collection by an organization is a deduction toward adjusted gross proceeds based on guidelines prescribed by the attorney general.
6. If a door prize is awarded as a promotion of games, the cost of the door prize is an expense.

7. A net cash short is an expense and a net cash long is other income for a quarter.
8. Only an unopened pull tab, unopened set of stapled jar tickets, or set of banded jar tickets that has the band intact may be accounted for as unsold or defective when a game is reported on a tax return. An organization shall account for any single unsold or defective jar ticket at a proportional selling price of a stapled set of jar tickets.
9. If foreign currency is exchanged into United States currency, any loss is an expense.
10. No theft of gaming funds can be deducted toward adjusted gross proceeds on the tax return unless an organization:
  - a. Immediately reported the theft to a local law enforcement agency and gaming division of the office of attorney general;
  - b. Has documentation that substantiates the theft amount;
  - c. Had physical security of the funds;
  - d. Has an adequate system of internal control; and
  - e. Incurred an identifiable theft.
11. If an organization rents out gaming equipment, the income is nongaming income.
12. If an employee needs to replenish or increase cash on hand, the employee shall:
  - a. Execute a cash withdrawal from the gaming account and reference the specific game's cash bank; or
  - b. Record a check amount, and the amount of cash which is to be withdrawn, on a deposit slip of the gaming account and reference the specific game's cash bank. An employee shall initial and date the deposit slip which must be validated.
13. All accounting records must be completed and initialed or signed with a nonerasable ink pen. An organization shall maintain a register of each employee's name and the employee's initials or signature as the employee normally writes them on a record or report. The initials or signature of a person on a record or report attests that to the person's best knowledge the information is true and correct.
14. A fee charged a player for entry into a twenty-one or poker tournament, less the cost of a prize awarded, must be reported

on a tax return. The amount reported for twenty-one is other income. The amount reported for poker is gross proceeds.

15. For computing prizes on a tax return, a merchandise prize and a gift certificate are valued at an organization's actual cost and a donated prize is valued at zero. An organization shall document the cost of a merchandise prize.
16. If a raffle, sports pool, or calcutta prize is forfeited and has previously been reported on a tax return, an organization shall report the prize as other income.
17. When a deal of pull tabs, deal of bingo cards involving a dispensing device, club special, tip board, seal board, coin board, sports-pool board, calcutta board, or a series of paddlewheel ticket cards is placed in play, an employee shall compare the game serial number on the pull tab, bingo card, board, or card to the serial number on the state gaming stamp. If the two serial numbers are different, an employee shall immediately notify the distributor and complete a prescribed form and attach it to the deal's flare.
18. If an organization pays a fee directly or indirectly to an insurance company to insure a contingency cash or merchandise prize for bingo or a raffle, the fee is an expense. If the insurance company pays or provides a prize directly or indirectly to a winning player, it is not reported as a prize on a tax return. However, it is classified as a bingo prize in applying subsection 26 of section 99-01.3-04-03.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06, 53-06.1-11

**99-01.3-03-05. Reconciliation of net proceeds and trust account carryovers.** If an organization's gaming account check register balance is less than its net proceeds carryover balance and or its trust account check register balance is less than its trust account carryover balance, as reported on the tax return for the quarter ended December thirty-first, the organization shall deposit the amount of the difference in the respective account by January thirty-first or an extended date approved by the attorney general. The source of the deposit must be nongaming funds. An organization shall provide the attorney general with evidence of the deposit.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-03-06. Gross proceeds, IOUs, documenting cash and chip banks.**

1. Gross proceeds for a game must be separately maintained while the game is conducted. An organization shall use a separate cash bank for each game. If a game's separate cash bank needs replenishment and another game's cash bank, cash reserve bank, or nongaming funds are used as a source of cash, an IOU form must be used to record the loan and payback. An IOU form must include:
  - a. The source and destination of the funds;
  - b. For a club special, coin board, tip board, seal board, series of paddlewheel ticket cards, and punchboard, the game's gaming stamp number;
  - c. Amount and date of loan and repayment; and
  - d. Initials of a cash bank cashier or an employee for each transaction.
2. An organization shall document each game's daily starting and ending cash on hand, including a cash reserve bank. Unless there is only one employee on duty when a site opens or closes, the count of the cash must be done by two persons. Both persons shall independently count the cash in the presence of each other and resolve any difference. Then, one person shall record the count, and both persons shall initial the record.
3. An organization shall document the daily starting and ending twenty-one and paddlewheel chip (betting and payout chips) banks. Unless there is only one employee on duty when a site opens or closes, the count of the chips must be done by two persons and be recorded by each denomination of chip. Both persons shall independently count the chips in the presence of each other and resolve any difference. Then, one person shall record the count, and both persons shall initial the record.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-03-07. Prize register.** For a bingo session, raffle drawing, and sports-pool board, an employee shall legibly print this information on a prize register when a prize is issued to a player:

1. Name of the site;
2. Game type:

- a. Bingo - Date of the session and game number.
- b. Raffles - Date of the drawing, winning ticket number, and initials of two employees who conducted the drawing unless the initials are on another document.
- c. Sports pools - Date of the sports event, winning score, and gaming stamp number;
3. Amount of a cash prize or a description and cost of a merchandise prize;
4. Name and address of the player. If a record of win is made or a cash prize or retail value of a merchandise prize is fifty dollars or less, a player's address is not necessary;
5. Total amount of cash and cost of merchandise prizes awarded; and
6. Initials of preparer.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

#### **99-01.3-03-08. Record of win.**

1. If a player wins a last sale prize or a seal prize, cash prize greater than two hundred dollars, or a merchandise prize that has a retail value exceeding two hundred dollars, an employee shall record the win. If a pull tab has two or more winning prize patterns, the requirement is based on the value of each prize pattern. A record of win must be completed for the total cash prize even if a player splits the prize with another person. The record must be a check drawn from the gaming account, numbered receipt, or flare of a sports-pool board, calcutta board, club special, tip board, coin board, punchboard, or seal board. A bar employee shall print this information on a receipt or an employee shall print this information on a check, receipt, or flare, unless it is already provided:
  - a. Name of the site;
  - b. Game type and, by game type:
    - (1) Bingo, excluding a dispensing device - Date of the session, game number, cash prize amount or description of a merchandise prize and retail value, and date of prize payout if different from the date of the session.

- (2) Bingo, involving a dispensing device - Name of the game, cash prize amount, date of activity, and game serial number.
  - (3) Raffles - Date of the drawing, winning ticket number, cash prize amount or description of a merchandise prize and retail value, and date of prize payout if different from the date of the drawing.
  - (4) Pull tabs, including a dispensing device, punchboards, club special, tip board, seal board, and coin board - Name of the game, cash prize amount or description of a merchandise prize and retail value, date of activity, and game serial number.
  - (5) Sports pools - Date of the event, cash prize amount, date of prize payout, and gaming stamp number.
  - (6) Calcuttas - Date of the event, cash prize amount, date of prize payout, and gaming stamp number;
- c. A player's full name, address, and driver's license number, including state of license registration. If the player is not personally known by a bar employee or an employee, this information must be recorded from a pictured driver's license or tribal, government, or military identification. If a player does not have one of these pictured identifications, a bar employee or an employee shall record the player's full name from two other forms of identification or mail the prize to the player; and
- d. Initial of a bar employee or an employee.
- 2. After a record of win is completed at a site, a player shall sign and date it. However, this rule does not apply to a prize mailed to a player.
  - 3. Unless a prize is for a last sale prize feature, a bar employee or an employee shall print, in ink, the check or receipt number on a pull tab, punchboard punch, or a bingo card involving a dispensing device.
  - 4. A player who has actually won a prize shall claim the prize. A bar employee or employee may not falsify or permit a player to falsify a record of win or enable a player to conspire with another person to have the other person claim a prize. If a bar employee or employee determines that a player has falsified or attempted to falsify a record of win before the

prize payout, the bar employee or employee shall deny the player the prize and notify the attorney general and local law enforcement agency.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-11

**99-01.3-03-09. Inventory records of games, paper bingo cards, tickets, and chips and reconciliation.**

1. An organization shall maintain master inventory records of all deals and games that have a state gaming stamp affixed to their flares. The records must include the sales invoice number and date, name of game, dates of issuance to and received from a site, site name, period played, and quarter tax return on which reported, by gaming stamp number. Unless an organization has only one site that is the location of its home office, it shall also maintain inventory records at each site. The site records must include the gaming stamp number, date received, date placed, and date closed, by site and name of game.
2. An organization shall maintain master inventory records of paper bingo cards. The records must include the sales invoice number and date, primary color or serial number of each type of card and collated booklet, number of faces per card, number of cards per collated booklet, number of cards bought, dates of issuance to a site, and site name. An organization shall also maintain inventory records at each site including the primary color or serial number of each type of card and collated booklet, quantity received, date received, and quantity issued and returned for each session.
3. An organization shall maintain inventory records of rolls of tickets. Each roll of tickets must be recorded on a log when received. A log must include the date each roll is acquired, ticket color, beginning and ending ticket numbers, and number of tickets on the roll.
4. An organization shall maintain a twenty-one and paddlewheel chip master and site inventory logs to record additions and reductions of chip inventories, by value of chip.
5. Each quarter an organization shall reconcile its inventory records of paper bingo cards, and all deals and games that have a state gaming stamp affixed to their flares that are recorded as being in play and in inventory as unplayed, to the items that are actually in play and in inventory as unplayed. A person shall inspect and count these items that are actually in play and in inventory as unplayed, compared this count to the inventory records, and resolve any difference. The

inspection and count must be done by a person who does not have access to inventory.

6. Each quarter an organization shall reconcile its inventory of twenty-one and paddlewheel (betting and payout chips) chips that are recorded as being at the home office and site to the chips that are actually in inventory at the home office and site. A person shall count the chips in inventory at the home office and site, compare this count to the inventory records, and resolve any difference. The count must be done by a person who does not have access to inventory.
7. A reconciliation must be documented, including the name and title of the person who does the reconciliation, date performed, result, corrective action taken, and initials of that person.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-03-10. Bank deposit.**

1. The cash profit, less a documented increase or plus the decrease in the starting cash on hand for the next gaming activity, must be deposited in the gaming account by the third banking day following the day of a bingo session; club special, coin board, tip board, seal board, or punchboard is removed from play; sports-pool game; calcutta event; poker occasion; day's or interim period's pull tab, twenty-one or paddlewheel activity; or closed bingo prize flare involving a dispensing device. However, the total receipts for a raffle, calendar, and master sports-pool board must be deposited in the gaming account by the third banking day following receipt of the cash by the person responsible for the activity.
2. For a day's pull tab activity, bingo session, raffle drawing, poker occasion, twenty-one and paddlewheel activity, and interim period's pull tab or bingo activity involving a dispensing device, a deposit slip or receipt must reference a site, name of the game, date of activity, and deposit amount. For a club special, coin board, tip board, seal board, punchboard, sports-pool board, calcutta board, and series of paddlewheel ticket cards, a deposit slip or receipt must reference a site, name of the game, date removed from play, deposit amount, and gaming stamp number. For all game types, an employee who prepares a deposit shall initial the bank deposit slip. If another employee makes the bank deposit and has access to the cash, the employee shall also initial the bank deposit slip.

3. If an organization prepares a deposit slip for more than one type of game, it shall record on the deposit slip or a supporting schedule by each game type, the information required by subsection 2. A supporting schedule must reconcile to a validated bank deposit slip or receipt. A validated bank deposit slip or receipt and any supporting schedule must be included with the accounting records of each game type.
4. For a bank deposit, a person shall record the amount to be deposited on the game's accounting record and retain the copy of a two-part bank deposit slip and any supporting schedule with the accounting record. This person shall forward the accounting record, copy of the bank deposit slip, and any supporting schedule directly to a bookkeeper. A second person shall take custody of the bank deposit funds and the original of the bank deposit slip and take them to a financial institution or arrange for the funds to be deposited. If, before the bank deposit is made, the custody of bank deposit funds is transferred directly from a person to another person, face-to-face, and the cash is accessible to be counted, both persons shall independently count the cash in the presence of each other and resolve any difference. Then, one person shall record the amount on the accounting record, and both persons shall initial and date the record. The person who makes the bank deposit shall forward a validated bank deposit slip or receipt directly to a bookkeeper. An organization shall comply with this rule unless it uses another bank deposit procedure which has proper accounting control.
5. If an employee prepares or has custody of a bank deposit which is not scheduled to be immediately deposited, the employee shall safeguard the funds.
6. An employee who did not have access to the cash to be deposited shall, within a reasonable time, verify that the amount recorded on a daily or interim accounting record to be deposited was actually deposited according to a bank statement. The employee shall document the verification by initialing the accounting record and dating it. If more than one deposit amount is recorded on an accounting record, the employee shall initial the record and date it for each verified deposit amount.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-03-11. Audit.** A closed game or daily activity must be audited, within a reasonable time, by a person who did not conduct the game and who did not have access to the total receipts or cash profit for the activity. This person may not have sole signatory authority of

the gaming account. A person who audits a closed game or daily activity shall verify the number and value of unsold chances, gross proceeds, number and value of prizes, adjusted gross proceeds, and cash profit. If the audit reveals an irregularity, the person shall notify the appropriate organization representative.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-03-12. Tax return.**

1. An organization that has an active license shall file a tax return each quarter. Closely connected organizations shall file a consolidated tax return. A tax return and payment of tax for a quarter must be postmarked or hand delivered by the last day of the month following the end of the quarter. However, if the last day of the month is a Saturday, Sunday, or holiday, the due date is the first following business day. An extension for filing a tax return may be granted for good cause, with approval of the attorney general, by filing a written request explaining the reason. A request must be postmarked or hand delivered by the due date of a tax return.
2. An incomplete tax return will not be considered timely filed unless it is correctly completed and returned by the due date or an approved extended date. A tax return is incomplete if information is missing or misrepresented, it is not properly signed, instructions are not followed, current schedules are not used, or required documentation is not provided.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-12

**CHAPTER 99-01.3-04**  
**BINGO**

**Section**

99-01.3-04-01	Bingo
99-01.3-04-02	Equipment
99-01.3-04-03	Conduct and Play
99-01.3-04-04	Cash Register
99-01.3-04-05	Tickets
99-01.3-04-06	Paper Card Count
99-01.3-04-07	Floorworker Sales Report
99-01.3-04-08	Recordkeeping

**99-01.3-04-01. Bingo.**

1. This chapter applies to bingo not involving a bingo card dispensing device.
2. "Bingo" is when a player buys a card and marks squares as a caller announces a letter and number or only a number for speedball bingo. Speedball bingo is a game in which a bingo caller announces the drawn numbers in a fast manner. Except for a bonanza bingo or a game that has all of its numbers predrawn, a winning player of a game is the player who first covers a predetermined pattern of squares by matching letters and numbers on a bingo card with balls drawn and called and the player has timely called bingo. Except for a game that has all of its numbers predrawn, there must be a winning player. Bonanza bingo is a game in which a bingo caller predraws a certain quantity of balls before a session begins for a predetermined pattern and players buy and play cards throughout the session. During the session when the bonanza bingo game is conducted, unless a player has already won, the caller will draw additional balls until a player wins the game. In a game in which a bingo caller draws a certain quantity of balls for the game before a session begins for a predetermined pattern, players may buy and play the cards throughout the session.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-04-02. Equipment.** An organization shall use this equipment:

1. A device from which balls are withdrawn or a random number generator. If a random number generator is not used, a set of either seventy-five or ninety balls bearing the letters and numbers corresponding to the bingo cards in play. The balls must be available for inspection by a player before a session begins. The balls must be equal size, weight, shape, and balance, and must be in a receptacle before each game begins. A flashboard is optional.
2. Hard cards and paper cards, including paper cards that have two numbers in a square or enable a player to select and print numbers on a blank card, may be used. A blank card may be used if:
  - a. A card is a two-part carbonless card with a control number;
  - b. A player shall legibly print in ink one number in each blank square. A middle square, if any, may be a free space. The numbers cannot be repeated on a card and they must correspond with the letters and numbers of the bingo balls;
  - c. After a card is completed, a player shall provide an employee with the card before the start of the game. An employee shall ensure that the numbers are legible, validate the original and duplicate parts of a card, retain the original part, and return the duplicate part to the player; and
  - d. An employee shall verify a winning player's card and match the card's original part to the duplicate part. A card must be voided if it is illegible or altered.
3. Before conducting a bingo session, an employee shall test the equipment and ensure it is working properly.
4. An organization may not separate a collated set of paper bingo cards or cut up a paper bingo card that has two or more faces on it to separately sell the cards or faces.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-04-03. Conduct and play.**

1. These rules must be posted:

- a. A person may not separate a paper card when there are two or more faces on a sheet;
  - b. A person under eighteen years of age may not play bingo unless an individual, eighteen years of age or older, accompanies a minor when buying a bingo card or package and throughout the session. The adult may not be an employee on duty. This rule is not required to be posted if a person under twenty-one years of age is not allowed on the site;
  - c. If an organization does not restrict duplicate cards from being in play for a game, it shall post or convey that information to all players before their purchase of cards or packages;
  - d. The actual letter and number on a ball drawn or freely awarded is official;
  - e. If a person uses a fraudulent scheme or technique to cheat or skim involving bingo, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both;
  - f. A bingo card is void if it is taken outside the gaming area; and
  - g. If a player attempts to falsify or falsifies a record of win, the prize is forfeited.
2. An organization shall comply with and post these policies:
- a. A policy of when an organization may cancel a bingo session;
  - b. A policy that if a player has more than one bingo on one card or on two or more cards for a game, whether it is considered as one bingo or more than one bingo for splitting a prize with another winning player;
  - c. A policy that a bingo is timely called by a player when the player calls the word "bingo" or other required word before the bingo caller announces the whole letter and number of the next ball to be called, or other policy; and
  - d. A policy on sharing a prize by two or more winning players on identically or differently priced cards. A policy must include the following except that an organization may award a minimum prize:
    - (1) If a prize is cash and all winning players bingo on identically priced cards, the cash prize must be

divided equally. An organization may round fractional dollars.

- (2) If a prize is cash and the winning players bingo on differently priced cards, an organization shall award each winning player.

(a) The designated prize;

(b) An equal share of the designated prize; or

(c) A proportional part of the designated prize for that card or any other fair method. The proportional part is the ratio that each winning player is in relation to the total number of winning players. To illustrate, if three players bingo on differently priced cards, each player is to be awarded one-third of the designated prize for that player's card.

- (3) If a prize is merchandise and it cannot be divided, an organization shall do one of these options which must be disclosed in the bingo program or promotional material or announced before the bingo session:

(a) Award each winning player a substitute merchandise prize which must be of at least equal value and total the retail price of the original prize. A merchandise prize may be redeemable or convertible into cash at an organization's option;

(b) Award a certain cash split amount; or

(c) Conduct a playoff game between the winning players.

3. An organization shall make these announcements:

a. Before each session, the policy on when a bingo is timely called by a player; and

b. Before each game, the game's winning bingo pattern.

4. An employee may only assist a disabled player in playing a bingo card. A legally blind or disabled player may use the player's personal braille or special card when an organization does not provide such a card. An organization may inspect and reject the card.

5. An employee may not sell a gift certificate unless:

- a. A gift certificate is accounted for when it is sold. An employee shall issue a gift certificate to the purchaser and retain a copy or stub of the certificate with the daily records and record the certificate on a register to document the sale. An organization shall recognize a sale of a gift certificate as gross proceeds on the tax return for the quarter in which it was sold. A gift certificate must be used to buy only a bingo card or package;
  - b. A register is maintained which accounts for all gift certificates sold at a site. A register must include, for each certificate, a consecutive control number, selling price (value), dates issued and redeemed, sites at which it is issued and redeemed, and initials of the employees who issue and redeem the certificate; and
  - c. A redeemed gift certificate is signed by a player and retained by an organization with the daily accounting records. A player is issued a bingo card or package at the site when the gift certificate is redeemed.
6. If an organization changes a publicly announced bingo program for a session in which a potential prize or the number of games is reduced, an employee shall notify a player of the change before the player buys a card.
7. If an organization sells two or more differently priced cards or packages for a game that provides for different prizes, an employee shall use a distinct type or color of cards or mark each card by a method that enables the employee to distinguish each differently priced card.
8. If an organization accepts a discount coupon, the redeemed coupon must contain the dollar value or percentage discount and be signed by a player. An employee shall write the value of the bingo card or package purchased on the face of the coupon unless the value is already stated, and retain the coupon with the daily records. The value of a player's one or more coupons must be less than the value of the card or package bought.
9. If an organization accepts a donated item in exchange for a discount, an employee shall account for the discount on a register as part of the daily records. A discount must be less than the value of the card or package bought. A register must contain:
  - a. Bingo session and date of the session;
  - b. Amount of the discount;
  - c. Value of the bingo card or package bought;

- d. Signature of the player;
  - e. Total amount of bingo card or package discounts for the session; and
  - f. Initials and date of the cashier.
10. A card or package must be bought on a site immediately before the start of a game or during a session. Except for a bonanza bingo or a game that has all of its numbers predrawn, no card may be sold for a game which is in progress or concluded. If a paper bingo card is included in a package for a game in progress or concluded, the card must be withdrawn and voided or destroyed. An employee may exchange a purchased package for another package if the employee accounts for all the components of the first package and a session has not started.
  11. An organization may not refund the purchase price of a card or package unless a site incurs an electrical power loss, there is inclement weather, an organization experiences an extraordinary incident, a session is canceled, or a player has an emergency.
  12. If an organization sells hard cards before each game, an employee shall collect the cards not paid for. A person may not play a card not bought from an organization. An organization may allow a player to share the player's hard or paper cards with another person.
  13. An organization may not do an "all the cards you can play" promotion.
  14. If a game has an actual or potential prize valued at five hundred dollars or greater or involves differently priced cards for different prizes, an employee shall use an electronic bingo card verifier; record in writing the called numbers and the sequence in which they were drawn and retain the record for three months; or audio tape the bingo caller calling the balls and retain the tape for three months. Also, when a player bingos, an employee shall record in writing or audio tape the following and retain the record for three months.
    - a. Game number, winning pattern, type of card (regular, premium, super), series (card) number, and last number called; and
    - b. Cash register receipt number, if applicable.
  15. Except for speedball bingo or when a monitor or random number generator is used, a caller shall manually display the letter and number on the ball to players. An employee shall announce the letters and numbers on the balls or displayed by a random

number generator in their exact sequence; however, numbers freely awarded do not need to be announced. If a player calls bingo and the bingo is invalid, the next ball called must be in sequence of the balls drawn.

16. A player may bingo more than one time on the same card when an organization conducts continuation games of more than one pattern on the same card. A winning card must be verified by an employee and one neutral player or person unless an electronic bingo card verifier is used. A floorworker may not access a verifier.
17. An organization may offer a variety of prizes to a winning player who may choose a prize by random selection. A player may win an additional prize by choosing the prize by random selection or playing a game of skill if the player is not required to give anything of value. An organization shall disclose the potential prizes in the bingo program and notify a player of these prizes before the player chooses a prize or plays a game of skill.
18. No bingo card or package may be a prize. An organization may not award, as a prize, a gift certificate that can be redeemed for a bingo card, package, or any other game piece.
19. An organization may conduct a qualifying game whereby a player wins the game's prize and an opportunity to play in a special game, but not for free.
20. An organization may award a bonus that is based on a factor incidental to a bingo program if it is disclosed in a program, calendar, flyer, or is announced before a session, and is recorded on a prize register. Factors include a player bingoing on a certain last number called or winning a game on the player's birthday.
21. If a player bingos and an employee determines that the player is playing more bingo cards than were bought, the player's bingo is void.
22. Bonanza bingo and a game that has all of its numbers predrawn must be conducted as follows:
  - a. A caller shall initially call a certain quantity of balls. While a caller initially calls the bingo balls or before the caller calls the next continuous number, a player shall verify that the letter and number on the balls drawn are correctly displayed. A posted display must be used for the games, have restricted access, and reference that game;
  - b. A card must be sealed and unpeekable when it is sold;

- c. An organization may sell or exchange cards throughout a session until sales are closed. Except for a game that has all of its numbers predrawn and an organization that does not permit exchanged cards, an employee shall, before the next continuous number is called, fully account for the floorworkers' sales of cards according to section 99-01.3-04-07. A floorworker may not turn in any exchanged card after the accounting is begun;
- d. If a player bingos before the next continuous number is called, the player wins. Otherwise, an additional bingo ball is drawn until a player bingos. This rule does not apply to a game that has all of its numbers predrawn;
- e. A game may not extend beyond a session;
- f. If an organization permits a player to exchange a partially played card for a new card and pay a discounted or exchange price, an employee shall:
  - (1) Uniquely mark (validate) each card to be used during the session by:
    - (a) Validating a card with a mechanical device or rubber stamp with a unique symbol. The validation must identify the card with a particular session for that date. A card validated for a session, but not sold, must be voided; and
    - (b) Requiring a player to write the player's name on the face of the exchanged card.
  - (2) Retain the exchanged cards as part of the daily records for six months.
  - (3) Record the validation designations and card color combinations by session.
  - (4) Reconcile the cards, accounting for:
    - (a) Number of cards taken from inventory which must be independently counted and verified by two employees who shall initial and date the verification;
    - (b) Number of cards sold;
    - (c) Number of cards exchanged, which must be separately maintained for each floorworker. The cards must be recounted by an employee who is not a floorworker and who did not complete the floorworker sales report. The employee who

controls the floorworker sales report shall band each floorworker's exchanged cards separately, identify the banded group with the floorworker's name, session, and date and initial. A floorworker shall also initial the floorworker's banded group;

(d) Number of card returned to inventory and voided which must be independently counted and verified by two employees. Each person shall initial and date the verification; and

(e) Document any discrepancy and corrective action taken; and

g. All voided cards must be retained for six months.

23. If an employee determines, during or immediately after the play of a game and before a card is verified as a winning bingo, that a ball is missing, the employee shall void the game and offer the players a fair alternative.
24. Except for a game that has all of its numbers predrawn and for which a winning card contains information required by section 99-01.3-03-07 and is retained, an employee shall record a prize and bonus prize on a register according to section 99-01.3-03-07.
25. Unless written approval is obtained from the attorney general for use of another receipting method, an organization shall receipt gross proceeds, including an additional amount paid by a player for a chance to win an extra prize in a special game, by a cash register, tickets, paper card count, or floorworker sales report.
26. For a site that is leased by a licensed organization, the organization or any person may not pay bingo prizes in which the total bingo prizes exceeds total bingo gross proceeds for a ninety-day period. However, if bingo is the primary game at the site, a bingo prize that equals or exceeds ten thousand dollars is excluded from the calculation of total bingo prizes.
27. An organization shall have a written bingo program for each session. However, if the program does not change each day, an organization may retain one program and record the dates on which it applied. A program must contain:
  - a. Name of a site or organization;
  - b. Date of the session or dates of the sessions;
  - c. Description of each game and the game's prize; and

- d. Selling prices of the cards or packages.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-07.1

**99-01.3-04-04. Cash register.** This receipting method may be used to record gross proceeds of packages, hard cards, and paper cards, excluding floorworker sales, by issuing consecutively numbered receipts.

1. A receipt must contain:
  - a. Name of a site or organization;
  - b. Date of the session; and
  - c. Selling price of a card or package, and receipt number.
2. A cash register must:
  - a. Have a consecutive four-digit receipt number which does not return to zero at the end of any use and retain its transaction count between uses if it is off or without electricity; and
  - b. Separately record each type of regular or discounted priced card or package sold and a gift certificate, and provide a total for each type of sale. For a discounted card or package, the regular or discounted price may be recorded. If the regular price is recorded, a discount must be accounted for on a supporting schedule.
3. A cash register receipt for a void, mistake, or similar item must be retained with the daily records.
4. All transactions and control totals must be recorded on an internal tape that must be retained with the daily records. If a cash register is also used for a purpose other than bingo, the internal tape from the other use must also be retained.
5. A cash register cashier may not issue a refund or void a sale that has been recorded as a transaction, but may do a no sale transaction to access a cash drawer. For a refund, a cashier's supervisor shall execute a refund, and initial the refund transaction on the internal tape. For a voided sale, a cashier's supervisor shall initial the void transaction on the

internal tape. If a supervisor is not available or if the cashier is the supervisor, another employee shall comply with this rule.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-04-05. Tickets.** The ticket receipting method may be used to record gross proceeds of packages, hard cards, and paper cards, including floorworker sales, by issuing consecutively numbered tickets. These rules apply:

1. All tickets on a roll must have a preprinted consecutive number; and
2. Tickets must be issued consecutively from a roll. The daily records must contain the ticket color, ticket selling price, and lowest and highest numbered tickets issued from each roll for a session. Every ticket on a particular roll must be issued for the same price. Tickets issued for each type of sale must be recorded separately. A ticket not issued during a session that bears a number below the highest numbered ticket issued, along with any tickets from the end of the roll which will not be issued in a future session, must be retained as part of the daily records as unsold.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-04-06. Paper card count.** The paper card count receipting method may be used to record gross proceeds of paper bingo cards. The daily records must include the total number of cards or collated sets taken from inventory and returned to inventory. Unless there is only one employee on duty when the cards or sets are taken from or returned to inventory, the count of the cards or sets must be done by two persons. Both persons shall independently count the cards or sets in the presence of each other and resolve any difference. Then, one person shall record the count, and both persons shall initial the record. The record must include the serial number or color, selling price of the card or set, and number of cards or sets issued, returned, voided, and sold for each type of sale.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-04-07. Floorworker sales report.** The floorworker sales report receipting method may be used to record gross proceeds of paper

bingo cards by floorworkers. A report must be completed, for each floorworker, by an employee who is not a floorworker. For a bonanza bingo game in which an organization permits a player to exchange a partially played card for a new card and pay a discounted or exchange price, a report must contain all the information required by subsections 1 through 9. For all other games, each floorworker's report must contain all the information required by subsections 1 through 6. Also, for all other games, subsections 7, 8, and 9 must be completed by session.

1. Game number.
2. Floorworkers' names or assigned numbers.
3. Selling price of each single (one card) and packet.
4. Number of singles and packets issued to each floorworker, by game. The employee issuing the cards and the floorworker shall initial the report. If an organization sells singles at a discount, the number of discounted sets must be predetermined and separately accounted for when issued to a floorworker.
5. Number of singles and packets returned by floorworker, by game, as unsold, including the number of exchanged bonanza bingo cards. The floorworker and an employee who is not a floorworker shall count the cards and initial the report in the presence of each other.
6. Number and value of singles and packets sold by each floorworker, by game.
7. Amount of cash turned in to a cashier by floorworker. The floorworker and the cashier shall count the cash and initial the report in the presence of each other.
8. Amount of cash long or short by floorworker.
9. Total value of singles and packets sold, total cash turned in, and total cash long or short.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

#### **99-01.3-04-08. Recordkeeping.**

1. For each session, records must include:
  - a. The gross proceeds for each type of sale or game;

- b. The starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
  - c. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all sessions for a quarter must reconcile to the tax return;
  - d. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08;
  - e. Inventory records according to section 99-01.3-03-09;
  - f. If bingo is the primary game at a site, the number of players and time of the count;
  - g. A copy of or reference to a bingo program according to subsection 27 of section 99-01.3-04-03; and
  - h. Redeemed gift certificates and discount coupons.
2. The cash profit (see subdivision a of subsection 6 of section 99-01.3-02-01) must be deposited intact according to section 99-01.3-03-10.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**CHAPTER 99-01.3-05**  
**RAFFLES**

Section	
99-01.3-05-01	Raffle
99-01.3-05-02	Tickets - Limitations and Requirements
99-01.3-05-03	Prize Restrictions and Requirements
99-01.3-05-04	Information on a Ticket
99-01.3-05-05	Double Admission Tickets
99-01.3-05-06	Reporting Gross Proceeds and Prizes
99-01.3-05-07	Recordkeeping

**99-01.3-05-01. Raffle.** A raffle is a game in which a prize is won by a player who bought a raffle ticket. A winning player is determined by drawing a ticket stub from a receptacle or by an alternate fair method. A calendar raffle is a raffle in which a player's ticket stub is entered in two or more drawings held on predetermined days over an extended period of time for predetermined prizes. The conduct of a raffle is the drawing.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-05-02. Tickets - Limitations and requirements.**

1. Each raffle ticket is a separate and equal chance to win with all other tickets sold. A person may not be required to buy more than one ticket, or to pay for anything other than the ticket, to enter a raffle. An organization may sell several tickets to a person at a discount. A discounted ticket must be specifically designated as a discounted ticket on the ticket and its stub. The number of discounted tickets must be predetermined and separately issued and accounted for when issued to a ticket seller.
2. An organization may not allow a raffle ticket seller to retain a ticket for free or retain any portion of the price of a ticket as compensation, and may not compensate the seller a certain amount or provide a gift for selling a winning ticket. No raffle ticket can be resold.
3. A raffle ticket must have a stub or other detachable section which is consecutively numbered. Except for the use of double admission tickets, a stub must have a duplicate number corresponding to the number on the ticket and contain the purchaser's name, address, and telephone number. A ticket must be issued, as a receipt, to a player. For a raffle conducted by a licensed organization, the ticket numbers must be mechanically or electronically imprinted. For a raffle

conducted by an organization that has a local permit, the ticket numbers may be manually imprinted.

4. An employee may not sell a ticket on a site where another organization is licensed or has a local permit unless the employee is granted permission by the lessor and other organization.
5. A ticket seller shall return the stubs of all tickets sold. The stubs must be intermixed in a receptacle.
6. An organization shall return the price of a ticket to a player if the stub of the player's ticket was not placed in the receptacle for the drawing.
7. For a calendar raffle, the stub of each ticket sold must be entered in all the drawings conducted since the ticket was sold. A licensed organization may not conduct a calendar raffle for other than a fiscal year beginning July first and ending June thirtieth.
8. An organization may not conduct a drawing unless two employees are present. A drawing must occur at an authorized public or private site.
9. In conducting a drawing, an employee shall draw a stub for the highest valued prize first. If there is more than one prize, an employee shall continue drawing for the prizes in the order of descending value. A prize is valued at its cash value or retail price. An organization may defer announcing the names of the winning players and respective prizes until after all the drawings have occurred and may make the announcement in any sequence. This rule does not apply when an organization adopts a written policy to place a winning player's stub immediately back into a receptacle to potentially be drawn for another prize.
10. An organization may not print any work or phrase on a ticket, promotional material, or advertising which implies or expresses that a purchase of the ticket is a charitable donation.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-05-03. Prize restrictions.**

1. No prize may be real estate, ticket for entry into another raffle, or live animal except for beef or dairy cattle. A prize must be an item that may be legally owned and possessed, and has a value. No prize can be a coupon or discount that requires a winning player to first purchase something to receive a prize. Cash or merchandise prizes may be awarded. A cash prize may be based on a percentage of gross proceeds. A single cash prize cannot exceed one thousand dollars and, during one day, the total cash prizes cannot exceed three thousand dollars.
2. An organization may convert a merchandise prize to a cash prize; provided, that the retail price of a single merchandise prize does not exceed one thousand dollars and, during one day, the retail price of the converted merchandise prize and cash prizes do not exceed three thousand dollars.
3. An organization shall own or have a contract to acquire a merchandise prize before a drawing. However, an organization does not need to register or title an automobile or similar item.
4. Besides a prize that is stated on a ticket to be awarded, an organization may offer an additional unguaranteed merchandise prize provided:
  - a. A ticket must describe the prize and state that it is not guaranteed to be won;
  - b. The prize is predetermined and limited to a winning player of one of the other prizes;
  - c. A player is not required to pay an additional amount or forfeit a prize to participate;
  - d. Unless an organization owns a prize, an award of the prize must be insured; and
  - e. A drawing is conducted from all tickets sold.
5. If an organization has not been able to recover the cost of the prize, it may cancel a raffle and refund the gross proceeds.
6. A prize winner must be drawn or determined on the date indicated on a ticket unless a different date is requested in writing and approved by the attorney general. If a different drawing date is approved, an organization shall notify the purchasers of the tickets of the change by contacting each purchaser or by making a public announcement. The attorney

general may, for good cause, change the date for a drawing. This subsection does not apply to double admission tickets.

7. Within seven days of a raffle, an organization shall notify the winning player verbally or, if the value of the prize exceeds two hundred dollars, in writing, of the prize and arrange the pickup or delivery of the prize. If a prize remains unclaimed by a winning player for thirty days following the date of the written notification and an organization has made a good faith effort to contact the winner to redeem the prize, the organization may retain the prize, have a second prize drawing, or award it in another game. This subsection does not apply to double admission tickets.
8. If a player attempts to falsify or falsifies a record of win, an organization shall deny the prize to the player.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-10.1

**99-01.3-05-04. Information on a ticket.** Except for double admission tickets, each ticket must contain this preprinted information:

1. Name of organization;
2. Ticket number;
3. Price of the ticket, including any discounted price;
4. Prize, description of an optional prize selectable by a winning player, and or option to convert a merchandise prize to a cash prize. However, if there is insufficient space on a ticket to list each minor prize that has a retail price not exceeding ten dollars, an organization may state the total number of minor prizes and their total retail price;
5. For a licensed organization, print "office of the attorney general" and license number. For an organization that has a local permit, print the city or county and local permit number;
6. A statement that a person is not required to be present at a drawing to win;
7. Date and time of the drawing and, if the winning player is to be announced later, date and time of that announcement. For a calendar raffle, if the drawings are on a same day of the week or month, print the day and time of the drawing;
8. Location and address of the drawing;

9. If a merchandise prize requires a title transfer involving the department of transportation, a statement that a winning player is or is not liable for sales or use tax;
10. If a purchase of a ticket is restricted to a person of a minimum age, a statement that a person must be at least "\_\_\_\_\_" years of age to buy a ticket; and
11. A statement that a purchase of the ticket is not a charitable donation.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-05-05. Double admission tickets.** An organization may use double admission tickets provided:

1. Two single tickets must be printed side by side on a roll with a consecutive number. Both tickets must have the same number;
2. All tickets must be sold consecutively at a site on the day of the raffle. All the tickets of each separately colored roll must be sold for the same price on that day. No ticket may be sold at a discount. The organization and player each retains one ticket;
3. A winning player need not be present when a drawing is held but shall claim the prize within one hour of the drawing. Otherwise, an organization shall conduct a second prize drawing, or more, until the prize is claimed. However, for the last hour of an event, an organization may set any redemption period. A statement of the time of the drawing and one-hour redemption requirement must be on all promotional material and be posted at a site; and
4. An organization shall record in its daily records, the color and selling value of each ticket, and the lowest and highest numbered ticket sold from each roll. Any tickets left on a roll which will not be sold in any raffle must be retained as part of the daily records. This rule does not apply to a local permit.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-05-06. Reporting gross proceeds and prizes.**

1. When the sales price of a raffle ticket relates partly to admission for a meal or other nongaming activity, an

organization shall deposit the gross proceeds into its gaming account and allocate the amount between gaming and nongaming activity in this order:

- a. An amount is allocated to raffle gross proceeds equal to the cost of the prize.
  - b. An amount is allocated to nongaming activity to recover its cost. This amount is not reported on a tax return.
  - c. The remaining amount is allocated to raffle gross proceeds.
2. If an organization conducts a raffle in which the prize drawing is in one quarter, the gaming activity must be reported in the quarter in which the prize drawing is held. If an organization conducts a raffle in which prize drawings are in more than one quarter, the gross proceeds and prizes must be reported as:
- a. Report gross proceeds for a quarter based on the percent of prizes awarded in that quarter in relation to the total prizes to be awarded in all the quarters; and
  - b. Report prizes in the quarters in which the drawings are held.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

#### **99-01.3-05-07. Recordkeeping.**

1. For each raffle, records must include:
  - a. Purchase invoice, range of ticket numbers printed, ticket seller's name, quantity issued, range of single and discounted raffle ticket numbers issued to a seller, and quantity sold;
  - b. Reconciliation of the cash received from each ticket seller based on the number of tickets sold, including discounted tickets, date cash is received, and a schedule of bank deposits;
  - c. For double admission tickets, the daily starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
  - d. A sample of a ticket;

- e. The stubs of all sold tickets which must be retained for one year from the end of the quarter in which the activity was reported on a tax return;
  - f. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08; and
  - g. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all raffles for a quarter must reconcile to the tax return.
- 2. For double admission tickets, inventory records according to section 99-01.3-03-09.
  - 3. The total receipts, less a cash prize, must be deposited according to section 99-01.3-03-10.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**CHAPTER 99-01.3-06**  
**PULL TABS, CLUB SPECIAL, TIP BOARD, SEAL BOARD,**  
**COIN BOARD, AND PUNCHBOARD**

**Section**

99-01.3-06-01	Games - Definitions
99-01.3-06-02	Conduct and Play
99-01.3-06-03	Recordkeeping

**99-01.3-06-01. Games - Definitions.** This chapter applies to an organization that conducts pull tabs, club specials, tip boards, seal boards, coin boards, and punchboards, but not pull tabs involving a dispensing device. The maximum price per chance is two dollars. A coin board, club special, punchboard, seal board, and tip board are conducted as a single game which may have a cash or merchandise prize and may offer a seal prize. A game that allows a seal prize may have more than one seal. The value of a last sale prize cannot exceed the value of a top tier winning prize. If a merchandise prize is awarded, its retail value must be stated on a flare. An organization shall complete the description of a merchandise prize and retail value of the prize on a flare for a game that has a merchandise prize. For pull tabs described by subsection 3, only a cash prize can be awarded, not a merchandise or seal prize.

1. "Coin board" means a board used with pull tabs and to which coins of various values are affixed. Under each coin, a cash prize value is preprinted. A board contains numbered lines and may contain a seal covering a winning number. A player having a pull tab with a number matching a predesignated number on a board for a seal prize signs the player's full name on the numbered line or supplemental sheet. However, if the number matches a winning number for a coin or minor prize, the player wins that coin or prize, and a cash prize value stated under the coin. A last sale prize may be awarded. When the board is closed, a seal is removed to reveal the winning line number. A player whose signature is on that line wins the seal prize. No board may be closed unless all the top tier winning pull tabs have been redeemed, all the pull tabs are sold, or the board has been conducted for ninety calendar days. A seal prize is not considered a top tier prize. If a coin is not awarded, an organization shall determine the prizes to report on a tax return by prorating the total cost of the coins, according to their face value, of the coins that were awarded to the total face value of all the coins. An organization may use an unawarded coin as a prize in another game, or sell the coin or deposit it in the gaming account. The maximum number of pull tabs in a deal is two thousand. The maximum cash prize or seal prize value, including the retail price of a merchandise prize, is five hundred dollars.

2. "Club special" means a placard used with pull tabs and it contains numbered lines and a seal covering the winning number of the top tier prize. A player may win a minor prize or, if the player has a pull tab with a number matching a predesignated number on the placard, would sign the player's full name on the line. When all the lines are signed, a seal is removed to reveal a winning line number. A player whose signature is on that line wins the seal prize. The maximum number of pull tabs in a deal is four hundred ten. The maximum cash prize or seal prize value, including the retail price of a merchandise prize, is one hundred dollars.
3. "Pull tab" means a folded or banded ticket (jar ticket) or a card with break-open tabs (pull tab) or latex covering. Unless otherwise stated, the terms "pull tab" and "jar ticket" are used interchangeably. A winning pull tab contains certain symbols or numbers. The maximum cash prize is five hundred dollars.
4. "Punchboard" means a board comprised of holes that contain numbered slips of paper (punches). A punchboard may include a seal prize, and more than one last sale prize if the punchboard is split into more than one section. A player extracts a punch from the punchboard. If the number on the punch matches a number on a flare, the player wins a prize. No punchboard may be closed unless all the top tier winning punches have been redeemed, all the punches are sold, or the punchboard has been conducted for ninety calendar days. A seal prize and a last sale prize are not considered top tier prizes. The maximum cash prize or seal prize value, including the retail price of a merchandise prize, is five hundred dollars.
5. "Seal board" means a placard containing consecutively numbered lines. A seal covers the winning number. A player buys a blank "line" and signs the player's full name on it. After all the lines are signed, the seal is removed to reveal the winning line number. An organization shall complete the retail value of prize and cost per play on a board. The maximum seal cash prize value or retail price of a merchandise prize is five hundred dollars.
6. "Tip board" means a placard to which jar tickets are attached. A seal covers the winning number of the top tier prize. A player may win a minor prize or, if the number of a player's jar ticket matches a number on the placard, the player signs the player's full name on the line. After all the lines are signed, the seal is removed to reveal the winning line number. The maximum number of jar tickets in a deal is four hundred. The maximum cash prize or seal prize value, including the retail price of a merchandise prize, is one hundred dollars.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-08

**99-01.3-06-02. Conduct and play.**

1. Deals of pull tabs must be commingled for a game as follows:
  - a. Two or more deals must be placed in a receptacle and be thoroughly intermixed. When an organization's predetermined number or range of numbers of winning pull tabs remain in a game as unredeemed, an additional deal is added. An employee shall add a deal to a game if there are about two hundred fifty pull tabs remaining and the game cannot be or is not being closed. The new pull tabs must be intermixed with the pull tabs in the receptacle before any pull tab is sold.
  - b. Except for the game serial number, and a minor difference in printing that is approved by the attorney general, the deals must be identical. If deals of a game involve folded or banded jar tickets, the color of the tickets' band must be the same; however, neapolitan colored bands may be used. When a deal is added to a game, an employee shall compare the color of a deal's pull tabs to the color of the game's pull tabs. If the two colors are not the same, the deal cannot be used.
  - c. A master flare or flare for at least one deal of a game must be displayed with the game and be visible to and not easily removed by a player. An organization shall retain all original flares at a site while a game is in play. If a deal has a last sale prize feature, the deal's flare must also be displayed. Only the flare of one deal of a game may have a last sale prize feature.
  - d. If an indicator for adding a deal to a game has been reached and an organization does not have a proper deal to add, the organization shall temporarily suspend the game until it procures a proper deal. If twenty-five consecutive calendar days elapse since a game was placed in play, a proper deal has not yet been procured, and all top tier winning pull tabs have been redeemed, an organization may close the game. Otherwise, the organization shall reactivate the game until all top tier winning pull tabs are redeemed or it is the end of a quarter, whichever occurs first.
  - e. If a site's total gross proceeds of pull tabs averages twelve thousand five hundred dollars or less per quarter, a game may be closed anytime if all top tier winning pull tabs have been redeemed.

- f. Except as provided by subdivision g, if a site's total gross proceeds of pull tabs averages more than twelve thousand five hundred dollars per quarter, no game may be closed unless an organization discontinues gaming at the site, or all the top tier winning pull tabs have been redeemed and:
    - (1) Fifty deals have been added to a game;
    - (2) A game's actual gross proceeds is twenty-five thousand dollars; or
    - (3) A game has been in play for twenty-five consecutive calendar days; and
  - g. An organization shall close a game by the end of a quarter. If all top tier winning pull tabs have been redeemed, an organization may close a game for the quarter within fourteen calendar days before the end of that quarter. An organization may start a new game for the next quarter within fourteen calendar days before the next quarter begins. However, an organization may not start a new game and end that game within this fourteen-calendar-day period.
2. An employee may not place a deal of pull tabs, club special, or coin board in play which has a manufacturer's or distributor's seal broken on the games' container when the game was received from a distributor. A person may not take off a deal's manufacturer's cellophane shrink wrap or break the manufacturer's or distributor's security seal on the deal's container until the deal is to be placed in a receptacle. If a distributor's or manufacturer's security seal is broken before the deal is used, an organization shall return the deal to the distributor. If a deal is packaged in two or more containers, the full deal must be placed in play at the same time.
3. These rules must be posted:
- a. Restricting the play of a game to one player or a group of players is prohibited;
  - b. A winning pull tab must be redeemed within a fifteen-minute time limit;
  - c. If a person solicits, provides, or receives any inside information, from or to any person, by any means, or uses a fraudulent scheme or technique to cheat or skim involving pull tabs, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both;

- d. A pull tab cannot be redeemed if it has been taken from the gaming area;
  - e. To the best of the organization's knowledge, a coin remaining on a board relates to a winning pull tab that has not been bought. This rule is not required to be posted if an organization does not conduct a coin board;
  - f. A deal may be added to a game at any time; and
  - g. If a player attempts to falsify or falsifies a record of win, the prize is forfeited. This rule is not required to be posted if an organization does not pay a prize that requires a record of win.
4. An organization shall comply with and post these policies and information:
- a. Method of determining which player is entitled to buy the last pull tab or punch for a last sale prize when two or more players desire to buy the last pull tab or punch. This policy is not required to be posted if an organization does not pay a last sale prize;
  - b. The information, if any, authorized by subdivision a or b, or both, of subsection 6;
  - c. If there is any limit on the number of pull tabs or punches that a player may buy at a time, post that limit; and
  - d. When a game is being closed, an employee shall:
    - (1) Post a notice that the game is being sold out; and
    - (2) If there is any limit on the number of pull tabs or punches that two or more players may buy at a time, post that limit.
5. A player may not redeem and an employee may not knowingly pay a prize for a pull tab after fifteen minutes has elapsed since the pull tab was bought. If a player attempts to redeem a pull tab after the time limit, an employee shall retain and void the pull tab.
6. A person may post the information referenced by subdivision a or b, or both, for a commingled game provided that the posting contains a statement that the information is correct to the best of the organization's knowledge and that the information is not guaranteed to be accurate. If an organization does not have a policy on when to stop posting this information when a game is being closed, it shall stop posting the information when there are less than six winning pull tabs, through a

level of prize value determined by the organization, that remain unredeemed. Posted information may be as described in subdivision a or subdivision b, or both:

- a. The minimum number of unredeemed winning pull tabs or a range of numbers of unredeemed winning pull tabs, through a level of prize value determined by an organization, that will always be in a game unless the game is being closed. This information may be for each prize value or the total of several prize values. If a pull tab has two or more winning prize patterns, the information must be based on the value of each prize pattern.
  - b. The number of unredeemed winning pull tabs, through a level of prize value determined by an organization, that remain in a game. This information may be for each prize value or the total of several prize values. If a pull tab has two or more winning prize patterns, the information must be based on the value of each prize pattern. The information must be continually updated.
7. An organization may limit the number of pull tabs a player may buy regardless if the player is redeeming a winning pull tab.
  8. An employee may not selectively pick a pull tab from a receptacle based on its game serial number or other factor. An employee shall take a handful of pull tabs from a receptacle and count off the number bought. An employee may not permit a player to physically handpick a pull tab or honor a player's request to select a specific pull tab. However, an employee may honor a player's suggestion to select a pull tab from a general area of a receptacle. In applying subsection 2 of North Dakota Century Code section 53-06.1-16, the phrase "fraudulent scheme or technique" includes an employee selecting, by any method, only certain pull tabs in a game or an employee not thoroughly intermixing pull tabs of the initial or added deals.
  9. An employee may only assist a disabled player in opening a pull tab.
  10. An employee shall deface a winning number or symbol of a pull tab and punchboard punch when it is redeemed. If a pull tab has two or more winning prize patterns, a winning number or symbol of at least one pattern must be defaced. An employee may not knowingly pay a prize to a player who is redeeming a pull tab that has been defaced, tampered with, counterfeited, or has a game serial number different from the serial numbers of the deals in the game.
  11. If a player buys a set of stapled jar tickets and, before or after opening any jar ticket, determines that the set contains less than the standard number of tickets, an organization may

issue the player only the number of tickets actually missing. If a player buys a set of banded jar tickets and, before breaking the band, determines that the set contains less than the standard number of tickets, an organization may issue the player a new set in exchange for the defective set. An organization may staple together the proper number of loose jar tickets of a game to sell. An organization may, at any time, sell a loose unopened jar ticket or partial set of banded jar tickets at a proportional selling price of a full set.

12. When a game is being closed, an organization may continue to conduct the game although all of its top tier and minor winning pull tabs have been redeemed. An employee may not permit a player to buy out a game except when a game is being closed. If an organization closes a game that has pull tabs unsold, it may not open or place the pull tabs back into play.
13. Unless an organization conducts a commingled game according to subdivision e of subsection 1 or closes a commingled game at least monthly, an employee who did not conduct the game shall do a monthly interim audit of the game. If the percent-of-accuracy of all the games of a site for the previous quarter was less than ninety-eight and one-half percent, an employee who did not conduct the game shall do a weekly interim audit of the games at the site for twelve continuous weeks. An organization shall start the weekly audits no later than the date on which its tax return for the quarter was filed with the attorney general.
14. An employee shall award the last sale cash prize to the player who actually buys the last pull tab or punch.
15. An organization may transfer a commingled game, club special, tip board, seal board, coin board, and punchboard from a site to another site, or rotate games among sites. If an organization discontinues gaming at a site, it may close a game. A game must be reported for the site at which it was closed and on a tax return for the quarter in which it was closed.
16. Except for a last sale prize, an employee may not pay, from gaming funds or any other source, a prize to a player unless the player redeems an actual winning pull tab from a game conducted at the site.
17. Before leaving a jar bar unattended, an employee shall safeguard the games, cash, and records.

18. An organization may not publicly display a redeemed pull tab.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-08

**99-01.3-06-03. Recordkeeping.** Records must include:

1. A flare for each deal of a game. All redeemed and unsold pull tabs or punches for a game must be retained for one year from the end of the quarter in which the activity was reported on a tax return;
2. For a commingled game, an accounting of each deal's, shift's, or day's redeemed pull tabs, including the number by prize value, total prizes, and number of redeemed top tier pull tabs by game serial number. This accounting must be consistent and be done each time a deal is added to a game, a shift ends, or at the end of each day. If the accounting is done each time a deal is added to a game, the redeemed winning pull tabs for the period must be grouped separately and retained with all other groups of pull tabs of that game. If the accounting is done at the end of each shift or day, the redeemed winning pull tabs for each shift or day must be banded and each banded group must be dated with the date of activity and be retained in a storage container with all other banded groups of that game. For each game, there must be a daily accounting of deals added to a game, by gaming stamp and game serial numbers, and of the cash profit and bank deposit;
3. For a club special, tip board, seal board, coin board, and punchboard, and accounting of prizes, by gaming stamp number;
4. A daily accounting of starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
5. For a deal of pull tabs or coin boards, the deal's game information sheet which must be attached to the deal's flare or game's daily records;
6. A summary of ideal gross proceeds, value of unsold pull tabs or punches, gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries for a quarter must reconcile to the activity reported on the tax return;
7. Record of win according to section 99-01.3-03-08;
8. Inventory records according to section 99-01.3-03-09;

9. For a commingled game, the cash profit (see subdivision c of subsection 6 of section 99-01.3-02-01) must be deposited intact according to section 99-01.3-03-10;
10. For a club special, tip board, seal board, coin board, and punchboard, the cash profit (see subdivisions e and f of subsection 6 of section 99-01.3-02-01) must be deposited intact according to section 99-01.3-03-10; and
11. Interim audit records according to subsection 13 of section 99-01.3-06-02.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**CHAPTER 99-01.3-07**  
**SPORTS POOLS**

Section

99-01.3-07-01

Sports Pool

99-01.3-07-02

Recordkeeping

**99-01.3-07-01. Sports pool.** A "sports pool" is comprised of wagers paid by players for a line or square that will determine which player wins. The maximum cost per line or square is five dollars. The conduct of a sports pool is the selling of chances on the board and award of a prize. Only cash prizes can be awarded. No sports-pool board with the state gaming stamp affixed may be conducted off of a site.

1. A sports-pool board must be a ten or twelve line or twenty-five or one hundred square board, and be acquired from a distributor.
2. An organization shall complete the cost per play, date of sports event, ideal prizes, and method of prize payout on a board. The method of prize payout may be at periodic intervals or the end of a game. The total payout cannot exceed ninety percent of the gross proceeds.
3. A sports pool must be conducted for a professional sporting event only. An organization shall designate one opponent along the vertical columns of numbers and the other opponent along the horizontal rows of numbers. However, if the opponents are unknown when the board is being sold, an organization shall designate identifiable conferences, divisions, or games. A purchaser of a square or line shall write the player's full name in that square or on that line. Except for a calendar sports pool, no tapes may be removed until all the squares or lines are sold and the opponents are designated. If all the squares or lines are not sold, an organization may advance the board to another game or refund the players' money. If opponents were designated but the board is advanced to another game, an organization shall keep the same opponents or designate new opponents. An organization shall post a notice on a site disclosing its policy for advancing an unsold board. Gross proceeds must be separately maintained for each board.
4. An organization may conduct a calendar or master sports pool for two or more games of the same sport. An organization shall use one board for each game and buy the necessary number of boards before selling any square. For example, if a sports pool involves sixteen games, an organization shall buy sixteen boards. A player buys the same square on each board for all the games for a maximum price of five dollars per square per

game. If all the books of a calendar sports pool or all the squares of a master sports pool are not sold before the first game, an organization shall refund the players' money and void all the boards. The voided boards must be reported on the tax return as "no activity". Otherwise, each board is reported separately on a tax return for the quarter in which the game was held.

5. A calendar sports pool must be conducted as follows:

- a. The tapes covering the numbers assigned the horizontal rows and vertical columns of the boards must be removed to reveal the numbers. One opponent must be designated along the vertical columns of numbers and the other opponent designated along the horizontal rows of numbers. The board must state the game and its date;
- b. Each square of each board must be assigned a consecutive number starting with number one. The numbering must be in sequence, left to right;
- c. Each board must be printed and may be reduced in size. The quantity printed is based on the type of board. For example, for a one hundred square board, each board must be printed one hundred times. A printed board for each game and a receipt comprise a book;
- d. A receipt must contain:
  - (1) A consecutive receipt number starting with one. A statement that the receipt number is the player's assigned square for all the boards in the book;
  - (2) Name and address of organization and name of site;
  - (3) For a licensed organization, print "office of the attorney general" and license number. For an organization that has a local permit, print the name of the city or county and local permit number;
  - (4) Price of the book, method of prize payout and prize; and
  - (5) A detachable section containing a player's full name, address, telephone number, and matching receipt number which is retained by an organization;
- e. An employee may not sell a book on a site where another organization is licensed or has a local permit unless the employee is granted permission by the lessor and other organization.

- f. A player may not choose a particular book to buy. When a book is sold, a receipt's detachable section is completed. After a player buys a book, the player may see the numbers assigned that player's square on the boards; and
  - g. A board must be posted at the site on the day that the related game is held.
- 6. A master sports pool must be conducted as follows:
  - a. An organization shall post a twenty-five or one hundred square master board at a site. Each square must be assigned a consecutive number starting with number one. The numbering must be in sequence, left to right. A master board must include:
    - (1) Name of organization;
    - (2) The games;
    - (3) Price of participating, number of games, method of prize payout and prize; and
    - (4) A statement that the scores assigned to the players' squares for each game will be posted at the site five days before the game.
  - b. A player shall buy a square and write the player's full name and telephone number in it.
  - c. A sports-pool board with the state gaming stamp affixed must be posted at a site five days before the game related to that board is held.
- 7. The winner of a board is determined, at the end of each payout period:
  - a. For a ten line board, by determining the line that is assigned the last number (one's position) of the combined score of both opponents.
  - b. For a twelve line board, by determining the line that is assigned the number of the round in which the boxing match ended.
  - c. For a twenty-five and one hundred square board, by determining the square at the juncture of the horizontal row and vertical column which relate to the numbers (one's position) of each opponent's score.
- 8. An organization shall make a good faith effort to contact a winning player to award a prize. If a prize is unclaimed for

thirty days following the notification or a player attempts to falsify or falsifies a record of win, the prize is forfeited.

9. An employee shall record a prize on a board or a register according to section 99-01.3-03-07. If a prize is recorded on a board, the board must contain the information required by section 99-01.3-03-07.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-09

#### **99-01.3-07-02. Recordkeeping.**

1. For each sports-pool board, records must include:
  - a. The sold board indicating the winning square or line. A board must be retained for one year from the end of the quarter in which the activity was reported on a tax return. However, if an organization uses a board as a prize register or record of win, the board must be retained for three years from the end of the quarter in which the game was reported on a tax return;
  - b. The daily starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
  - c. The type of professional sport and amount of each prize;
  - d. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all sports-pool boards conducted during a quarter must reconcile to the activity reported on a tax return; and
  - e. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08.
2. Inventory records according to section 99-01.3-03-09.
3. The total receipts, less a cash prize, must be deposited according to section 99-01.3-03-10.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**CHAPTER 99-01.3-08  
TWENTY-ONE**

Section	
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**99-01.3-08-01. Twenty-one.**

1. "Twenty-one" is a card game in which a player tries to obtain a higher total card count than a dealer without exceeding twenty-one. An ace counts either one or eleven. A king, queen, and jack have a count of ten. Cards two through ten are counted at their face value.
2. A maximum of seven players may play at a table. A player may play up to two betting spaces if an adjacent betting space is available. An outsider may not wager on a player's hand and a player may not wager on another player's hand.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1; 53-06.1-10

**99-01.3-08-02. Table, drop box, cards, and dealing shoe.**

1. If there is more than one table at a site, a table must have a number. A table playing surface must display up to seven separate betting spaces and these statements:

BLACK JACK PAYS 3 TO 2  
and  
DEALER MUST STAND ON 17 AND MUST DRAW TO 16

2. A table must have a drop box that meets the specification of subsection 5 of section 99-01.3-15-02. If there is more than

one table at a site, a drop box must have a number matching the table number. A drop box must have a money plunger which must remain in the slot unless the plunger is used to insert currency or forms.

3. The cards must be four, six, or eight complete decks and be dealt from a dealing shoe located at a dealer's left. The cards must be the same size, shape, design, and be jumbo-faced. The color of the backs of all decks must be one predominate color, or one-half of the number of decks must be one predominate color and the other decks a different predominate color. The design on the back of each card must be identical.
4. A dealing shoe must have a face plate, base plate, and sides, and hold four or more complete decks of playing cards.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

#### **99-01.3-08-03. Chips.**

1. A wager and tip must be made with chips. If an organization accepts a five dollar wager, it shall provide five dollar chips to players for their optional use. Chips may be issued in values of fifty cents, one dollar, two dollars, and five dollars. An organization may not use different chips of the same value at a site.
2. Each chip must be round in shape, be one and nine-sixteenths inches [39.62 millimeters] in diameter and be permanently impressed, engraved, or imprinted on one side with an organization's name and on the other side with the value of the chip. The name may be represented by a unique identification that differentiates an organization's chips from all other organizations' chips. If a site had twenty-one gross proceeds averaging ten thousand dollars or more for two consecutive quarters and this level of activity is expected to continue or an organization installs a video surveillance system at a site, regardless of the value of wagers accepted at the site, the chips must meet the specifications of subsection 3.
3. As required, each value of chip must have the following prescribed primary color. Along with the primary color, a chip must have one or two contrasting secondary colors as edge spots. Edge spots must be visible on the perimeter of both sides of a chip and on the chip's circumference. An organization may not use a secondary color on any value of chip that is identical to the primary color used by the organization on another value of chip that results in a

reversed combination of primary and secondary colors between the two values of chips. The primary colors and edge spots must be:

- a. Fifty cent chip - mustard yellow which is the color classified as 5Y 7/6 on the munsell system of color coding. This chip has no edge spots.
  - b. One dollar chip - white which is the color classified as N 9/ on the munsell system of color coding. A one dollar chip must have four solid edge spots and each edge spot must be one-half of one inch [12.7 millimeters] in width.
  - c. Two dollar chip - pink which is the color classified as 2.5R 6/10 on the munsell system of color coding. A two dollar chip must have four split edge spots and each edge spot must be three-eighths of one inch [9.40 millimeters] in width. Each of the two split portions of an edge spot and the space between the two split portions must be one-eighth of one inch [3.05 millimeters] in width. The two split portions of an edge spot must be the secondary color and the middle space may either be the primary color or a third color.
  - d. Five dollar chip - red which is the color classified as 2.5R 4/12 on the munsell system of color coding. A five dollar chip must have six solid edge spots and each edge spot must be one-quarter of one inch [6.35 millimeters] in width.
4. An employee shall safeguard chips by placing them in a safe storage area or, if a table has been opened and no dealer is stationed at it, secure the chip tray with a locking cover.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-10

**99-01.3-08-04. Video surveillance system.** If a site had twenty-one gross proceeds averaging ten thousand dollars or more for two entire consecutive quarters, this level of activity is expected to continue, and wagers exceed two dollars, an organization shall have a video surveillance system operational at the site within forty-five days from the end of the second quarter. However, for a site with seasonal activity, this level of activity is based on the average gross proceeds of the active quarters within the fiscal year July first through June thirtieth. A level of activity is based on a site's recent historical experience, but not earlier than the previous fiscal year, regardless of which organization conducted twenty-one at the site. If an organization conducts twenty-one at a newly acquired site that has a level of activity requiring a video surveillance system, it shall have the system for a table operational within forty-five days of conducting twenty-one

or limit wagers to two dollars until the system is operational. A system must be operational for each twenty-one table that is continually located on a site, regardless of how infrequent a table is used or the value of wagers accepted at the table. A temporary table that is brought onto a site for fourteen or fewer consecutive days for a special event, but for not more than two events per quarter, does not need a system. An organization shall:

1. Install a system that meets these specifications:

- a. A super VHS (S-VHS) real time or time-lapse video cassette recorder must be used. It must be secured in a locked area, plugged into an outlet that cannot be switched off, and be programmable with a seven-day memory backup. A recorder must have a built-in or separate time and date generator that displays the time and date on videotape without significantly obstructing a recorded picture. For a time-lapse recorder, the twelve hour recording speed must be used. A recorder used to review a videotape must have forward and reverse frame-by-frame and high speed scanning capability, and may be operable by a wireless remote control;
- b. A super VHS or high resolution color camera that has four hundred or more active lines of horizontal resolution must be used. A camera must have a signal to noise ratio, with the automatic gain circuitry off, of forty-five decibels or better. A camera must be positioned above the center of a table or middle of the players' side of the table. A camera must be plugged into a surge protector and use an outlet that cannot be switched off. If a camera is installed on or after May 1, 1998, it must be protected by a slotted or clear dome;
- c. A camera lens must have an f-stop rating of f-1.2 or better, be color corrected and have a format size equal to or greater than the format size of a camera. A lens may be fixed or variable focus. A lens must have a field of view to record the face of a dealing shoe, all betting spaces, discard holder, chip tray, currency plunger, and table number;
- d. A super VHS color video monitor that produces lines of horizontal resolution that equal or exceed the number of active lines of horizontal resolution that a video camera is outputting. A monitor's screen must measure at least thirteen inches [330.2 millimeters] diagonally;
- e. For a super VHS color camera, super VHS YC or coaxial video cable must be used. For a high resolution color camera, coaxial video cable must meet these specifications:

- (1) If the length of a cable is one hundred linear feet [30.48 linear meters] or less and the cable will not be flexed, exposed outside a building, or constantly moved, the center conductor must be stranded or solid pure copper material. Otherwise, the center conductor must be stranded pure copper material.
  - (2) The shield must be braided pure copper material. The dielectric must be foam material. A cable must be rated for seventy-five ohms of impedance. If a cable is to be placed in a return air system, the jacket must be teflon or other accepted fire-rated material; and
- f. Super VHS (S-VHS) videotapes must be used.
2. Buy or lease qualifying items. Additional allowable expense funds may be used for only these qualifying items which are bought for the initial installation:
  - a. Super VHS video cassette recorder, time and date generator and locking vented enclosure;
  - b. Super VHS or high resolution color camera with a fixed or zoom lens and dome;
  - c. Super VHS or high resolution color video monitor;
  - d. Super VHS YC or coaxial video cable;
  - e. Super VHS videotapes and tape storage cabinet;
  - f. Table number and site identification;
  - g. Installation of equipment, including lighting fixture;
  - h. Motion detector or trigger device;
  - i. In-line video cable amplifier, surge protector, video printer, tape rewinder, battery backup, and tape eraser; and
  - j. Lease payment and interest expense on a financing loan.
3. If an organization has more than one site, a table must have a site identification. A site identification and any table number must be visible on videotape.
4. Use maroon and black jumbo-faced playing cards.
5. If a recorder or camera for a table is not properly operating or producing a clear picture of cards, currency, and chips and not repaired or remedied within seventy-two continuous hours,

either close the table or limit wagers to two dollars at all the tables until the equipment is repaired.

6. Maintain a clean dome.
7. Authorize only a gaming or shift manager or an independent person to:
  - a. Access a recorder, camera, and stored videotapes;
  - b. Start and stop a recorder to record a table when chips are first made available for use on the table and continue recording until the table is permanently closed for the day. However, an organization may discontinue recording a table while it is temporarily closed during a day if the table is recorded for ten minutes after it is temporarily closed and when chips are again made available for use on it; and
  - c. Change a videotape in a recorder for a table at the beginning, during, or at the end of a day's activity, regardless if the authorized person is a dealer or wheel operator at the site. While a tape for a table is changed during a day's activity, gaming on the table must be temporarily suspended. An organization may use a time-lapse or two real time recorders in sequence to record a table's activity that exceeds the recording capability of one tape. If two recorders are used for one table, their separate recordings for a day's activity must overlap by ten minutes.
8. Retain a videotape in a safe storage place for thirty days.
9. On a weekly basis, a qualified person shall review one hour of activity of each table of a site and document the review. A person may not review a videotape of a table on which the person conducted a game.
10. Use the attorney general's current recordkeeping system unless approval is obtained from the attorney general for use of another system. An organization shall track a dealer's and wheel operator's percent-of-hold performance.
11. Limit its purchase or lease of a camera, lens, cable, camera dome, time and date generator, and installation to a vendor approved by the attorney general. However, an organization may buy or lease a qualifying item from another organization provided the equipment meets the specification of subsection 1. An organization shall defer remitting at least fifty percent of the cost or lease price of this equipment to a vendor until the attorney general approves the clarity of the videotape for a table. A vendor shall provide the attorney general with a sample tape to evaluate. If an

organization moves a table to a different location at a site, the organization or vendor shall, within fourteen days, provide the attorney general with a sample tape to evaluate. If the quality of the sample tape is not satisfactory, an organization and vendor shall resolve the deficiency.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-10, 53-06.1-11

**99-01.3-08-05. Distributing and removing chips.**

1. A fill slip must be used to distribute chips from a chip bank to a table and a credit slip to return chips from the table to the chip bank, including an exchange of chips between a chip bank and table. An organization may not transfer or exchange chips directly between two tables. An organization shall use a fill and credit slip to temporarily transfer a chip tray to or from a table and jar bar. Access to a fill and credit slip must be restricted to an authorized person.
2. A fill slip and credit slip must be separate forms. Fill and credit slips must be mechanically or electronically consecutively prenumbered two-part carbonless forms, be used in sequential order, and be all accounted for. Originals and copies of voided fill and credit slips must be marked "VOID" and be initialed by the preparer.
3. A fill slip must be prepared by a chip bank cashier, pit boss, or shift manager. A credit slip must be prepared by a dealer, wheel operator, pit boss, or shift manager. The original and copy of a fill and credit slip must contain:
  - a. Reference to twenty-one or paddlewheels, date and time, and any table number;
  - b. Quantity and total value of chips, by value, and grand total value of chips; and
  - c. For a fill slip, the initials of a chip bank cashier. However, if a dealer or wheel operator is the only employee on duty, this person shall initial the fill slip. For a credit slip, the initials of a dealer or wheel operator.
4. After preparation of a fill slip, a chip bank cashier shall retain the original. However, if a dealer or wheel operator is the only employee on duty, this person shall retain the original. After preparation of a credit slip, a dealer or wheel operator shall deposit the original in a drop box.

5. If an organization has a shift manager or authorized employee on duty who is not presently dealing or operating a paddlewheel, this person shall verify the quantity and value of the chips, initial the original part of the fill or credit slip, and transfer the copy of the fill slip with the chips to a table, or transfer the copy of the credit slip with the chips to a cashier.
6. A dealer or wheel operator shall verify the information on the copy of a fill slip and, if correct, initial and deposit it in a drop box. A cashier shall verify the information on the copy of a credit slip and, if correct, initial and retain it. However, if a dealer or wheel operator is the only employee on duty, the dealer shall retain the copy of a credit slip.
7. As an option, an organization may have:
  - a. A dealer or wheel operator initial the original part of a fill slip before it is retained by a chip bank cashier; and
  - b. A chip bank cashier initial the original part of a credit slip before it is retained by a dealer or wheel operator.
8. An organization shall use a credit/cash transfer slip and comply with procedures prescribed by the attorney general to:
  - a. Transfer a paddlewheel payout chip from a twenty-one table to the chip bank cashier and transfer cash from the cash bank cashier to the twenty-one table; and
  - b. Transfer a twenty-one chip from a paddlewheel table to the chip bank cashier and transfer cash from the cash bank cashier to the paddlewheel table.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-08-06. Chip bank services.**

1. An organization shall sell chips at a table only for cash, no checks. However, a paddlewheel payout chip may be exchanged for a twenty-one chip at a twenty-one table or for a paddlewheel betting chip at a paddlewheel table. Checks may be cashed by a cashier. Cash for chips sold must be kept separate from all other cash until it has been counted. Only a two-person audit team may access a drop box before the drop box cash count.
2. An organization shall redeem a chip for cash at the value for which it was sold, except when a chip was obtained or used

unlawfully. If an organization discontinues twenty-one or paddlewheels at a site, it shall redeem its chips, at its business office or active site, for thirty days thereafter. An employee shall redeem a dealer's and wheel operator's tips through cash on hand. Unless a table has a video surveillance system, a dealer and wheel operator shall redeem the actual chips received as tips. This rule does not prohibit pooling of tips.

3. An employee may not take any chip, including tips, to a location outside the gaming area of a site. A dealer shall redeem tips before leaving a site.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-10

**99-01.3-08-07. Opening a table and accepting cash and paddlewheel payout chips.**

1. When playing cards are brought to a table, a dealer shall first approve all decks of cards. Decks must be sorted into sequence, by suit and the back of each card inspected to assure that all cards are present and none are marked, taped, bent, crimped, cut, or shaved. After approval, a dealer shall spread the cards face upwards on a table, by deck, according to suit and in sequence within the suit for review by the first player. After a player's review, the cards must be shuffled. If cards are removed from a table for any reason, they must be stored in a safe place and a dealer shall comply with this subsection when the cards are brought back to the table. If a table has been opened and no dealer is stationed at it, a dealer shall remove the cards from the table or place the cards in a discard holder or dealing shoe and securely cover them.
2. A dealer or shift manager shall inspect each dealing shoe before each day's activity. If a shoe is removed from a table for any reason, it must be stored in a safe place. If a table has been opened and no dealer is stationed at it, a dealer shall securely cover the shoe or remove the shoe from the table.
3. A dealer, upon receiving currency or paddlewheel payout chips from a player at a table, shall:
  - a. If an organization has not installed a video surveillance system at a site, spread the currency on top of a table in full view of the player and shift manager and state the amount of currency in a voice loud enough to be heard by all players at the table. A dealer shall then take chips from a chip tray, equal in value to the currency, place

the chips in a stacked manner in the inner table area with only the dealer's right hand, fan the chips, push the chips to the player and place the currency in a drop box; and

- b. If an organization has installed a video surveillance system at a site, spread each bill of currency face down and flat, in sequence of denomination, in the inner table area, perpendicular to a chip tray, and momentarily move the dealer's hands away from the currency so the currency is within a camera's view. A dealer shall then take chips from a chip tray, equal in value to the currency, place the chips in a stacked manner in the inner table area with only the dealer's right hand, fan the chips, and momentarily move the dealer's hands away from the chips so the chips are within a camera's view. A dealer shall then restack the chips, and push the chips to a player, and place the currency in a drop box.
- c. If a paddlewheel payout chip is received from a player to be exchanged for a twenty-one chip, the dealer shall place the payout chip in the inner table area at the dealer's left, sort, stack, and fan the chips. If the table has a video surveillance system, a dealer shall momentarily move the dealer's hands away from the chips so they are within a camera's view. A dealer shall then take twenty-one chips from the chip tray, equal in value to the payout chips, and fan the chips. If the table has a video surveillance system, a dealer shall momentarily move the dealer's hands away from the twenty-one chips so they are within a camera's view. A dealer shall then restack the chips, push the chips to the player, and place the payout chips in the chip tray.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-08-08. Shuffle and cut of the cards.**

- 1. Before starting play, and after each shoe of cards is dealt, a dealer shall, in front of the players, thoroughly shuffle all the cards. Then, a dealer shall offer the stack of cards, with backs facing away from the dealer, to a random player to be cut. A player shall cut the cards by placing a cutting card in the stack at least ten cards in from either end. A dealer shall rotate the opportunity to cut the cards among all the players. If all players decline, a dealer or pit boss shall cut the cards. For a site with a video surveillance system, an organization shall standardize its dealers' procedures for shuffling and cutting cards.

2. A dealer shall take all the cards in front (towards the dealer) of a cutting card and place them in back of the stack or take all the cards in back (away from the dealer) of the cutting card and place them in front of the stack. The cutting card must be at the bottom of the stack. A dealer shall then insert an indicator card about fifty to one hundred cards from the bottom of the stack. The stack is inserted into a dealing shoe facedown. When an indicator card appears at the face of a shoe and enough cards have been dealt to complete the present hand, a dealer shall reshuffle the cards. A dealer may reshuffle the cards only if the indicator card appears or a table has been temporarily closed with no dealer stationed at the table, and is reopened.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

#### **99-01.3-08-09. Betting.**

1. An original wager must be an even dollar amount ranging from one dollar to five dollars. A wager of one dollar must be accepted and an organization may establish a maximum wager for each table. If all the tables at a site have the same betting limit, the limit must be posted. Otherwise, a plaque must be placed on top of a table indicating the maximum wager for the table. A wager that exceeds the maximum wager is valued at a table's maximum wager and the excess must be returned to a player. An organization shall post and announce a change in the maximum wager at a table with adequate notice to a player.
2. An original wager is the amount bet per hand before the first card is dealt and excludes tip betting. After the first card has been dealt, no original wager or tip bet may be changed. A separate wager may be a split, double-down, insurance bet, and tip bet.
3. Splitting is permitted on any pair or any two 10-count value cards. A player is allowed a maximum of four hands per betting space. A player's right-hand card in a split must be played to completion before the adjacent split hand is dealt a second card. A player shall take at least one card on a split hand. A wager on each hand must equal the original wager. Split aces draw only one card each. A two-card twenty-one after a split is not a natural twenty-one.
4. Doubling-down is permitted on the first two cards dealt to a betting space or the first two cards of a split hand, except on split aces. A wager must equal the original wager. Only one additional card is dealt.

5. An organization may permit insurance betting except on a tip wager. An insurance bet is placed when a dealer's faceup card is an ace and it must be one-half the original wager. The payoff on a winning bet is two to one.
6. An organization may permit tip betting. A tip bet is made when the original wager is made by placing a chip outside a betting space, but with the chip touching the lower left edge of the betting space, from a dealer's perspective. A betting space is limited to one tip bet which cannot be increased or doubled-down. A tip bet does not have to equal an original wager and may range from fifty cents up to a table's maximum wager. If a player's hand wins, a tip bet is paid off at an equal amount and the tip bet and payoff are placed in a dealer's tip receptacle. If the dealer's hand wins, a tip bet is placed in the chip tray. If a player's and dealer's hands tie, a tip bet is a standoff (push).
7. If a player's wager consists of two or more values of chips, a player shall neatly stack the lowest value chip on top of the highest value chip. If the chips are improperly stacked, a dealer shall tell the player and either the dealer or player shall properly stack the chips.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-10

#### **99-01.3-08-10. Dealing.**

1. After a shuffle, a dealer shall remove the first card face downwards and without showing its value, place it in a discard holder (burning a card) located at the dealer's right. Each new dealer at a table shall burn one card before dealing. If a table is open but there is no player, a dealer shall reshuffle the cards or burn one card when a player comes to the table. Only one of two dealing methods may be used at a site:
  - a. Hole-card-no-peek method. A dealer may not look at the face of a hole card until after all cards requested by players are dealt. The cards must be dealt in this order:
    - (1) One card face upwards to each betting space with a wager.
    - (2) One card face upwards or face downwards (hole card) to a dealer.
    - (3) A second card face upwards to each betting space with a wager.

- (4) A second card face upwards to a dealer if the first card was dealt face downwards; or, a second card face downwards to a dealer if the first card was dealt face upwards.
- b. No-hole-card method. A dealer may not deal a second card (hole card) to the dealer until after all cards requested by players are dealt. The cards must be dealt in this order:
  - (1) One card face upwards to each betting space with a wager.
  - (2) One card face upwards to a dealer.
  - (3) A second card face upwards to each betting space with a wager.
2. A dealer shall, starting on the dealer's left, deal the cards by removing them from a dealing shoe with the left hand, turning them face upwards and with the right hand place them on the proper area of a playing surface; however, a dealer may deal cards to the first two betting spaces with the left hand. A player's second card and any hit card must be placed on top of the preceding card covering no more than the lower left-hand quarter of the preceding card, from the dealer's perspective. This rule does not apply to a disabled dealer.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

#### **99-01.3-08-11. Playing.**

1. After the first two cards have been dealt to each betting space and if a dealer's faceup card is an ace, the dealer shall ask the players if they desire to make an insurance bet. A player shall make an insurance bet by placing a chip on the insurance line of the playing surface. A dealer shall reposition the chip below the lower right-hand corner of the first card dealt and to the immediate right of the second card dealt, from the dealer's perspective. A dealer shall then announce "insurance bets are closed". However, if a player who has been dealt a natural twenty-one (blackjack) desires to make an insurance bet and does not desire to double-down, a dealer may, at an organization's option, do an even money payoff rather than having the player place an "insurance" bet. To exercise this option, a dealer shall state "even money" and immediately do a chip payoff to a player equal to the player's original wager. A payoff must be done according to subdivision a of subsection 16. A dealer shall then place the player's cards in a discard holder. For this option, a tip

bet is a standoff (push). This rule does not apply if an insurance bet is not permitted.

2. A dealer may announce the dealer's faceup card one time to all the players at a table. Then, a dealer shall, beginning from the dealer's left and for each player's hand, prompt a player to indicate whether the player desires to split or double-down, or both. As a prompt, a dealer may announce the point total of each player's hand. For splitting a hand, a player shall place an additional wager, equal to an original water, horizontal to the original wager. For doubling-down on a hand, a player shall place a chip vertical to an original wager. If a dealer is unsure of a player's intent, the dealer shall ask the player and properly reposition a chip.
3. If a player has split or doubled-down, or both, a dealer shall play each hand as follows:
  - a. When a player places a wager for a split, a dealer shall split the cards side by side. If a player has also placed a tip bet, a dealer shall assign and reposition the tip bet to the split hand located at the foremost left of a betting space, from the dealer's perspective. Each split hand must be played separately. If aces are split, one additional card must be dealt face upwards to each of the hands and placed at a right angle to the first card dealt.
  - b. A doubled-down hand must be dealt one additional card face upwards and placed at a right angle to the first two cards dealt. However, if a table does not have a video surveillance system, the card may be placed beneath a player's original wager.
4. A dealer may not take a hit card from a dealing shoe nor may a dealer bypass a player unless the player has first indicated the player's request for a hit card or to stand by a distinct hand signal.
5. As a player indicates to stand or draw a hit card, other than on a hand that has split aces or a double-down, a dealer shall deal face upwards and additional card or cards as the player requests. A player is responsible for correctly computing the total card count of the player's hand.
6. If a player did not split, double-down, or place an insurance bet, and busts (a player's total card count exceeds twenty-one), the player loses an original wager and any tip bet. A dealer shall immediately collect and place a player's chips, including any tip bet, in a chip tray and the cards in a discard holder.
7. If a dealer's faceup card is not an ace or a ten-count card and a player split or doubled-down and busts, the player loses

the wager for that split or double-down hand and any tip bet assigned to it. A dealer shall immediately collect and place a player's chips, including any tip bet, in a chip tray and the cards in a discard holder.

8. If a dealer's faceup card is an ace or a ten-count card and a player split, doubled-down, or placed an insurance bet and busts, the dealer shall gather the cards of that hand and place them outside the betting space. Then, a dealer shall reposition the player's split and or doubled-down wagered chips, in the same betting position, on top of the player's cards of that hand. A tip bet for such a split or double-down hand that busts is lost. A dealer shall immediately place the tip bet chips in a chip tray.
9. If a dealer's faceup card is not an ace or a ten-count card and all players bust, a dealer shall end the round. If a dealer's faceup card is an ace or a ten-count card and all players bust, and no player split, doubled-down, or placed an insurance wager, a dealer shall end the round.
10. If the decisions of all players have been carried out, a dealer shall turn up the dealer's facedown card (hole-card-no-peek method) or deal a second card face upwards to the dealer (no-hole-card method). However, for the no-hold-card method, a dealer may not remove the dealer's second card from a dealing shoe until the dealer first announces that it is the dealer's card. Then, a dealer shall announce the total card count of the two cards. A dealer shall play the dealer's hand as follows:
  - a. If a dealer's faceup card is an ace and the dealer's hand is not a natural twenty-one, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect all the players' insurance bet chips, with the dealer's right or left hand, in a sweeping motion, and place them in a chip tray. A dealer may not use the right and left hand at the same time. Then, for all the players' busted hands that have been split, doubled-down, or both, a dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect the chips of busted hands, with the dealer's right or left hand, in a sweeping motion. A dealer may not use the right and left hand at the same time. When no other busted hand remains, a dealer shall place the collected chips in a chip tray, collect those players' busted hands and place the cards in a discard holder. A dealer may, at an organization's option that is consistently applied at a site, collect each player's insurance bet chips and busted hands and related chips with only the dealer's right hand, on a hand-by-hand basis, and place the chips in a chip tray and the cards in a discard holder. Then, for all the players

who have been dealt a natural twenty-one, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, do the payoff according to subsection 15 or 16, and collect and place those players' cards in a discard holder. If a player's hand remains in play, a dealer shall proceed according to subdivision f or g, and do the payoff procedure on any winning hand according to subsection 15 or 16.

- b. If a dealer's faceup card is a ten-count card and a dealer's hand is not a natural twenty-one, for all the players' busted hands that have been split, doubled-down, or both, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect the chips of busted hands, with the dealer's right or left hand, in a sweeping motion. A dealer may not use the right and left hand at the same time. When no other busted hand remains, a dealer shall place the collected chips in a chip tray, collect those players' busted hands and place the cards in a discard holder. A dealer may, at an organization's option that is consistently applied at a site, collect each player's busted hands and related chips with only the dealer's right hand, on a hand-by-hand basis, and place the chips in a chip tray and the cards in a discard holder. Then, for all the players who have been dealt a natural twenty-one, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, do the payoff according to subsection 15 or 16, and collect and place those players' cards in a discard holder. If a player's hand remains in play, a dealer shall proceed according to subdivision f or g, and do the payoff procedure on any winning hand according to subsection 15 or 16.
- c. If a dealer's faceup card is an ace, the dealer's hand is a natural twenty-one, and a player has placed an insurance bet, the player wins the insurance wager at the rate of two to one. A dealer shall do the payoff procedure according to subsection 15 or 16. However, if a player's original hand also is a natural twenty-one, subdivision d also applies.
- d. If a dealer's faceup card is an ace or a ten-count card and the dealer's hand is a natural twenty-one, the dealer wins all original wagers and tip bets (organization wins tip bets), unless a player's original hand also is a natural twenty-one which results in a standoff. All other players lose.
- e. If a player has doubled-down or split against a dealer's faceup card of an ace or a ten-count card and the dealer's hand is a natural twenty-one, only the player's original

wager is lost unless the player's original hand also is a natural twenty-one which results in a standoff. All separate splitting and doubling-down wagers are voided. A dealer shall return the chips of the separate wagers to the players.

- f. If the count of a dealer's hand is sixteen or under, the dealer shall draw a hit card until the count exceeds sixteen. An additional card must be dealt face upwards to the immediate right of a dealer's first two cards dealt, from the dealer's perspective, and the dealer shall announce the total card count.
  - g. If the count of a dealer's hand exceeds sixteen but does not exceed twenty-one, the dealer shall stay (not draw a hit card). If a dealer's hand contains an ace and a count of seventeen, eighteen, nineteen, twenty, or twenty-one can be obtained by counting the ace as an eleven, a dealer shall value the dealer's hand as such and stay. A dealer shall announce the final total card count of the dealer's hand.
  - h. If a dealer's hand busts, the remaining players with active hands win.
- 11. If a player's original hand is a natural twenty-one and a dealer's faceup card is not an ace or a ten-count card, the player's hand wins and is paid off at a rate of three to two, unless the player chooses to double-down. A dealer's chip payoff on a player's wager may occur immediately or when the dealer, in the order of hands, comes to that player's hand.
  - 12. A wager is won or lost by comparing the total card count of each player's hand to the dealer's hand. A dealer or player with the highest total card count wins. Wagers, including tip bets, are paid off at an equal amount according to subsection 15 or 16. All ties are a standoff - no payoff is made, including on a tip bet.
  - 13. If a player's hand loses against a dealer's hand, an organization wins any tip bet. A dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect the chips of adjacent losing hands, including any tip bet, with the dealer's right or left hand, in a sweeping motion. A dealer may not use the right and left hand at the same time. A dealer may, at an organization's option that is consistently applied at a site, collect the chips of losing hands, including any tip bet, with only the dealer's right hand, on a hand-by-hand basis. When a tie hand is reached, the dealer shall recognize that hand with a tap on the tabletop and announce that it is a push. When a winning hand is reached, a dealer shall place any previously collected chips in a chip tray and do the payoff procedure for adjacent

winning hands according to subsection 15 or 16. When a losing hand is again reached, the dealer shall repeat the collection and payoff procedure until all losing wagers have been collected and all winning hands have been paid. The dealer shall then collect all the remaining cards according to subsection 17.

14. If a player's hand wins against a dealer's hand and the player placed a tip bet, the dealer wins the tip bet and the one-to-one payoff from a chip tray according to subsection 15 or 16.
15. If a player's hand wins against a dealer's hand and a table does not have a video surveillance system, the payoff procedure is:
  - a. Normal hand. A payoff chip must be placed beside the original wagered chip in a betting space.
  - b. Split hand. The payoff chip must be placed beside the wagered chips in a betting space.
  - c. Double-down hand. The payoff chips must be placed beside the two wagered chips in a betting space.
  - d. Insurance bet. A payoff chip must be first placed beside the insurance bet chip, fanned, then placed on top of the insurance bet chip and the chips pushed to a player.
  - e. Natural twenty-one. The payoff chips must be pyramided with the higher value chip placed beside the original wagered chip in a betting space and the smaller value chip placed on top over the center of the other two chips.
  - f. Tip bet. A payoff chip must be placed beside the tip bet chip in the inner table area. Then, a dealer shall place the chips directly in a tip receptacle.
16. If a player's hand wins against a dealer's hand and a table has a video surveillance system, the payoff of each winning hand must be done on a hand-by-hand basis. The payoff procedure is:
  - a. A dealer shall fan all of a player's wagered chips toward the dealer or side with only the dealer's left hand. A dealer may, at an organization's option that is consistently applied at a site, fan all of a player's wagered chips toward the dealer or side with only the dealer's right hand. However, for a site that has a pit boss on duty, a dealer may, for a player that has split or doubled-down, or both, fan only one of the player's winning wagers. A dealer shall reposition a tip bet chip in the inner table area with the dealer's left hand and

fan the tip bet. A dealer may, at an organization's option that is consistently applied at a site, fan the tip bets after the payoff procedure has been done on all winning players' hands. A dealer shall, with the dealer's right hand, take a chip from a chip tray, equal in value to the player's wagered chips (not tip bet chips), place the payoff chip in a stacked manner beside the wagered fanned chips, fan the payoff chips toward the dealer or side, and move the dealer's hands away from the chips. A dealer shall repeat this procedure for each separate winning hand.

- b. After the payoff procedure has been done on all winning players' hands and the tip bet chips have been fanned, a dealer shall, with the dealer's right hand, take a chip from a chip tray of the same value as the tip bet chip, place the payoff chip in a stacked manner beside the fanned chips, and fan the payoff chips. A dealer shall repeat this procedure for each separate winning tip bet. Then, a dealer shall move the dealer's hands away from the chips. After a dealer has picked up the cards according to subsection 17, the dealer shall place the chips directly in a tip receptacle.
17. At the end of a round of play, a dealer shall pick up all the cards remaining on the playing surface so that they can be played back to recreate each hand, starting with the player to the dealer's right and moving to the left around the table. After the cards have been collected in a sweep or hand by hand, a dealer shall pick up the dealer's cards against the top of the players' cards and place them in a discard holder.
18. If a table has a video surveillance system, a dealer's shift ends, and the dealer:
- a. Does not desire to exchange the dealer's tips for other chips in the chip tray, the dealer shall momentarily show both sides of the dealer's hands, with fingers extended, within a camera's view. A dealer shall then take the tip receptacle and leave the table.
  - b. Does desire to exchange the dealer's tips for other chips in the chip tray, the dealer shall take all the chips out of the tip receptacle. A dealer shall place the chips in the inner table area at the dealer's left; sort, stack, and fan only the chips to be exchanged; take chips from a chip tray equal in value to the fanned chips; place the replacement chips at the dealer's right; sort, stack, and fan the chips, momentarily move the dealer's hands away from the chips so the chips are within a camera's view; place the exchanged chips in a chip tray; then place the replacement chips and unexchanged chips in a tip receptacle. A dealer shall then momentarily show both

sides of the dealer's hands, with fingers extended, within a camera's view, take the tip receptacle, and leave the table. As an option, a dealer for the next shift may exchange the present dealer's tips.

19. A dealer may not allow a player to touch a card.
20. A dealer may not switch or remove a player's card or chip, pay on a standoff, or do anything to alter a fair and legal outcome of a betting hand.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-10

**99-01.3-08-12. Dealing mistakes.** Unless an organization has an alternative written policy, these procedures must be applied for dealing mistakes:

1. A card found turned face upwards in a dealing shoe must be burned.
2. If no cards are dealt to a player's betting space containing a wager, the betting space is inactive for the round. If only one card is dealt to a player's betting space, at the player's option, a dealer shall deal a second card to the player after all other players have received a second card. Otherwise, a player's betting space is inactive and the card dealt must be burned.
3. If a dealer deals a card to an inactive betting space and continues dealing cards to active betting spaces, the dealer shall burn the card dealt to the inactive betting space.
4. If a dealer misses dealing the dealer's first or second card, the dealer shall continue dealing the first two cards to each player, and then deal the proper number of cards to the dealer.
5. If a dealer does not ask a player if the player desires to place an insurance wager and the hand is played, the hand is valid.
6. If a dealer drops a player's or dealer's card off a table, the dealer shall burn the card.
7. A card drawn from a dealing shoe in error without the card's face being exposed to any player must be used as if it were the next card from the shoe.

8. After the first two cards are dealt to each player and a card is drawn from a dealing shoe in error with the card's face exposed to any player, the card must be burned.
9. If there is an insufficient number of cards remaining in a dealing shoe to complete a round of play, all of the cards in a discard holder must be shuffled and cut, the first card must be burned, and a dealer shall complete the round of play.
10. If a dealer has a count of at least seventeen and draws a hit card, the card must be burned.
11. If a dealer permits a player to wager an unlawful amount and the player's hand wins, the dealer shall return the improper portion of the wager to the player. A dealer shall value a player's hand at the proper wager for the payoff. However, if a dealer permits a player to wager fifty cents and is dealt a card, the dealer shall return the fifty cents to the player and burn the card.
12. After a round of play, if a dealer or player suspects that the dealer miscounted the dealer's hand, the dealer shall play back the cards.
13. If a dealer does not burn a card at the beginning of dealing a shoe, the dealer shall burn the card after the first complete round of play.
14. If a dealer's facedown card is exposed to any player before the decisions of all the players are carried out, the dealer shall burn the card and, after the decisions of all the players have been carried out, draw a new facedown card.
15. If a dealer misses dealing a player a hit card, the dealer shall continue dealing any requested hit cards to all other players and then deal a hit card to the player who was missed.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-08-13. Posting.** These rules and notice must be posted:

HOUSE RULES

Use Hole-Card-No-Peek method of dealing

- or -

Use No-Hole-Card method of dealing (Choose one when posting)

## PLAYER RULES

Must compute the card count of the player's hand

Must be twenty-one years of age or older

Hand signals must be used

No touching of cards

Two betting spaces maximum

No side bets

No payoff on tie counts

Splitting on any pair and two 10-count  
value cards and limited

to a maximum of 4 hands per betting space

Doubling-down on the first 2 cards dealt  
or the first 2 cards of any split hand

Insurance not permitted

- or -

Insurance permitted - pays 2 to 1 (Choose one when posting)

Tip betting permitted

- or -

Tip betting not permitted (Choose one when posting)

## NOTICE

If a player uses a fraudulent scheme or technique to cheat or skim involving twenty-one, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-10

### **99-01.3-08-14. Drop box cash count.**

1. A drop box that has been used must be removed from a table by the end of the day's activity. If a drop box is removed from a table and the cash is not counted immediately, the drop box must be transported by the shift manager and, if there is more than one employee on duty, escorted by an employee to a safe storage place. An empty drop box, when not used during a shift, may be stored on a table. Otherwise, an empty drop box must be stored in a safe storage place.
2. A drop box must be opened by a two-person count team. The persons must be independent of each other. A count team may be an independent person, including a representative of a financial institution, and an employee; two representatives of a financial institution; two nongaming employees; or two gaming employees provided they conduct games at different

sites. A count team may not be two persons who have a direct supervisor and subordinate relationship or include an employee of a lessor unless this employee conducts games as an employee of the organization. A count team member may not be a common household member, spouse, child, parent, brother, or sister of the other count team member.

3. The key to the lock securing the contents of a drop box must be controlled by one count team member who may not access the drop box unless both count team members are present. If there are two separate locks that secure the contents of a drop box, the key to the second lock must be controlled by the other count team member.
4. Each person shall independently count the drop box cash in the presence of the other person and resolve any difference between the two counts. Then, one person shall record the count and the other person shall verify the recorded amount, and both persons shall initial and date the cash count report for each drop box.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-08-15. Tournaments.** An organization shall conduct a tournament according to these rules, which must be posted:

1. An organization shall set a minimum player buy-in amount for the preliminary and championship rounds or for the tournament and set the time or number of shoes or hands to be played. A player shall register before participating and the player may be charged an entry fee.
2. An organization may assign a player one or two betting spaces. An organization may use a rotating button to signify the order of betting. If a button is used, it must move clockwise one position after each hand.
3. A player may not move from table to table, temporarily stop playing, or transfer chips to or from another player. A bet must be made on each hand. A player shall play with chips issued for the tournament and keep the chips on top of a table. A player may not cash out before the end of play unless the player withdraws.
4. A player's score is the difference between the player's buy-in amount and value of the chips redeemed. An organization may advance players with the highest scores from each preliminary round to the next round or championship round. An organization shall post all the players' scores at the end of a tournament. A player with the highest score, based on

preliminary rounds or a championship round, wins. A cash or merchandise prize may be awarded.

5. An organization's decision on a dispute is final.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

#### **99-01.3-08-16. Recordkeeping.**

1. For each day's activity, records must include:
  - a. The starting and ending cash and chip banks and IOU records according to section 99-01.3-03-06;
  - b. Drop box cash and values of fill and credit slips of each table;
  - c. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all twenty-one activity for a quarter must reconcile to the tax return; and
  - d. For a video surveillance system, dealer percent-of-hold information, videotape inventory log, and videotape review record. These records must be retained for one year from the end of the quarter of activity; however, a videotape review record can be disposed of after thirty days unless it references criminal activity.
2. Chip inventory records according to section 99-01.3-03-09.
3. The cash profit (see subdivision h of subsection 6 of section 99-01.3-02-01) must be deposited intact according to section 99-01.3-03-10.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

## CHAPTER 99-01.3-09 POKER

Section	
99-01.3-09-01	Poker
99-01.3-09-02	Limitations and Fees
99-01.3-09-03	Posting
99-01.3-09-04	Recordkeeping

**99-01.3-09-01. Poker.** Poker is a card game dealt by one dealer. A player bets on the cards (hand) the player holds. All bets are collected together in the center of the table which is the pot. There may be an initial ante round and a blind bet by players. Then, after players receive their starting cards and after each round of new cards, there is a betting round. Each round, a player decides whether to continue contending for the pot by calling or raising the bet. After all the dealing of cards and betting has occurred and there are two or more players still in contention, there is a showdown to determine which player has the best hand. The object is for a player to win the pot by making a bet no other player is willing to match or for the player to have the most valuable hand after all the betting is over. Based on the type of game, a winning player may hold the highest ranked hand, lowest ranked hand, or divided between the highest and lowest ranked hands. Cards and hands are ranked according to the normal rules of poker.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

### **99-01.3-09-02. Limitations and fees.**

1. An organization may only conduct poker on two occasions per year. An occasion may include more than one site. A nontournament occasion is a twenty-four-hour period of play. A tournament occasion is a consecutive three-calendar-day period of play.
2. For nontournament play, if an organization does not provide a dealer, players must use cash. For a tournament, an organization shall provide a dealer and use value chips.
3. For nontournament play, an organization shall charge a player a fee not to exceed two dollars per one-half hour of playing time and collect the fee in advance. An employee shall record the fee when it is collected. For tournament play, an organization may charge a player an entry fee not to exceed one hundred dollars in place of or in addition to the fee. The fee schedule must be posted on a site.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-07.2

**99-01.3-09-03. Posting.** These rules must be posted:

HOUSE RULES

Must use one deck of cards  
dealt out of the hand

Must use a cut card to conceal the bottom card of the deck

May allow a blind bet and set a minimum table limit

May allow an ante up to one dollar and set a minimum ante

May allow a maximum of three raises per round

Must limit each raise to an amount equal to  
or greater than the original bet; however, each  
raise must be equal to or greater than the original  
bet of that betting round

PLAYER RULES

Must be twenty-one years of age or older  
No side bets or credit

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-07.2

**99-01.3-09-04. Recordkeeping.**

1. For each poker occasion, records must include:
  - a. The starting and ending cash on hand according to section 99-01.3-03-06;
  - b. Except if an organization only charges a fixed entry fee for tournament play, for each one-half hour interval of each table the fees collected and number of players;
  - c. Name, initials, and time worked of the employee who collected the fee; and
  - d. A summary of gross proceeds, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all poker activity for a quarter must reconcile to the tax return.
2. The cash profit (see subdivision i of subsection 6 of section 99-01.3-02-01) must be deposited intact according to section 99-01.3-03-10.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1  
**Law Implemented:** NDCC 53-06.1-01.1

## CHAPTER 99-01.3-10 CALCUTTAS

### Section

99-01.3-10-01      Calcutta  
99-01.3-10-02      Recordkeeping

**99-01.3-10-01. Calcutta.** A "calcutta" is a sporting event of two or more competitors in which players wager at an auction on the performance of the competitors. The conduct of a calcutta is the auction. An auction pool is comprised of the wagers paid by players who offered the highest bid on the competitors. When the event is over, the auction pool is distributed to the player who had wagered on the winning competitor. The winning competitor may be one competitor, a team of competitors, or ranked competitors. The payout of the cash prize to a winning player is based on a predetermined percentage of the auction pool, which may not exceed ninety percent. Only cash prizes may be awarded.

1. A calcutta may only be conducted for a professional or amateur sporting event held in North Dakota, but not for an elementary, secondary, or postsecondary education sporting event. An organization may conduct more than one calcutta on the same sporting event. More than one organization may independently conduct a calcutta on the same event.
2. An organization shall acquire a calcutta board from a distributor and complete on it the sporting event, date of the sports event, and manner of distributing the auction pool as a prize. An organization shall post the requirements of the players on the site.
3. Each competitor in a sporting event must be identified before the auction begins. A competitor may also be a player who may wager on oneself.
4. Each competitor listed on a calcutta board must be eighteen years of age or older and be offered through an auction to prospective players. A player who offers the highest bid for a competitor by a verbal, sealed, or open bid wagers on that competitor. A player may wager any amount and buy more than one competitor. A competitor may only be auctioned off to one player.
5. An open bid enables a potential player, during a certain time, to write the player's name and bid for a competitor on a register assigned that competitor. Each successive potential player interested in that competitor shall write the player's name and bid, of an amount higher than the previous bid, on the register. When the time period ends, the last player

listed on the register wagers the amount bid on that competitor.

6. An organization shall conduct an auction at its site and a player must be present to bid. An organization may conduct an auction where the sporting event is held provided it is an authorized site.
7. The sequence of a verbal bid auction must be determined by a random drawing of the numbers assigned each line.
8. Before an auction, an employee shall:
  - a. Verbally announce the predetermined percentages of the auction pool that will be paid to a winning player and retained by an organization. The amount a player may win depends on the total amount of the auction pool and not on any odds; and
  - b. Complete for each line on a board a sequential number starting with the number one and a name of a competitor.
9. If a competitor is not bid on by a player, an organization shall sell the competitor by:
  - a. If there is more than one competitor not bid on, placing the competitors in one or more groups and auction a group as one competitor; or
  - b. Allowing a competitor to purchase oneself for a predetermined minimum wager.
10. After an auction, an employee shall complete this information for each line on a board, and total the amounts wagered:
  - a. Name of the player who bought the competitor; and
  - b. Amount wagered by the player.
11. If a competitor was bought by a player and does not compete in the event, an organization shall refund the wagered amount to the player.
12. After a sporting event, an employee shall complete on the board, for each winning player, the amount of the auction pool won. A winning player is the player who wagered on the

competitor who won the event. An organization may award the prize to a winning player where the event is held.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-07.3

**99-01.3-10-02. Recordkeeping.**

1. For each calcutta, records must include:
  - a. A calcutta board indicating the winning competitor and player. The board must be retained for one year from the end of the quarter of activity;
  - b. The starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
  - c. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all calcuttas conducted for a quarter must reconcile to the tax return; and
  - d. Record of win according to section 99-01.3-03-08.
2. Inventory records according to section 99-01.3-03-09.
3. The cash profit (see subdivision j of subsection 6 of section 99-01.3-02-01) must be deposited according to section 99-01.3-03-10.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**CHAPTER 99-01.3-11**  
**PADDLEWHEELS**

Section	
99-01.3-11-01	Paddlewheels
99-01.3-11-02	Paddlewheels - Excluding the Use of a Table
99-01.3-11-03	Paddlewheel, Table, Chips, and Video Surveillance System
99-01.3-11-04	Opening and Closing a Table, Number of Employees, Chip Bank Services, Procedure for Accepting Currency and Chips, and Drop Box
99-01.3-11-05	Conduct and Play
99-01.3-11-06	Posting
99-01.3-11-07	Recordkeeping

**99-01.3-11-01. Paddlewheels.** Paddlewheels must be conducted and played according to these two methods:

1. Paddlewheels may be a game in which a prize cannot be a variable multiple of the amount bet. The ticket must contain one or more numbers or symbols corresponding to a paddlewheel. The number or symbol on a ticket may not be duplicated on any other ticket of the same card. No chips may be used. Cash or merchandise prizes may be awarded. Sections 99-01.3-11-02 and 99-01.3-11-07 also apply to this method.
2. Paddlewheels may be a table game in which a prize is a predetermined variable multiple of the amount bet. No merchandise prize may be awarded. Sections 99-01.3-11-03 through 99-01.3-11-07 also apply to this method.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-07.4

**99-01.3-11-02. Paddlewheels - Excluding the use of a table.** This section applies to the method of paddlewheels described by subsection 1 of section 99-01.3-11-01.

1. All paddlewheel tickets must be preprinted, detachable from a paddlewheel ticket card, and contain one or more numbers or symbols corresponding to a paddlewheel. A number or symbol cannot be repeated on any of the tickets of a card number. A ticket must have a game serial number corresponding to the number printed on the ticket card's stub. A master flare for a series of paddlewheel ticket cards must state the type of paddlewheel tickets, cost per ticket, range of card numbers, have a state gaming stamp affixed to it bearing the card number of the lowest number ticket card, and be posted.

2. The maximum price per ticket is two dollars. All the tickets of a series of paddlewheel ticket cards must be sold for the same price and the tickets cannot be discounted. A person may not be required to buy more than one ticket. All tickets must be sold on a site the day the game is conducted. All the tickets of a card must be sold before a spin. Otherwise, an employee shall refund the gross proceeds in exchange for the players' unplayed tickets.
3. A winner must be determined by spinning a paddlewheel. An organization may spin a paddlewheel multiple times to award multiple prizes for one paddlewheel ticket card. A paddlewheel must make at least four revolutions. Otherwise, the spin is void and the paddlewheel must be spun again.
4. No cash prize may be a variable multiple of the price of a ticket. No cash prize or the retail price of a merchandise prize for one winning ticket may exceed one hundred dollars. After a prize payoff, an employee shall record the date, card number, cash prize amount or description of a merchandise prize, and retain the winning ticket.
5. All paddlewheel ticket cards of a series related to the same master flare must be reported on the tax return in the quarter in which the series was first played. An organization may not carry over a partial series of paddlewheel ticket cards to another quarter. Any cards of a series which remain unsold during a quarter when other cards of that series were sold must be retained as part of the accounting records, and cannot be used or disposed.
6. These rules and policy must be posted:
  - a. A player may not bet tickets that exceed a value of twenty dollars for one spin;
  - b. A paddlewheel must make at least four revolutions;
  - c. Whether a player is or is not required to be present when the paddlewheel is spun to win; and
  - d. The time limit for the winning player to claim the prize; however, the limit cannot exceed one hour from the time of the drawing.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-07.4

**99-01.3-11-03. Paddlewheel, table, chips, and video surveillance system.**

1. A paddlewheel is a round mechanical vertical wheel, at least thirty inches [76.2 centimeters] in diameter, and may be divided into a maximum of five concentric circles. The outer circle must contain at least forty numbers or symbols. A paddlewheel may have house numbers or symbols for an optional odd or even bet. Each inner circle may contain up to one-half of the number of numbers or symbols as that circle's adjacent outer circle. The numbers and symbols may repeat on a circle. Each circle must be divided into equally spaced sections, be a different primary color, and correspond to the colored numbers or symbols of a table playing surface. The colored numbers or symbols of all concentric circles must be at least five-eighths of one inch [15.88 millimeters] in height.
2. A peg must protrude, on the circumference of a paddlewheel, between each section of the outside circle. A pointer must be positioned above a paddlewheel. It is used to stop a spin of a paddlewheel and determine the winning colored number or symbol.
3. A table must have:
  - a. A chip tray and a rail for holding a player's chips;
  - b. A playing surface which must be permanently imprinted with colored numbers or symbols of at least one and one-half inches [3.81 centimeters] in height relating to each circle of a paddlewheel. A set of colored numbers or symbols is a line bet. A table may have a space for "ODD" and "EVEN" bets;
  - c. A betting spot for each type of bet, and either a mirror to reflect or a color video camera and monitor to display, the winning colored number or symbol on the paddlewheel; and
  - d. A "drop box" that meets the specification of subsection 5 of section 99-01.3-15-02. A drop box must have a money plunger which must remain in the slot unless the plunger is used.
4. An organization shall issue solid color-coded sets of chips for betting purposes. No betting chip can be a twenty-one chip or be the primary color of mustard yellow. The number of different sets and number of chips within each set is based on an organization's discretion. Each chip must be round in shape, be one and nine-sixteenths inches [39.62 millimeters] in diameter and be permanently impressed, engraved, or imprinted on one side with an organization's name and on the other side with the value. The name may be represented by a unique identification that differentiates an organization's chips from other organizations' chips.

5. An organization may issue payout chips in values of one dollar, five dollars, twenty-five dollars, and one hundred dollars for paying a winning bet or exchanging a betting chip. Each chip must meet the specifications of subsection 4, be a prescribed primary color, and have white edge spots visible on the perimeter of both sides of a chip and on the chip's circumference, as follows:
  - a. One dollar chip - gray which is the color classified as N 5/ on the munsell system of color coding. A one dollar chip must have three white solid edge spots and each edge spot must be fifteen thirty-seconds of one inch [12.18 millimeters] in width.
  - b. Five dollar chip - orange which is the color classified as 2.5YR 6/14 on the munsell system of color coding. A five dollar chip must have three white split edge spots and each edge spot must be fifteen thirty-seconds of one inch [12.18 millimeters] in width. Each of the two split portions of an edge spot must be one-eighth of one inch [3.05 millimeters] in width. The space between the two split portions must be three-sixteenths of one inch [4.56 millimeters] in width.
  - c. Twenty-five dollar chip - green which is the color classified as 2.5G 5/12 on the munsell system of color coding. A twenty-five dollar chip must have eight white solid edge spots and each edge spot must be five thirty-seconds of one inch [4.06 millimeters] in width.
  - d. One hundred dollar chip - black which is the color classified as N 2/ on the munsell system of color coding. A one hundred dollar chip must have four white triple split edge spots and each edge spot must be one-half of one inch [12.7 millimeters] in width. Each of the three split portions of an edge spot and the two spaces between the three split portions must be one-sixteenth of one inch [1.52 millimeters] in width.
6. An employee shall safeguard the chips in a safe place or, if a table has been opened and no wheel operator is stationed at it, remove or lock up the chips.
7. An organization shall have a picture-in-picture video surveillance system on a table and paddlewheel. The system

must meet the specifications prescribed by subsections 1 through 11, except subsection 4, of section 99-01.3-08-04.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-07.4

**99-01.3-11-04. Opening and closing a table, number of employees, chip bank services, procedure for accepting currency and chips, and drop box.**

1. To open a paddlewheel table, an employee shall inspect each peg and the pointer of a paddlewheel for uneven wear, immediately replace any worn peg or pointer, and evaluate the balance of a paddlewheel. To close a table, an employee shall make it inoperable.
2. An organization may not conduct paddlewheels unless two employees are on duty at the site.
3. A fill, credit, and credit/cash transfer slip must be prepared and used according to section 99-01.3-08-05. An organization shall perform chip bank services according to section 99-01.3-08-06.
4. A wheel operator, upon receiving currency from a player at a table, shall spread each bill of currency facedown and flat, in sequence of denomination, in the inner table area, perpendicular to a chip tray, and momentarily move the wheel operator's hands away from the currency so it is within a camera's view. A wheel operator, upon receiving a payout or twenty-one chip from a player at a table to be exchanged for a betting chip, shall place the chip in the inner table area at the dealer's left, and sort, stack, and fan the chips. A wheel operator shall then take betting chips from the chip tray, equal in value to the currency or payout or twenty-one chips, fan the betting chips, and momentarily move the dealer's hands away from the betting chips so they are within a camera's view. A wheel operator shall then restack the betting chips, push the betting chips to the player, and place the currency in a drop box and/or place the payout or twenty-one chips in the chip tray.
5. After a day's activity, an employee shall transport a drop box from a table, store it, and count drop box cash according to section 99-01.3-08-14.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-11-05. Conduct and play.**

1. An organization may limit the number of players and may require a minimum number of players to open a table.
2. A player shall buy a betting chip with currency or may exchange a payout or twenty-one chip for a betting chip. A payout or twenty-one chip cannot be used to place a bet.
3. The maximum betting limit of a player for each spin is betting chips valued at twenty dollars. Each chip is a separate chance to win. Unless an organization has a restrictive posted policy, a player may bet more than one chip on the same colored number or symbol for a spin. To bet, a player shall place a chip on a betting space of a table. A player's bet that exceeds a value of twenty dollars on a spin or exceeds an organization's maximum wager is void and a player's chips in excess of the limit are forfeited.
4. After all the players have bought a betting chip and before a paddlewheel is spun, a wheel operator shall announce that the players' bets for the next spin must now be placed. A wheel operator may place a chip for a player if the wheel operator first states, in a voice loud enough to be heard by all the players at a table, that the player is being assisted. When a wheel operator has determined that no other person desires to bet, the wheel operator shall announce bets closed. Thereafter, a player may not bet or touch any placed betting chip. A wheel operator shall double spin a paddlewheel by pulling it in a downward or upward direction and releasing it. While the paddlewheel is in motion, a wheel operator shall again pull it in a consistent downward or upward direction. A paddlewheel must rotate at least four full unrestricted revolutions. Otherwise, the spin is void and a paddlewheel must be spun again.
5. When a paddlewheel stops, a wheel operator shall announce the winning colored number or symbol in a tone of voice loud enough to be heard by all the players at a table. The announcement must be in sequence of the outermost circle first to the innermost circle last. A wheel operator shall first remove all losing betting chips from the table and place them in the chip tray. Then, a wheel operator shall pay off the winning betting chips in the sequence of the lowest payoff bet first to the highest payoff bet last or in the sequence of the payoff bets that are most accessible to the players first and to the payoff bets that are least accessible to the players last.
6. To pay off a winning betting chip (wager), a wheel operator shall fan all of a player's betting chips toward the wheel operator or side. A wheel operator shall take a betting chip or chips of the same color as the winning chip and/or take a

payout chip or chips, equal to the prize amount of the winning chip, from the chip tray, place the betting and/or payoff chips in a stacked manner beside the wagered fanned betting chips, fan the payoff chips toward the wheel operator or side, and momentarily move the wheel operator's hands away from the chips so they are within a camera's view. A wheel operator shall repeat this procedure for each winning betting chip.

7. A tip for a wheel operator must be made with a betting or payout chip. If a tip is made with a betting chip, a wheel operator shall immediately exchange the betting chip for a payout chip in the inner table area, momentarily move the wheel operator's hands away from chip so it is within a camera's view, place the betting chip in the chip tray and payout chip in the tip receptacle. When the wheel operator's shift ends, the wheel operator shall take the tip receptacle and leave the table.
8. If a player desires to redeem betting chips, an organization shall exchange the player's chips for payout chips at the paddlewheel table. A player shall redeem a payout chip with the cash bank cashier or may exchange a payout chip for a twenty-one chip at a twenty-one table.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-07.4

#### **99-01.3-11-06. Posting.**

1. These rules must be posted:
  - a. A player may not bet chips that exceed a value of twenty dollars for one spin.
  - b. A player must bet by placing a betting chip in or on a betting space. No payout or twenty-one chip can be used to place a bet.
  - c. A player may not touch a betting chip after the wheel operator announces "bets closed".
  - d. A paddlewheel must make at least four revolutions.
  - e. If a pointer stops on top of a peg, the number preceding the peg is the winning number.
  - f. A winning odd or even bet is determined by a winning number of only the designated colored circle. However, a player loses all odd and even bets if the pointer stops on a designated house number. This must be posted if an odd or even bet is accepted.

- g. A player may not take a betting chip away from the table and must be at the table to win.
  - h. If a player stops playing and has an unused betting chip, the player must exchange the betting chip for a payout chip through the wheel operator before the player leaves the table.
2. Prize payoff information must be posted or stated on a table playing surface. The information must reference each differently colored number or symbol, including an optional odd or even bet, and state each prize payoff. The payoff is the relationship of the prize to a winning betting chip. The payoff must be stated as "\_\_\_\_\_ to \_\_\_\_\_" or "\_\_\_\_\_ for \_\_\_\_\_". For example, for a red colored number or symbol which pays forty dollars for a winning betting chip, the information must reference the red colored number or symbol and state the payoff as "EXACT NUMBER RED 40 to 1".

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1; 53-06.1-07.4

**99-01.3-11-07. Recordkeeping.** Records must include:

- 1. For each day's activity, records must include:
  - a. The starting and ending cash banks and IOU records according to section 99-01.3-03-06;
  - b. For each ticket card of each series of paddlewheel ticket cards described by subsection 1 of section 99-01.3-11-01:
    - (1) Date conducted, card number, cash prize amount or cost and description of a merchandise prize; and
    - (2) The flare with all winning tickets and unsold ticket cards which must be retained for one year from the end of the quarter in which the activity was reported on a tax return;
  - c. For paddlewheel activity described by subsection 2 of section 99-01.3-11-01:
    - (1) Drop box cash, and starting and ending value of color-coded sets of betting chips and payout chips; and
    - (2) For a video surveillance system, wheel operator percent-of-hold information, videotape inventory log, and videotape review record. These records must be retained for one year from the end of the quarter in

which the activity was reported on a tax return; however, a videotape review record can be disposed of after thirty days unless it references criminal activity; and

- d. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all paddlewheel activity for a quarter must reconcile to the tax return.
2. Series of paddlewheel ticket cards inventory records according to section 99-01.3-03-09.
3. The cash profit (see subdivisions k and l of subsection 6 of section 99-01.3-02-01) must be deposited intact according to section 99-01.3-03-10.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**CHAPTER 99-01.3-12**  
**PULL TAB DISPENSING DEVICES**

**Section**

99-01.3-12-01	Use
99-01.3-12-02	Requirements of an Organization
99-01.3-12-03	Requirements of a Bar
99-01.3-12-04	Requirements of a Bar and an Organization
99-01.3-12-05	Recordkeeping

**99-01.3-12-01. Use.** An organization may operate a pull tab dispensing device when the organization's employee is on duty, and may have a bar employee redeem a winning pull tab when the organization's employee is or is not on duty.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-12-02. Requirements of an organization.**

1. If a distributor's or manufacturer's security seal is broken on a deal's container before the deal is used, an organization shall return the deal to the distributor.
2. An organization shall post a notice on a site containing these rules:
  - a. Restricting access to or delaying using credits on a device is prohibited;
  - b. A winning pull tab must be redeemed within fifteen minutes;
  - c. A pull tab cannot be redeemed if it has been taken from the gaming area;
  - d. If a person solicits, provides, or receives any inside information, by any person, by any means, or uses a fraudulent scheme or technique to cheat or skim involving pull tabs, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both; and
  - e. If a player attempts to falsify or falsifies a record of win, the prize is forfeited.
3. An organization shall maintain custody of all keys to a device. However, an organization may provide an authorized

employee of a bar with a key to the cash compartment to withdraw currency or a drop box if:

- a. A device's cash compartment is separate from its pull tab and accounting meter compartments. However, if access to a device's accounting meters is controlled by a security code, the cash and accounting meters may be in the same compartment;
  - b. The organization authorizes a specific employee of a bar to withdraw cash and complies with section 99-01.3-02-02 regarding a record check on the employee; and
  - c. If a drop box is not used, an authorized employee of a bar shall count the cash, record the amount, sign and date the record, and secure the cash and record in a keyless locking bank bag. If a drop box is used, an organization may not provide the authorized employee of a bar the key to access the contents of the drop box.
4. An organization shall withdraw currency from a device within a seven-calendar-day interim period.
  5. An organization shall use the current recordkeeping system prescribed by the attorney general.
  6. An organization shall provide a bar employee a copy of subsection 10 of section 99-01.3-02-03, and sections 99-01.3-02-05, 99-01.3-02-09, 99-01.3-03-08, 99-01.3-12-03, and 99-01.3-12-04 regarding the bar employee's duties and restrictions.
  7. An organization shall have a rental agreement conforming to section 99-01.3-02-06.
  8. An organization shall maintain an access log prescribed by the attorney general. A person who accesses a device for any reason shall record the access and initial the log. When a person does a test vend or a test validation of currency, the person shall record the value of pull tabs and currency validated. An organization shall retain the log in a device during the quarter of activity.
  9. An organization may provide a bar with a temporary loan to enable a bar employee to redeem a winning pull tab. A loan must be made by check payable to the bar and be interest free. An organization may not access, count, or take custody of the loaned money. The duration of the loan must be until an organization discontinues conducting pull tabs at a site through a device. The amount reimbursed to a bar must equal the value of redeemed winning pull tabs which the bar provides an organization. An employee may not use a bar's cash on hand for redeeming a winning pull tab.

10. An organization may not provide an independent service technician a key to access a device.
11. If a theft of currency occurs, an organization shall record the currency accounting meter or print a cash withdrawal report for law enforcement purposes.
12. When a game is closed:
  - a. The game must be reported on a tax return for the site at which it was closed;
  - b. An employee shall buy back all remaining redeemed winning pull tabs from a bar; and
  - c. If the game has unsold pull tabs, these cannot be put back into play.
13. An organization or employee may not:
  - a. Modify the assembly or operational functions of a device;
  - b. Remove or transfer a device from a site without notifying the attorney general within fourteen days of removing or transferring the device;
  - c. Use or continue to conduct a deal of pull tabs after being notified by a distributor of a ban or recall of the deal;
  - d. Designate a pull tab to entitle a player who buys it with a prize provided by a bar; or
  - e. Intentionally test vend currency or pull tabs to synchronize nonresettable accounting meters.
14. A game must be conducted and played as follows:
  - a. Except for a game serial number and color of the pull tabs, the deals must be identical;
  - b. An employee shall place at least one and one-half deals in a device at the same time at the start of a game. Pull tabs from both deals must be randomly placed in the stacking columns until full. Any remaining pull tabs from one of the two deals must be placed in a device first when pull tabs are added to the device;
  - c. An employee shall securely attach a master flare to the interior or exterior of a device, or on an adjacent wall so the flare's information is visible to players. When a deal is added, the deal's flare may be retained in a device or at an organization's office;

- d. An employee shall add any remaining pull tabs of a deal previously partially placed in a device or pull tabs of a new deal by randomly mixing these pull tabs with the unsold pull tabs of previous deals that are in the device. If a partial deal is added to a game, the remaining pull tabs of that deal must be added to the game next and before the game is closed;
- e. If a deal is to be added to a game and an organization does not have a proper deal to add, the organization shall temporarily suspend the game until it procures a proper deal. If twenty-five consecutive calendar days elapse since a game was placed in play, a proper deal has not yet been procured, and all top tier winning pull tabs have been redeemed, an organization may close the game. Otherwise, the organization shall reactivate the game until all top tier winning pull tabs are redeemed or it is the end of a quarter, whichever occurs first;
- f. If a site's total gross proceeds of pull tabs averages twelve thousand five hundred dollars or less per quarter or if a site has not previously had gaming, a game may be closed anytime if all top tier winning pull tabs have been redeemed;
- g. Except as provided by subdivision h, if a site's total gross proceeds of pull tabs averages more than twelve thousand five hundred dollars per quarter, no game may be closed unless an organization discontinues gaming at the site, or all the top tier winning pull tabs have been redeemed and:
  - (1) Fifty deals have been added to a game;
  - (2) A game's actual gross proceeds is twenty-five thousand dollars; or
  - (3) A game has been in play for twenty-five consecutive calendar days;
- h. An organization shall close a game by the end of a quarter. If all top tier winning pull tabs have been redeemed or low level switches in all but two columns of a device have been triggered, an organization may close a game for the quarter within fourteen calendar days before the end of that quarter. An organization may start a new game for the next quarter within fourteen calendar days before the next quarter begins. However, an organization may not start a new game and end that game within this fourteen-calendar-day period. When a game is being closed, an employee shall post a sign stating that the game is being sold out;

- i. If the percent-of-accuracy of all the games involving a device for a site for the previous quarter was less than ninety-eight and one-half percent, an employee who did not conduct the game shall do a weekly interim audit of the games at the site for twelve continuous weeks. An organization shall start the weekly audits no later than the date on which its tax return for the quarter was filed with the attorney general. However, if games involving a device are not conducted with the assistance of a bar employee, pull tab games not involving a device are also conducted, and the combined percent-of-accuracy of all pull tab games at the site for the previous quarter was ninety-eight and one-half percent or greater, no weekly interim audit is required; and
  - j. An organization may transfer a device from a site to another site, or rotate a device among sites. If an organization discontinues gaming at a site, it may close a game or transfer the game to a device at another site.
15. Two or more organizations may use devices at the same site on different days of the week provided the organizations use different names of games in the devices and the bar uses separate cash banks.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-12-03. Requirements of a bar.**

- 1. A bar shall:
  - a. Place a device in a location where alcoholic beverages are dispensed and consumed and where a bar employee will regularly observe the device;
  - b. Prohibit a person from tampering or interfering with the operation or play of a device;
  - c. Have the electrical current to a device turned off unless alcoholic beverages may be dispensed, a bar employee or an employee is available to redeem a winning pull tab and a bar has cash on hand to redeem a winning pull tab;
  - d. Absorb a loss related to a counterfeited or lost pull tab, redeemed pull tab that was not bought at the site, and loss or theft of the temporary loan of funds;
  - e. Repay an organization's temporary loan of funds within fourteen days of when the organization discontinues conducting pull tabs through a device at a site; and

- f. If a malfunction of a device is known by the bar or its employee, turn the device off and promptly notify the organization. Otherwise, the bar or its employee is responsible for any cash shortage.
2. Except to withdraw currency or a drop box according to subsection 3 of section 99-01.3-12-02, a bar employee may not access, attempt to access, or permit a person, other than an employee of an organization, to access the interior of a device for any reason.
3. If a bar employee believes that a deal is defective or there is a problem with a redeemed pull tab, the bar employee shall contact an organization and may turn a device off.
4. A bar may accept or not accept a gaming related check from a player. A player's check must be payable to a bar. A bar is responsible for a player's check returned by a financial institution as uncollectible. A bar may allow a player to buy back the player's check with cash and may return a player's check to the player as part of a prize payout.
5. Only a bar employee who is authorized by a bar may redeem a winning pull tab.
6. A bar employee may not summarize or audit a game of pull tabs for an organization.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-12-04. Requirements of a bar and an organization.**

1. A bar employee or an employee shall deface a winning number or symbol of a pull tab when it is redeemed. If a pull tab has two or more winning prize patterns, a winning number or symbol of at least one pattern must be defaced.
2. A bar employee or an employee may not:
  - a. Assist a player in opening a pull tab except to assist a disabled player;
  - b. Knowingly pay a prize to a player who is redeeming a pull tab that has been defaced, tampered with, counterfeited, or has a game serial number different from the serial numbers of the deals in the game;
  - c. Knowingly pay a prize to a player who is redeeming a pull tab when the player with the pull tab has left the gaming area of a site;

- d. Publicly display a redeemed pull tab;
  - e. Knowingly pay a prize for a pull tab after fifteen minutes has elapsed since it was bought. If a player attempts to redeem a pull tab after the allowed time limit, a bar employee or an employee shall, if possible, retain and void the pull tab; or
  - f. Pay, from gaming funds or any other source, a prize to a player unless the player redeems an actual winning pull tab from a game conducted at the site.
3. A prize must be cash.
4. If a device malfunctions, is inoperable, and a player has a credit, a bar employee or an employee shall pay the player for the player's unplayed credits and record the refund on a credit redemption register. A bar shall provide this form to an organization to claim a reimbursement. If a player's currency jams in a currency validator and a device does not show a credit, a bar employee may not reimburse a player, and shall record the jam on a credit redemption register and notify an organization. If an organization determines that a device is cash long, the organization shall reimburse a player by cash or check.
5. A bar employee and an organization shall document the number and value of redeemed winning pull tabs, by value, that are exchanged for cash or check. These pull tabs must be segregated by interim period.
6. A bar employee or an employee may post the information referenced by subdivision a or b, or both, provided that an organization does not have a partial deal that is to be added to a device. An organization shall post a statement that the information is correct to the best of the organization's knowledge and that the information is not guaranteed to be accurate. If an organization does not have a policy on when to stop posting this information when a game is being closed, it shall stop posting the information when there are less than six winning pull tabs, through a level of prize value determined by the organization, that remain unredeemed. Posted information may be the information described in subdivision a or subdivision b, or both:
- a. The minimum number of unredeemed winning pull tabs or a range of numbers of unredeemed winning pull tabs, through a level of prize value determined by an organization, that will always be in a game unless the game is being closed. This information may be for each prize value or the total of several prize values. If a pull tab has two or more winning prize patterns, the information must be based on the value of each prize pattern.

- b. The number or unredeemed winning pull tabs, through a level of prize value determined by an organization, that remain in a game. This information may be for each prize value or the total of several prize values. If a pull tab has two or more winning prize patterns, the information must be based on the value of each prize pattern. The information must be continually updated.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

#### **99-01.3-12-05. Recordkeeping.**

1. For each game, records must include:
  - a. A flare for each deal of a game. All redeemed and unsold pull tabs for a game must be retained for one year from the end of the quarter in which the activity was reported on a tax return;
  - b. The game information sheet for each deal;
  - c. A record of game serial numbers for each game;
  - d. Record of win according to section 99-01.3-03-08;
  - e. Credit redemption register;
  - f. If an employee redeems winning pull tabs at a site, a daily employee report documenting the starting and ending cash on hand and IOU records according to section 99-01.3-03-06 and prizes redeemed;
  - g. Interim period site summary, including meter readings, deals added, currency withdrawn, redeemed prizes by denomination, cash profit, and bank deposit;
  - h. Summary, including cumulative prizes, cash profit, bank deposits, and redeemed top tier pull tabs by game serial number;
  - i. Inventory records according to section 99-01.3-03-09; and
  - j. Access log.
2. A summary of ideal gross proceeds, value of unsold pull tabs, gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all games for a quarter must reconcile to the tax return.

3. The cash profit (see subdivision d of subsection 6 of section 99-01.3-02-01) for an interim period must be deposited intact according to section 99-01.3-03-10.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**CHAPTER 99-01.3-13**  
**BINGO CARD DISPENSING DEVICES**

**Section**

99-01.3-13-01	Use
99-01.3-13-02	Requirements of an Organization
99-01.3-13-03	Requirements of a Bar
99-01.3-13-04	Requirements of a Bar and an Organization
99-01.3-13-05	Recordkeeping

**99-01.3-13-01. Use.** An organization may operate a bingo card dispensing device the same as a pull tab device according to section 99-01.3-12-01.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-13-02. Requirements of an organization.**

1. An organization shall comply with subsections 1 through 13 of section 99-01.3-12-02 in respect to bingo cards, rather than pull tabs.
2. Bingo must be conducted and played as follows:
  - a. An employee shall ensure that all the bingo balls are present and draw or predraw numbers for the pattern related to a prize flare. An employee shall record a control number (sequential number used to track sets of called bingo numbers), device serial number, winning pattern, and prize on a prize flare that may or may not have a state gaming stamp affixed. The called numbers must be recorded on a two-part record of called bingo numbers form. A set of called bingo numbers may be used to complete more than one record of called bingo numbers form for use at more than one site if the forms are used at the same time for the same winning pattern. The original of the form must be forwarded to a bookkeeper;
  - b. A different prize flare must be used for each deal of bingo cards;
  - c. If a prize flare is not scheduled to be posted immediately:
    - (1) The copy of the record of called bingo numbers form must be placed in an envelope attached to the prize flare. The envelope must reference the site, control number, and dates and times when the prize flare is

scheduled to be posted. An organization shall safeguard the envelope and prize flare until they are used; and

- (2) When a prize flare is scheduled to be posted, an employee shall forward the copy of the record of called bingo numbers form to a bar employee or an employee who will redeem a winning card. A new prize flare may be posted at any time;
- d. If a prize flare is scheduled to be posted immediately:
- (1) A bingo caller shall announce to players that the bingo numbers to be called relate to the prize flare involving a device; and
  - (2) A bingo caller shall forward the copy of the record of called bingo numbers form to a bar employee or an employee who will redeem a winning bingo card;
- e. A prize flare must be securely posted on or adjacent to a device. The numbers on a record of called bingo numbers form must be posted on a device's flashboard. Two employees or one employee and any neutral person shall verify that the bingo numbers are correctly displayed. This verification must be acknowledged by both persons who shall, in the presence of each other, initial and date a prize flare. One of these persons shall write the time and date when the prize flare is posted;
- f. If there is a difference in the numbers posted in relation to the record of called bingo numbers form, the numbers on the form are controlling;
- g. An organization shall post one of these statements:
- (1) "If a bingo card contains multiple winning patterns, only the pattern related to the largest prize amount will be paid";
  - (2) "A bingo card may contain multiple winning patterns if the patterns do not overlap"; or
  - (3) "A bingo card may contain multiple winning patterns and the patterns may overlap";
- h. Except for a distributor, a person may not adjust a device's internal clock;
- i. Bingo gross receipts includes sales tax;

- j. An employee may not modify a prize flare, use a prize flare that is altered, or modify a game serial number written on a gaming stamp;
- k. An organization shall close the bingo activity when the deal is sold out or when a new prize flare is posted;
- l. An organization shall provide a bar employee and an employee with a bingo card master checkbook;
- m. When a prize flare is discontinued, an employee shall write the time and date on the prize flare and initial it; and
- n. If an organization replaces a prize flare during a day, an employee shall, fifteen minutes before the scheduled posting, turn a device off and verbally announce that players must redeem winning cards by the posting time.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-13-03. Requirements of a bar.** A bar shall comply with section 99-01.3-12-03 in respect to bingo cards, rather than pull tabs.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-13-04. Requirements of a bar and an organization.**

- 1. A bar employee or an employee shall comply with subsections 1 through 5 of section 99-01.3-12-04 in respect to bingo cards, rather than pull tabs.
- 2. A player shall use an ink dauber or a broad tip colored transparent highlighter to mark numbers. If a pencil, pen, permanent marker, or any other writing tool is used, a bar employee and an employee may not redeem the bingo card, but shall return the card to the player so the player may, if possible and within the time limitation, properly mark the numbers.
- 3. A bar employee or an employee may not knowingly pay a prize to a player who is redeeming a bingo card that does not contain a validated control code, month and day, and time of the transaction. A bar employee or an employee shall compare the daubed or marked numbers of a redeemed bingo card to the record of called bingo numbers form and compare the validated time of a redeemed card to the time limitation. For a cash or

merchandise prize of two hundred dollars or more, a bar employee and an employee shall also verify a redeemed card by using a master checkbook. For a redeemed card, a bar employee or an employee shall write the amount of the cash prize, excluding cents, or description of the merchandise prize in the prize line on the game information side of the card, and initial beside the line.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-13-05. Recordkeeping.**

1. For each interim period, records must include:
  - a. A prize flare for each deal of a game. All test vended bingo cards and redeemed and unsold cards must be retained for one year from the end of the quarter in which the activity was reported on a tax return;
  - b. Record of win according to section 99-01.3-03-08;
  - c. Record of called bingo numbers;
  - d. Credit redemption register;
  - e. If an employee redeems winning bingo cards at a site, a daily employee report documenting the daily starting and ending cash on hand and IOU records according to section 99-01.3-03-06 and prizes redeemed;
  - f. Interim period site summary, including meter readings, deals added, currency withdrawn, redeemed prizes by denomination, cash profit, and bank deposit;
  - g. Summary, including cumulative prizes, cash profit, and bank deposits;
  - h. Inventory records according to section 99-01.3-03-09; and
  - i. Access log.
2. A summary of ideal gross proceeds, value of unsold bingo cards, gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all interim periods for a quarter must reconcile to the tax return.
3. The cash profit (see subdivision d of subsection 6 of section 99-01.3-02-01) for an interim period must be deposited intact according to section 99-01.3-03-10.

**History:** Effective May 1, 1998.  
**General Authority:** NDCC 53-06.1-01.1  
**Law Implemented:** NDCC 53-06.1-01.1

**CHAPTER 99-01.3-14**  
**ELIGIBLE USES**

Section

99-01.3-14-01            Restrictions and Requirements

99-01.3-14-02            Eligible Uses

**99-01.3-14-01. Restrictions and requirements.**

1. An organization may not accept, and a recipient or potential recipient of net proceeds may not give or offer to give, a payment, gift, service, loan, personal property, or other thing of material value, before or after net proceeds are disbursed. However, a recipient or potential recipient of net proceeds that is an organization or group of people may initiate and transact a formal agreement with a donor organization to voluntarily provide a gaming or nongaming related service to the donor organization in exchange for receiving net proceeds; provided, the agreement is first approved by the attorney general or complies with guidelines prescribed by the attorney general. If the attorney general approves the service, the donor organization shall document the service by recording the location, names of volunteers, description of service, number of hours volunteered, and value of the service based on a reasonable hourly rate. The donor organization shall offset the value of these services against the amount of net proceeds disbursed to the recipient during a quarter by reporting the value of these services as an adjustment on a tax return.
2. A disbursement of net proceeds must be a current remittance not contingent upon future occurrences, and specific as to recipient and use. After an organization disburses net proceeds, it may not interfere with a recipient's control of the funds or attempt to own or influence the use or sale of personal or real property bought by or for a recipient of the funds.
3. Use of net proceeds for economic development or tourism programs may not directly benefit a member, employee, or board of directors' member of a donor or donee organization nor may this person have a financial interest in a funded economic development or tourism program.
4. No private athletic, social, hobby, trade, business, professional, or similar clubs or associations may receive net proceeds, unless the use of the funds complies with subsection 2 of North Dakota Century Code section 53-06.1-11.1

or section 99-01.3-14-02. An expense related directly or indirectly with gaming is not an eligible use.

5. An organization may not use net proceeds for fundraising activity that is, directly or indirectly, associated with gaming, including purchase of equipment and consumable products for a cafe at a site. If an organization uses net proceeds for fundraising activity not associated with gaming, only the net income of that activity may be applied to an imbalance of its gaming or trust fund accounts. No net proceeds may be disbursed for fundraising activity involving a retail business.
6. The attorney general may require a recipient of net proceeds to document the use of the funds and reimburse a donor organization if the funds were used for an ineligible use.
7. Unless an organization has first received approval from the attorney general, it may not sell a gift certificate or other thing of value to a recipient of its net proceeds.
8. If a check for a disbursement of net proceeds is not cashed by a recipient within six months of the date of the check, an organization shall contact the recipient to cancel or cash the check. If a check is voided, an organization shall make a proper adjustment on a tax return. If a recipient of net proceeds cashes a check related to a disbursement of net proceeds but has not applied the amount toward the intended eligible use within six months of the date of the check, the organization may request the recipient to return the net proceeds.
9. An organization may only disburse net proceeds to a recipient provided the recipient first requests a donation in writing and provides a description of the intended use, amount requested, and is signed and dated. This rule does not apply to an unsolicited donation of net proceeds or a disbursement of net proceeds by an organization to a program or service that qualifies as an eligible use and which is supported directly by the organization.
10. A civic and service, fraternal, or veterans' organization may not use net proceeds for expenses for a fundraising activity unless the activity is for a specific recipient that qualifies as an eligible use. The gross receipts of that activity must be deposited in a trust account and immediately disbursed to the recipient, and a proper adjustment made on a tax return.
11. If an organization conducts or enables a nonprofit corporation, community or school club, or other similar entity to conduct a fundraising event at the organization's facility, the organization may not exchange the gross receipts of the fundraising event for a disbursement of net proceeds.

12. An organization may not disburse net proceeds to a recipient on the condition that the recipient hold a meal or banquet at the donor's facility.
13. No disbursement of net proceeds can be used partly for services or fees that do not qualify as an eligible use. No disbursement of net proceeds to a recipient can be designed to circumvent the allowable expense limits.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-11

**99-01.3-14-02. Eligible uses.**

1. A use of net proceeds for erecting, acquiring, improving, maintaining, or repairing real or personal qualifying property owned by an organization is an eligible use provided the organization agrees that, upon abandoning the exclusive use of the property for an eligible use, it will transfer the property to a governmental unit or to an organization that will use it for an eligible use. However, if an organization sells the property, the portion of net receipts from the sale related to the original net proceeds must be deposited in the trust account and disbursed to an eligible use.
2. In applying subdivision a of subsection 2 of North Dakota Century Code section 53-06.1-11.1, net proceeds must be disbursed to or by a recognized nonprofit city or county jobs development authority (see North Dakota Century Code chapters 11-11.1 and 40-57.4) or local development corporation (see North Dakota Century Code section 10-24-40).
3. In applying subdivision b of subsection 2 of North Dakota Century Code section 53-06.1-11.1, net proceeds must be used to attract in-state and out-of-state visitors by publicizing attractions, promoting, planning, conducting, and sponsoring meetings, conventions, seminars, sporting events, and festivals, and by developing and promoting the state's attractions, recreational opportunities, shopping malls, and other tourism-related activities. Uses may not directly benefit a for-profit enterprise. Uses include:
  - a. Media advertising, promotional items, and printed information;
  - b. Cooperative promotions with tourism attractions and associations;
  - c. Market information systems;

- d. Promoting the state to the film and entertainment industry and foreign markets;
  - e. Developing slides, logos, and artwork;
  - f. Providing hosting fees, monetary bids, loans, advances, financial guarantees, support services, education programs, and entertainment, including food and drink;
  - g. Pooling and matching of funds, grants, and subsidies; and
  - h. Hosting and supporting trade shows, booths, tours, and visitor information centers.
4. In applying subdivision c of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include:
- a. A scholarship for a student. A scholarship may be based on criteria, including community service, patriotism, leadership, education, talent, athletic ability, course of study, or special disability. No scholarship award may be decided by a donor organization, unless the organization administers an education program for special students or students inflicted with disease. Net proceeds may be disbursed to a scholarship board or to an educational institution. A majority of the members of a scholarship board may not be members of a donor organization. A disbursement must be payable to an educational institution and a recipient, scholarship board and a recipient, or to an educational institution or scholarship board. A student receiving a scholarship may apply it at a nonprofit public, or for profit or nonprofit private educational institution registered with or accredited by any state. A scholarship may be for housing, books, tuition, and meals that relate to a student's educational need. A scholarship may be awarded through a pageant, contest, or tournament; however, associated administrative and operating expenses do not qualify. No scholarship may be based on criteria that includes a person's physical appearance;
  - b. Supplemental assistance to a primary, secondary, or postsecondary nonprofit educational institution, including affiliated alumni associations, booster clubs, parent-teacher councils, and college sororities and fraternities. Net proceeds may be used for youth activities, educational equipment, musical instruments, playground equipment, extracurricular activities, sporting events, field trips, cultural exchanges, maintenance of buildings, remodeling, fixed assets, administrative and operating expenses, and supplies;

- c. Assistance to a library for maintenance of buildings, remodeling, fixed assets, administrative and operating expenses, supplies, program services, special events, promotions, educational material, books, computer systems, information services, exhibits, story hours, film showings, and discussion groups. A disbursement to a museum may be for maintaining buildings, remodeling, fixed assets, administrative and operating expenses, and assembly of exhibits for preservation, collection, education, and interpretation;
- d. Assistance to a nonprofit performing arts and humanities organization for studio and auditorium rental, speaker fees, equipment, travel, administrative and operating expenses, and uniforms. Functions may include children's theater, summer camps, and developing art parks;
- e. Preservation of cultural heritage, including restoring, reconstructing, improving, or preserving public buildings in North Dakota which are listed in the state historic sites registry or the national registry of historic places. Net proceeds may be used for programs of nonprofit organizations that provide historical information or tell a story about a local region, North Dakota, or the nation and which primarily educate and inspire the public, elderly, disabled, schoolchildren, teachers, and foreign visitors. Qualifying programs include the lifestyles and human experiences of homesteaders, immigrants, Indian culture, frontier army, and fur trade. Net proceeds may be used for interpretive programming including exhibits, publications, simulations of life, classroom outreach services, audiovisual presentations, special events, and tours. Special events such as chautauquas and community celebrations of Norskfest, threshing bees, and Octoberfest qualify for expenses of parades, displays, equipment, educational materials, and awards. School reunion expenses do not qualify;
- f. Youth community and athletic activities open to all youth, less than eighteen years of age. An organization shall disburse, to the extent possible, equal amounts to activities for each gender. Net proceeds may be used for uniforms, equipment, tournament fees, private and public ground transportation, coaches' salaries, speaker fees, for father-son and mother-daughter banquets provided that the meals for these banquets are provided free or at actual cost to the participants, meals, and lodging. Business-sponsored appreciation luncheons and banquets, advertising, and the purchase of a transportation vehicle do not qualify;

- g. Adult amateur athletic activities within North Dakota. Net proceeds may be used for sponsorship fees, uniforms, umpire fees, use and maintenance of a sports complex, and team equipment. Uniforms and team equipment must be owned by the team or league association. Tournament fees, food and drink, lodging, trophies, prizes, and private or public transportation expenses do not qualify, except transportation expenses for a disabled player. A race car and similar activity does not qualify;
  - h. Maintenance of religious buildings, remodeling, fixed assets, administrative and operating expenses, uniforms for a choir, furnishings, and supplies for church groups and services; and
  - i. Scientific research for a cure to relieve human beings of disease and suffering.
5. In applying subdivision d of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include:
- a. Food, temporary housing, clothing, utilities, and fuel for private and public transportation for an individual or family suffering from poverty or homelessness, or financial distress due to a medical problem;
  - b. Purchase and maintenance of a ground transportation vehicle for the elderly;
  - c. Services for abused persons, including to:
    - (1) Provide emotional support, guidance, and counseling to victims of crimes of rape and sexual assault and encourage prosecution of perpetrators;
    - (2) Establish educational programs about rape, sexual assault and incest, the dramatic effects it has on victims and their families, and the cost to society;
    - (3) Establish and direct services for abused spouses and their children in the community, including advocacy, emergency shelter and food, information services, referrals, and peer support; and
    - (4) Develop and coordinate programs to encourage and assist development of a strong volunteer advocate network.
  - d. Support for youth centers and halfway houses;
  - e. Recognize an individual or group of people who volunteer their time to community services, nursing homes, or

hospitals if a gift, prize, or other gratuity does not exceed one hundred dollars per person per calendar year;

- f. Net proceeds may be used for public or private nonprofit nursing homes and other nonprofit medical facilities for maintaining buildings, remodeling, fixed assets, administrative and operating services, supplies, reading programs, and craft activities for patients;
  - g. Complying with the Americans With Disabilities Act of 1990 by remodeling a publicly owned facility; and
  - h. To remodel or improve a fraternal or veterans' organization's owned facility or a nonprofit community facility to make it accessible or usable to youth, senior citizens, people with disabilities, and nonmembers of the organization, for community programs, services, or functions. A building must be used by the community for free or reasonable fee. To make a building accessible, net proceeds may be used to widen doorways and hallways, remodel bathroom fixtures and facilities, install chair lifts, wheelchair ramps, elevators, handrails, and automatic door openers. To make a building usable, net proceeds may be used to repair a building to meet a building code or make it structurally fit for use, to enlarge a facility, replace a furnace, water heater, and air conditioner, and to make it safe. The cost must be prorated to the benefit the community receives in relation to the total usage of the facility as determined by the attorney general.
6. In applying subdivision e of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include promotion of cultural, educational, charitable, and welfare activities sponsored by an organization. Qualifying uses include burial expenses and flowers provided an organization does not discriminate between members and nonmembers. State and national convention expenses; recognition nights that may include a banquet, program, and dance for past commanders or past members; ceremonial and ritual activities; and purchase of a transportation vehicle do not qualify.
7. In applying subdivision f of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include promotion and celebration of civil rights, nondiscrimination, patriotism, and freedom. Administrative, operating, and a participant's expenses for a pageant do not qualify.
8. In applying subdivision j of subsection 2 of North Dakota Century Code section 53-06.1-11.1, net proceeds may be used for subsistence for a family member traveling with an ill family member to an out-of-town medical facility.

9. In applying subdivision l of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include:
  - a. Adult and city bands, choirs, including drum and bugle corps, color and honor guards, parade floats, director fees, uniforms, sheet music, audio system, instruments, transportation vehicle, and private and public ground transportation for performances at concerts, homecomings, open houses, parades, festivals, funerals, nursing homes, hospitals, and special events. For only a color or honor guard, net proceeds may be used to pay a member a maximum per diem of fifteen dollars for each day of actual service. An audio system and instruments must be owned by a band, choir, or organization. A vehicle must be owned by an organization;
  - b. Educational agricultural trade shows and conventions held in North Dakota. Meals and entertainment do not qualify;
  - c. Nonprofit organizations that protect animals. Uses include:
    - (1) Hatcheries and wildlife preserves and sanctuaries;
    - (2) Teaching and promoting ecology, game and wildlife management, and outdoor interests involving animals, fish, and birds; and
    - (3) Spay and neuter programs, pet placement, lost and found pet services, educational programs, investigations of animal abuse, and information services; and
  - d. Preserving and cleaning up the environment, including air quality, water quality, and waste programs, and conservation of natural resources.
10. In applying subdivision m of subsection 2 of North Dakota Century Code section 53-06.1-11.1, a special trust fund:
  - a. Must be managed and controlled by trustees, who may be board members, appointed by an organization. However, if an organization dissolves, it must establish a nonprofit corporation limited to the primary purpose stated in its declaration of trust. A trust may be revocable or irrevocable; and
  - b. Must be comprised only of net proceeds which can be disbursed to the trust periodically or in a lump sum. Net proceeds must be invested only in marketable securities. A trust's principal, interest, dividends, and gains on sales of investments must be applied toward the trust's primary purpose. No trust's principal can be disbursed

until a donor organization has permanently discontinued  
conducting games or dissolved.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-01.1

## CHAPTER 99-01.3-15 DISTRIBUTORS

Section	
99-01.3-15-01	License
99-01.3-15-02	Restrictions and Requirements - Distributor
99-01.3-15-03	Inventory Records and Reconciliation
99-01.3-15-04	Purchase and Sales Restrictions
99-01.3-15-05	Restrictions and Requirements - Dispensing Devices
99-01.3-15-06	Distribution of Gaming Equipment
99-01.3-15-07	Sales to an Indian Tribe, United States Military, or Out-of-State Purchaser
99-01.3-15-08	Promotional and Sample Bingo Cards and Pull Tabs
99-01.3-15-09	State Gaming Stamp and Return of Gaming Equipment
99-01.3-15-10	Recordkeeping

**99-01.3-15-01. License.** Except as provided by subsection 1 of section 99-01.3-02-04, a person may not sell, lease, solicit business, or provide gaming equipment to a licensed organization, distributor, or organization that has a local permit without a license. A license is not transferable. The annual licensing period is April first through March thirty-first. An application must include information prescribed by the attorney general. A license must be displayed at the business office.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-14

### **99-01.3-15-02. Restrictions and requirements - Distributor.**

1. A licensed organization, organization that has a local permit, or licensed manufacturer may not be a distributor. A person who is an officer, manager, gaming manager, or member of a governing board of a licensed organization or organization that has a local permit may not be an officer, director, shareholder, proprietor, consultant, or employee of a distributor, nor have a financial interest in that distributor. A person having a financial interest in a distributor may not be a lessor of a site to an organization that is an active customer of that distributor. A change in ownership of a distributor must be immediately reported to the attorney general.
2. A distributor shall have an office in North Dakota at which records must be kept.
3. An officer, director, shareholder, agent, or employee of a distributor may not:

- a. Directly or indirectly play a game of pull tabs, club special, tip board, coin board, seal board, sports-pool board, or punchboard at any site, or provide bookkeeping services, including summarizing or auditing games, to an organization; or
  - b. Interfere with a lessor's relationship with an organization involving a lease agreement, attempt to influence a bar to enter into or cancel a lease agreement with an organization, or procure a site for an organization. A distributor may notify an organization of an available site.
4. A distributor may not have an expressed or implied agreement with another distributor to restrict either of them to a specific geographic area or organization.
5. A distributor may not sell or provide a drop box unless it is a double-locking or triple-locking removable metal container and has:
  - a. One lock that secures a drop box to the underside of a table, and one or two separate locks that secure the contents placed into the drop box. The key to each of the locks must be different; and
  - b. A slot opening through which currency and forms can be inserted into a drop box. The slot of a drop box may not exceed three and one-half inches [88.90 millimeters] in length and one-half inch [38.10 millimeters] in width. Inside a drop box there must be a spring-loaded mechanism that automatically closes and locks the slot opening when the drop box is removed from a table.
6. A distributor may not sell or provide twenty-one chips to an organization if those chips are identical in physical characteristic to chips previously sold or provided by that distributor to a different organization.
7. A distributor may not, directly or indirectly, give a gift, trip, prize, or other gratuity valued singly or in the aggregate in excess of one hundred dollars per employee per calendar year related to a licensed organization or organization that has a local permit. A distributor may not, directly or indirectly, loan money (excluding credit) to a licensed organization or organization that has a local permit, or to an employee of such an organization.
8. A distributor shall, within ninety days of starting business, request orientation from the attorney general. The orientation must include the gaming law, rules, and recordkeeping. An employee shall read and acknowledge in writing, within thirty days of employment and the effective

date of new gaming laws or rules, that the person has read and understands the provisions of the gaming law and rules which relate to the person's job duties. The attorney general shall designate the provisions to be read. The acknowledgment must be dated, reference the provisions, and be part of the person's personnel file.

9. A distributor may not share an office or warehouse facility with an organization.
10. A distributor shall file a copy of each sales invoice, gaming stamp log, and record of voided gaming stamps by the fifth business day following the month of the transaction.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-14

**99-01.3-15-03. Inventory records and reconciliation.**

1. A distributor shall maintain a quantity-based perpetual inventory system for deals of pull tabs and bingo cards used in a dispensing device, club specials, tip boards, coin boards, and punchboards that are bought or received from any source. A system must account for the sale or disposition of each item. The system must separately account for the quantity of items acquired, sold, and remaining in inventory by:
  - a. Name of manufacturer or other source, and purchase invoice number and date;
  - b. Name of game and manufacturer's game form number, excluding deals of jar tickets; and
  - c. Distributor's sales invoice number and date.
2. A distributor shall maintain a quantity-based perpetual inventory system for paper bingo cards that are bought or received from any source. A system must account for the sale and disposition of each card. The system must separately account for the quantity of cards acquired, sold, and remaining in inventory by:
  - a. Name of manufacturer or source, and supplier's sales invoice number and date;
  - b. Type of card or booklet;
  - c. Primary color of card;
  - d. Size of the series;

- e. Quantity received; and
  - f. Distributor's sales invoice number and date.
3. A distributor shall semiannually reconcile its inventory of deals of pull tabs and bingo cards used in a dispensing device, paper bingo cards, club specials, coin boards, tip boards, and punchboards that are recorded as being in inventory to these items that are actually in inventory. A person shall count these items in inventory, compare this count to the inventory records, and resolve any difference. The count must be done by a person who is not primarily responsible for safeguarding the physical inventory. A reconciliation must be documented, including the name and title of the person who does the reconciliation, date performed, result, corrective action taken, and initials of that person.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-15-04. Purchase and sales restrictions.**

1. A distributor may not buy or be provided gaming equipment from an affiliated company unless the company is a wholly owned subsidiary of the distributor. An affiliated company must have originally bought the equipment directly from a licensed manufacturer.
2. A distributor may not buy or be provided gaming equipment from an out-of-state distributor unless the out-of-state distributor has the manufacturer ship the equipment directly to the licensed distributor and the manufacturer is licensed.
3. A distributor may not possess, display, sell, or provide an organization a deal of pull tabs or bingo cards, club special, tip board, coin board, or punchboard that:
  - a. Does not conform to the quality standards of section 99-01.3-16-04, 99-01.3-16-05, or 99-01.3-16-06;
  - b. Has a manufacturer's or distributor's seal broken on the manufacturer's container or has been prohibited by the attorney general from sale or play within North Dakota; or
  - c. Contains pull tabs or punches that have winner protection features although they are not winning pull tabs or punches.
4. A distributor may not temporarily store any game that has a state gaming stamp affixed to its flare which has been sold.

A sale occurs when a distributor issues a sales invoice. If a distributor sells or provides gaming equipment to another distributor, the distributor shall ship the equipment directly to the other distributor's address in North Dakota.

5. A distributor shall direct a manufacturer to ship gaming equipment directly to the distributor and the distributor shall have it unloaded at its warehouse. However, if a distributor buys equipment from a manufacturer for sale to another distributor or buys a flashboard, blower, jar bar, paddlewheel, or twenty-one, poker, or paddlewheel table for sale to an organization, the distributor may direct the manufacturer to ship the equipment directly to the other distributor or the organization.
6. A distributor may not separate a paper card when there are two or more faces on a sheet.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-14

**99-01.3-15-05. Restrictions and requirements - Dispensing devices.**

1. A distributor may not:
  - a. Sell or provide a dispensing device to an organization unless a model of the device has first been approved by the attorney general;
  - b. Modify an approved device model or electronic currency validator unless authorized by the attorney general; or
  - c. Rent a device to an organization unless the rent is for a fixed dollar rate per month or other duration.
2. A distributor may arrange for an organization to acquire a device through a financing lease purchase agreement with a finance or lease company. Although an organization is deemed to own a device, a finance or lease company may have a security interest or ownership right in the device until the organization satisfies the lease.
3. If a distributor is an agent for another distributor in marketing a device, the agent is not required to complete a sales invoice. A distributor is an agent if it receives a commission and does not finance or take temporary possession or title to the device.
4. A distributor that sells or provides a new or used device to an organization or distributor, other than as an agent, or

merely transacts a transfer of a device, for or without a fee, between two organizations, shall do the following unless that distributor contracts with another distributor to comply with this rule on its behalf:

- a. Maintain an adequate inventory of electrical and mechanical parts in North Dakota, provide a maintenance service agreement, and provide technical assistance and training in the service and repair of a device;
  - b. Make available, upon request, electrical and mechanical parts to all other licensed distributors at the usual price for such parts; and
  - c. Notify the attorney general of any recurring electronic or mechanical malfunction of a device model.
5. A distributor that resells, transacts a transfer, rents, or provides a used device to an organization shall change all the keyed locks on the device.
  6. A distributor that sells or provides a device to an organization shall record this information on a sales invoice:
    - a. Name, address, and license number of an organization and name and location, if known, of the site where the device will be placed; and
    - b. Name of device and its serial number.
  7. A distributor shall initially set up a device at a site and conduct and document one training session on the operation and service of the device for an employee of an organization that buys a device for the first time.
  8. A service technician may not access a device unless accompanied by an organization employee.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

#### **99-01.3-15-06. Distribution of gaming equipment.**

1. A manufacturer's game serial number must be on a paddlewheel ticket described by subsection 1 of section 99-01.3-11-01, seal board, tip board, sports-pool board, and calcutta board. No game serial number may be special ordered. If a game serial number is not preprinted on a seal board, sports-pool board, or calcutta board, a distributor shall assign and electronically or mechanically imprint it on the board. No serial number may be repeated within three years.

2. For a deal of pull tabs (two-ply card with break-open tabs), deal of bingo cards used in a dispensing device, and a specialty jar ticket game, a distributor may open a manufacturer's cellophane shrink wrap to access a flare. A distributor shall affix a state gaming stamp on the front of the original flare of a deal of pull tabs and bingo cards, club special, tip board, series of paddlewheel ticket cards, and on a punchboard, sports-pool board, seal board, coin board, and calcutta board that is sold or provided to a customer. If a case of bingo cards that is used in a dispensing device consists of two or more containers, each container is a separate deal, regardless of whether the game serial number is the same. A gaming stamp must be affixed in North Dakota. A distributor shall legibly write a manufacturer's game serial number in ink on the stamp. If the written number is incorrect, the number cannot be changed or erased and the stamp must be voided. For a series of paddlewheel ticket cards, the game serial number written must be the lowest numbered paddlewheel ticket card. Then, a distributor shall replace, if applicable, a flare inside the cellophane shrink wrap and seal the opening. This rule does not apply to gaming equipment provided directly to an Indian tribe, United States military, or out-of-state purchaser.
3. A distributor may not break a deal's permanent adhesive security seal or access the pull tabs or bingo cards inside a deal's container, except to determine a deal's game serial number, the primary color of a pull tab, or to count the pull tabs or bingo cards. If a manufacturer's security seal on a container is inadvertently broken but the integrity of a deal remains intact, a distributor may reseal the deal with a distributor permanent adhesive security seal. The seal must be applied to all accessible sides of a container and ensure that a deal's pull tabs or bingo cards are not accessible from outside the container. A distributor shall indicate on a sales invoice that the deal was resealed by the distributor and the reason.
4. A distributor shall provide a flare with a deal of pull tabs or jar tickets and series of paddlewheel ticket cards. The master flare for a game involving deals of jar tickets that contain winning tickets of the same prize value printed in differently colored numbers or symbols must have the flare's numbers and symbols printed in matching colors. A flare, including a master flare, must indicate the name of game, manufacturer's form number (excluding a flare for a deal of jar tickets), cost per play, and value and number of winning prizes. The front of a flare for a deal of jar tickets or a coin board must indicate the number of jar tickets in the deal. The number of prizes may be designated by a number or by a quantity of symbols that represent the number of winning prizes, and winning number or symbol. A symbol must be pictured on a flare, not described. A last sale prize must be

printed on a flare or be indicated by a permanently affixed sticker. The flare or sticker must contain the last sale feature, prize value, and distributor's name or license number. Except to add a last sale feature to a manufacturer's flare for a deal of pull tabs (two-ply or three-ply card), a distributor may not alter a flare. A distributor may make a flare for a deal of jar tickets. This information must be mechanically or electronically printed on a flare.

5. A distributor shall provide an organization with an adequate supply of bingo prize flares for use with a bingo card dispensing device.
6. A distributor may not sell or provide a ten or twelve line or twenty-five or one hundred square sports-pool board to a customer unless a special opaque tape covers the numbers on the board. If a tape is disturbed, any recovering of the numbers must be detectable. A tape must prevent the concealed numbers from being viewed from outside when using a high intensity lamp of up to five hundred watts.
7. For a deal of jar tickets, club special, tip board, and coin board, a distributor shall provide a game information sheet containing cost per play, ideal gross proceeds, ideal prizes, including any last sale prize, if known, and ideal adjusted gross proceeds or, in place of a separate sheet, the information may be printed on the front or back of the deal's flare.
8. A distributor shall print these phrases on a sports-pool board:
  - a. Professional sports pool;
  - b. Cost per play \$\_\_\_\_\_;
  - c. Date of sports event \_\_\_\_\_;
  - d. Ideal prizes \$\_\_\_\_\_; and
  - e. Method of prize payout \_\_\_\_\_.
9. A distributor shall indicate this information on the flare of a series of paddlewheel ticket cards:
  - a. Game serial numbers of the lowest and highest numbered paddlewheel ticket cards;
  - b. Quantity of cards; and
  - c. Type of paddlewheel ticket (for example, 40x3x120), if applicable.

10. A distributor shall print the phrases "merchandise prize \_\_\_\_\_" and "retail value \$ \_\_\_\_\_" on a flare and for each seal for a game that has a merchandise prize.
11. A distributor shall sell a calcutta board that is cardboard or similar material on which is printed a matrix of horizontal lines and vertical columns sufficient to accommodate the information required by subsections 8, 10, and 12 of section 99-01.3-10-01. A distributor shall print "calcutta" at the top of a board and print the phrases "sporting event \_\_\_\_\_", "method of prize payout \_\_\_\_\_", and "date of sports event \_\_\_\_\_" on the board.
12. A distributor shall print the phrases "cost per play \$ \_\_\_\_\_" and "retail value \$ \_\_\_\_\_" on a seal board.
13. A distributor shall print "cost per play \$ \_\_\_\_\_" or similar phrase on a coin board.
14. If a distributor is notified by an organization that the game serial number of a deal of pull tabs or bingo cards, club special, tip board, seal board, punchboard, series of paddlewheel ticket cards, calcutta board, coin board, or sports-pool board is different from the number written on a state gaming stamp, the distributor shall take immediate action to correct the gaming stamp and sign a correction form and follow procedures prescribed by the attorney general.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-14

**99-01.3-15-07. Sales to an Indian tribe, United States military, or out-of-state purchaser.** A distributor may not sell gaming equipment to any individual. Gaming equipment sold or provided to an Indian tribe, United States military, out-of-state purchaser, or a person authorized by the attorney general must be shipped directly to the buyer or the distributor shall verify that the buyer represents that customer. This verification must include:

1. If a person represents an Indian tribe, United States military, or has been authorized by the attorney general, the person's name, address, and, if applicable, title or rank;
2. If a person represents an organization that conducts games on tribal land, the person's name and address; and
3. A driver's license number and state of registration recorded from a person's pictured driver's license or the person's full name and address recorded from two other forms of pictured identification.

**History:** Effective May 1, 1998.  
**General Authority:** NDCC 53-06.1-01.1  
**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-15-08. Promotional and sample bingo cards and pull tabs.**  
A distributor may not sell or provide promotional paper bingo cards, bingo cards used in a dispensing device, jar tickets, or pull tabs to an organization or any person unless the face of each paper bingo card, the outside of a jar ticket, or the game information side of each pull tab or bingo card contains the phrase "promotional use only", "happy hour", "no purchase necessary" or similar phrase. A distributor may not sell or provide sample paper bingo cards, bingo cards used in a device, jar tickets, or pull tabs to an organization or any person unless the word "void" is on the face of each paper bingo card and jar ticket and on the game information side of each pull tab or bingo card. Also, no number, symbol, or set of symbols of any nonpromotional jar tickets or pull tabs of that manufacturer may be printed on any promotional jar tickets or pull tabs.

**History:** Effective May 1, 1998.  
**General Authority:** NDCC 53-06.1-01.1  
**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-15-09. State gaming stamp and return of gaming equipment.**

1. A distributor shall buy state gaming stamps for twenty-five cents each from the attorney general and maintain the stamps at its North Dakota office. A distributor may not transfer or provide a stamp to another distributor. If a distributor voids or does not use a stamp, the distributor shall return it to the attorney general. There is no credit for a voided or unused gaming stamp. If a distributor discontinues business for any reason, it shall return all voided and unused state gaming stamps to the attorney general within fourteen days after discontinuance of business.
2. If an organization returns an unplayed deal, game, or series containing a state gaming stamp, a distributor shall void the stamp and complete a form prescribed by the attorney general. A distributor may not take back an unplayed deal or game containing a stamp from an organization unless the distributor originally sold it or is authorized by the attorney general. If a distributor resells or reissues a deal, game, or series, the distributor shall affix a new stamp on the flare.

**History:** Effective May 1, 1998.  
**General Authority:** NDCC 53-06.1-01.1  
**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-14

**99-01.3-15-10. Recordkeeping.** A distributor shall maintain complete, accurate, and legible accounting records in North Dakota. The records must be retained for three years and include, by month:

1. Purchase invoices for gaming equipment.
2. Sales invoices for gaming equipment, supplies, and services sold or provided. Except for a sales invoice related to a dispensing device, the sales invoice must be prepared on a form prescribed by the attorney general and include:
  - a. License number of the distributor;
  - b. Business name and address of the buyer and business name and address where the gaming equipment or supplies were shipped to or where the service was performed;
  - c. License or local permit number of the buyer, if applicable;
  - d. Invoice number and date;
  - e. Date shipped;
  - f. Indication for a credit memo;
  - g. Quantity and description of each item of gaming equipment, supplies, and services. This includes the name of game and indication of the item as a deal of pull tabs or bingo cards, club special, coin board, tip board, seal board, punchboard, sports-pool board, calcutta board, or series of paddlewheel ticket cards. For a deal of pull tabs (excluding jar tickets) and bingo cards, it must include a manufacturer's form number. For a series of paddlewheel ticket cards, it must include the number of paddlewheel ticket cards and number of tickets on each card. For paper bingo cards, it must include the quantity, primary color of a single card or primary color of the top card of a collated booklet, type of collated booklet, serial number, size of series, and number of faces on a sheet;
  - h. Gaming stamp number;
  - i. Ideal gross proceeds, ideal adjusted gross proceeds, and value of a last sale prize, if applicable; and
  - j. An indication that a deal was resealed and the reason, if applicable.
3. A sales invoice must be:
  - a. Prenumbered consecutively with a preprinted number of at least four characters;

- b. Prepared in three parts and issued as follows:
    - (1) One part to the customer;
    - (2) One part retained in an invoice file by customer name; and
    - (3) One part to the attorney general. Every invoice, including voids, must be numerically accounted for; and
  - c. A credit memo for a returned item must be prepared and issued like a sales invoice. A credit memo must represent only a returned item.
- 4. A sales journal must include the sales invoice date, number, total amount, and name of customer.
  - 5. A cash receipts journal must include cash sales, cash received from all sources, name of customer, date a payment is received and amount.
  - 6. A cash payments journal must include checks issued, cash payments, date of check or payment, check number, name of payee, and type of expense.
  - 7. Gaming stamp log on which gaming stamp and game serial numbers are recorded and a record of voided gaming stamps on a form prescribed by the attorney general.
  - 8. Inventory records and reconciliation of inventories.
  - 9. A repair report for each service call on a dispensing device.
  - 10. Documentation of a training session conducted according to subsection 7 of section 99-01.3-15-05.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**CHAPTER 99-01.3-16**  
**MANUFACTURERS OF PULL TABS, PAPER BINGO CARDS,**  
**AND PULL TAB AND BINGO CARD DISPENSING DEVICES**

Section	
99-01.3-16-01	License
99-01.3-16-02	Background Investigation and Notification of Complaint in Another State
99-01.3-16-03	Restrictions and Requirements
99-01.3-16-04	Quality Standards for Pull Tabs
99-01.3-16-05	Quality Standards for Punchboards
99-01.3-16-06	Quality Standards for Bingo Cards Used in a Dispensing Device
99-01.3-16-07	Ban or Recall of Defective Pull Tabs or Bingo Cards
99-01.3-16-08	Manufacturing Specifications - Dispensing Device
99-01.3-16-09	Standards for a Currency Validator - Dispensing Device
99-01.3-16-10	Testing and Approval - Dispensing Device
99-01.3-16-11	Sales Invoice

**99-01.3-16-01. License.** A manufacturer of deals of pull tabs or bingo cards, paper bingo cards, or a pull tab dispensing device or any other person may not sell, lease, solicit business, or provide these items to a distributor without a license. If two or more manufacturers are affiliated, each manufacturer shall apply for a license. A license is not transferable. The annual licensing period is April first through March thirty-first. An application must include information prescribed by the attorney general. The license fee is four thousand dollars. If a person manufactures pull tabs and paper bingo cards, or, pull tab dispensing devices and either pull tabs or paper bingo cards, or both, only one license fee is required.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-14

**99-01.3-16-02. Background investigation and notification of complaint in another state.**

1. A manufacturer, including its employees, may not sell or otherwise provide gaming equipment to a distributor unless the manufacturer has undergone a background investigation and been approved by the attorney general. This includes each partner of a partnership, and each stockholder owning ten percent or more of the outstanding voting common stock of a corporation, including the corporation's parent or subsidiary corporation, if any.

2. A manufacturer shall provide all documentation, assurances, consents, waivers, or other information requested by the attorney general.
3. If a distributor or manufacturer received an administrative or criminal complaint or a citation from another state, it shall notify the attorney general in writing within thirty days of the date of the complaint or citation. If the complaint or citation is sustained, the attorney general may suspend or revoke a distributor's or manufacturer's license.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1, 53-06.1-06

**99-01.3-16-03. Restrictions and requirements.**

1. A manufacturer that sells, or provides, paper bingo cards to a distributor shall print its name or distinctive logo and the assigned serial number and series number (card number) on each card. A manufacturer shall have available for sale or provide to a distributor a master checkbook covering all card serial numbers for paper bingo cards. A manufacturer may not ship paper bingo cards directly to a licensed organization or organization that has a local permit.
2. A manufacturer may only sell or provide deals of pull tabs or bingo cards, punchboards, paper bingo cards, or a pull tab or bingo card dispensing device to a licensed distributor. A manufacturer shall maintain complete, accurate, and legible accounting records regarding all transactions on the sale of gaming equipment and retain them for three years.
3. A manufacturer may not modify the assembly or operational functions of an approved pull tab or bingo card dispensing device model unless requested by the attorney general or a written request is approved by the attorney general. However, if a modification is necessary to prevent cheating or malfunction, temporary approval may be verbally requested from the attorney general before submitting a written request. The attorney general may apply section 99-01.3-16-10 for approving a modification to a device model.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-16-04. Quality standards for pull tabs.** A manufacturer shall manufacture pull tabs according to these standards:

1. **Construction.**

- a. A deal must be designed, constructed, glued, and assembled to prevent the determination of a winning pull tab or numbers or symbols without first removing the tabs or other covering.
  - b. All the pull tabs of a deal must have the same game serial number which cannot be repeated on the same form number for three years.
  - c. When a tab or other covering is removed, the numbers or symbols must be fully visible in the window and must be placed so that no part of a symbol or number remains covered. The numbers or symbols can be displaced to the left or right in a window for increased security.
  - d. The window slits on a pull tab must be perforated on three sides. A pull tab must be glued on all four edges and between each window. The glue must be of sufficient strength and type to prevent the separation or delamination of a pull tab.
2. **Opacity.** Concealed numbers, symbols, or winner protection features cannot be viewed or determined from the outside of a pull tab using a high intensity lamp of five hundred watts.
  3. **Color.** It must not be possible to detect or pick out winning from losing pull tabs through a variation in printing graphics or colors, especially those involving different printing plates.
  4. **Printed information.** The minimum information printed on a pull tab must be as follows, except that subdivisions b, c, and d are not required for a folded or banded jar ticket or to a two-ply or three-ply card with only one perforated break-open tab which measures one and one-quarter inch [31.7 millimeters] by two and one-quarter inch [57.1 millimeters] or less in size, and subdivisions b and c are not required for a pull tab used with a coin board:
    - a. Name of manufacturer or its logo;
    - b. Name of game;
    - c. Cost per pull tab;
    - d. Manufacturer's form number;
    - e. Number of winning pull tabs and winning numbers or symbols, and prize amounts, or a flare must be included with the game providing that information; and
    - f. Unique minimum five-character game serial number, printed on the game information side of the pull tab.

5. **Winner protection.** A unique symbol or printed security device, such as a specific number keyed to a particular winning pull tab, or the name of the symbol or some of the symbol colors changed for a winning pull tab, or other similar protection must be placed in the winning windows of winning pull tabs. Also, a winning pull tab that has a prize greater than twenty dollars must have a secondary form of winner verification.
6. **Randomization.** The winning pull tabs must be intermixed among all other pull tabs in a deal to eliminate any pattern between deals, or portions of deals, from which the location or approximate location of any winning pull tab may be determined. A deal must be assembled so that no placement of winning or losing pull tabs exists that allows prize manipulation or pick out. Banded jar tickets packaged in a bag must be randomized.
7. **Guillotine cutting.** It must not be possible to isolate winning or potential winning pull tabs of a deal by variations in size or the appearance of a cut edge of the pull tabs.
8. **Packaging.**
  - a. A deal's container must be sealed with a seal that warns the purchaser (end user) that the deal may have been tampered with if the container was received with the seal broken. A seal must ensure that a deal's pull tabs are not accessible from outside the container when sealed. A manufacturer shall seal or tape every entry point into the container. The seal or tape must be tamper resistant and be designed so that should a container be opened or tampered with, it would be easily noticed. For jar tickets packaged in a bag, the glue used to seal the flap of the bag must be permanent adhesive glue. The required seal cannot be a manufacturer's cellophane shrink wrap.
  - b. A manufacturer shall print, in bold letters, "Pull tabs must be removed from this packaging container and thoroughly mixed before sale to the public" or similar language on the outside of a container.
  - c. A deal's game serial number must be legibly placed on or be able to be viewed from the outside of the deal's container.
  - d. For a deal shipped to North Dakota, a flare for a deal of pull tabs (two-ply or three-ply card) or a specialty jar ticket deal must be located on the outside of the deal's sealed container so that the seal will not be broken to access the flare.

9. Number of top tier winners. A deal must have at least two top tier winning pull tabs.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-16-05. Quality standards for punchboards.** A manufacturer of punchboards shall print a game serial number on and manufacture, assemble, and package a punchboard so that winning punches, or approximate location of winning punches, cannot be determined in advance of punching the punchboard, including any patterns in manufacture, assembly, packaging, or markings. Winning punches must be randomly mixed among all other punches in a punchboard and between all other punchboards.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-16-06. Quality standards for bingo cards used in a dispensing device.** A manufacturer shall manufacture deals of bingo cards used in a dispensing device according to these standards:

1. **Construction.**

- a. A case must consist of at least three thousand bingo cards with different faces and series numbers.
- b. Deals of bingo cards that have a different cost per play must be differentiated.
- c. A deal must be designed, constructed, glued, and assembled to prevent the determination of the card numbers without first removing the tab.
- d. All the cards of a deal must have the same game serial number. A serial number of a case of two or more deals cannot be repeated on the same form number for three years.
- e. A bingo card must be a two-ply card with one perforated break-open tab. The single tab slits on a card must be perforated on three sides. A card must be glued on all four edges. The glue must be of sufficient strength and type to prevent the separation or delamination of a card.
- f. When a tab is removed, the bingo numbers must be fully visible in the window and must be placed so that no part of a number remains covered. The numbers can be displaced to the left or right in a window for increased security.

2. **Opacity.** Concealed numbers cannot be viewed or determined from the outside of a bingo card using a high intensity lamp of five hundred watts.
3. **Randomization.** Cards of a deal must be thoroughly mixed to eliminate any pattern among the deal's cards and between deals or portions of deals, based on the cards' series numbers.
4. **Printed information.**
  - a. The game information side must contain the:
    - (1) Name of game;
    - (2) Unique minimum five character manufacturer's game serial number;
    - (3) Manufacturer's form number and name of manufacturer or its distinctive logo;
    - (4) Cost per bingo card;
    - (5) Space for validation. See subsection 32 of section 99-01.3-16-08; and
    - (6) Lines for name and address of winning player and prize amount.
  - b. The tab side must contain instructions for the player to open the tab, mark the numbers posted, compare the marked numbers to the posted winning patterns, and, if a winning card, redeem for a prize.
  - c. Inside the tab there must be a preprinted bingo face with twenty-five squares arranged in five vertical columns and five horizontal rows. The letters B, I, N, G, and O must be printed above the five vertical columns. The middle square may be a free space. The bingo face must indicate the manufacturer's series number for that face and the manufacturer's game serial number for that deal.
5. **Packaging.**
  - a. A deal's container must be sealed with a seal that warns the purchaser (end user) that the deal may have been tampered with if the container was received with the seal broken. A seal must ensure a deal's bingo cards are not accessible from outside the container when sealed. A manufacturer shall seal or tape every entry point into the container. The seal or tape must be tamper resistant and of such construction to guarantee that should a container be opened or tampered with, it would be easily noticed.

The required seal cannot be a manufacturer's cellophane shrink wrap.

- b. A deal's game serial number must be legibly placed on or be able to be viewed from the outside of the deal's container.
  - c. The prize flare for a deal must be located on the outside of the deal's sealed container so that the seal will not be broken to access the prize flare.
6. **Prize flare.** A prize flare must accompany each deal and contain:
- a. Separate lines for name of organization, name of site, control number, and device number;
  - b. Cost per bingo card;
  - c. Lines for time and date when the prize flare is placed in play and removed from play. The lines must be designated by the hour, minute, and a.m. or p.m.;
  - d. Lines for two initials for when the prize flare is placed in play and for one employee's initials for when the prize flare is removed from play;
  - e. Three lines for listing a winning pattern or patterns, as ways to win;
  - f. Three lines for listing a prize amount, corresponding to a winning pattern or patterns;
  - g. Examples of various patterns that may be selected for a winning pattern. Each example must specify the name of the pattern and whether it is an "any way" pattern;
  - h. At least two blank bingo cards with twenty-five squares arranged in five vertical columns and five horizontal rows. The letters B, I, N, G, and O must be printed above the five vertical columns. The blank cards may be completed by an organization for illustrating a winning pattern or patterns that are not shown as an example; and
  - i. The phrase "except for an 'any way' pattern, a winning pattern is based on a bingo card being in an upright position".

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-16-07. Ban or recall of defective pull tabs or bingo cards.**

1. If the attorney general determines that deals of pull tabs, bingo cards, or punchboards for sale in North Dakota do not meet the quality standards, the attorney general may order all defective deals and all similarly constructed or printed deals in North Dakota to be immediately recalled by the manufacturer or banned, or prohibit a manufacturer from transacting business in North Dakota. If the attorney general orders such a ban or recall, the manufacturer of the deal must first be notified of the reason, effective date, and any specific requirements. Upon notification, a manufacturer shall cease sale of that deal and initiate compliance with a ban or recall. A manufacturer shall notify, in writing, all distributors within seventy-two hours of the notice, the effective date, and arrange for the prompt return of all the defective deals.
2. A distributor, when notified by a manufacturer or attorney general, shall immediately stop sales or delivery of the deals. Within seventy-two hours, a distributor shall notify the organizations that have bought the deal during the last ninety days, the effective date, and arrange for the prompt return of all the defective deals.
3. Before any reintroduction in North Dakota of a banned or recalled deal, a manufacturer shall first submit the revised deal to the attorney general for approval. The attorney general shall notify the manufacturer of the approval or disapproval and a copy of an approving letter must be sent by the manufacturer to the distributor with the next shipment of the revised deal.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-16-08. Manufacturing specifications - Dispensing device.**

A pull tab and a bingo card dispensing device must meet these specifications:

1. If a device is designed to accommodate two or more different games of pull tabs, each compartment must independently meet the specifications of this section;
2. Electrical and mechanical components and design principles may not subject a person to any physical hazard or cause electrical interference. The power cord must be ten feet [3.05 meters] in length and have a three-prong ground at the male end. A surge protector or in-line power filter must be installed in-line on the main powerline to a device. A device

must safely and operatively withstand a static test of twenty thousand volts of electricity and maintain proper voltage during a low electrical current (brownout);

3. A bingo card device must have an on and off keyed switch located in front of the device to control the electrical current or electronic currency validator;
4. A pull tab device must have at least four columns for stacking pull tabs and have capacity for two thousand four hundred pull tabs. A bingo card device must have at least two columns for stacking bingo cards and have capacity for two thousand two hundred cards. A stacking column for bingo daubers is optional;
5. A stacking column must be adjustable for varying lengths of pull tabs. However, as an option, a device may use replaceable stacking columns that accommodate varying lengths of pull tabs. The device must accommodate a minimum pull tab size of one and seven-eighths inches [47.6 millimeters] in width by two and five-eighths inches [64.77 millimeters] in length, a maximum pull tab size of one and seven-eighths inches [47.6 millimeters] in width by four and one-fourth inches [107.95 millimeters] in length, or both sizes;
6. A device must be adjustable for varying thicknesses of pull tabs or bingo cards;
7. Glass must be placed in front of the columns and be sufficiently clear to enable an employee to see whether a device is low on pull tabs or bingo cards;
8. A device must have a dispensing outlet or tray to catch a dispensed pull tab or bingo card;
9. A device must have one currency validator. A coin validator is not allowed;
10. A pull tab device must accommodate pricing of twenty-five cents, fifty cents, one dollar, and two dollars per pull tab and dispense the correct number of pull tabs based on the amount of credit played. The standard price per pull tab must apply to all columns;
11. A bingo card device must accommodate pricing of twenty-five cents, fifty cents, one dollar, two dollars, and five dollars. The price at which each column is set may differ for dispensing differently priced cards and daubers. A device must dispense the correct number of bingo cards and daubers based on the amount of credit played;

12. An exterior door must have at least one keyed lock. The key must be different from all other keys used on other devices manufactured by the manufacturer;
13. A pull tab device may have an optional "all" player button that activates the device to dispense pull tabs at one time, equal to the value of the unplayed credits and randomly from the columns selected by a random number generator or player button sequencing concept;
14. A bingo card device may have an optional "all" player button that activates the device to dispense up to twenty-five bingo cards at one time from the column selected by a player. However, an "all" player button cannot apply to a bingo dauber column;
15. A device must have an interior mode switch, interior dipswitch, or an exterior mode switch activated by a key which enables a person to:
  - a. Set the price per pull tab, bingo card, or dauber; and
  - b. Unless a device prints reports prescribed by subsection 18, access the accounting information required by subsection 16 and, if the device has nonresettable electronic accounting meters, subsection 17;
16. Unless a device prints reports prescribed by subsection 18, there must be at least two independent resettable electronic accounting meters. The meters must maintain accounting information of at least four digits in length and be capable of maintaining the accounting information for six months after electrical power to a device is disconnected or the electrical current used to operate a device is switched off. The meters must record the:
  - a. Total value of currency validated; and
  - b. Total number of pull tabs or bingo cards dispensed;
17. Unless a pull tab or bingo card device prints reports prescribed by subsection 18, there must be at least two independent nonresettable electronic or mechanical accounting meters. The meters must maintain accounting information of at least six digits in length and be capable of maintaining the accounting information for six months after electrical power to a device is disconnected or the electrical current used to operate a device is switched off. The meters must record the:
  - a. Cumulative value of currency validated; and
  - b. Cumulative number of pull tabs or bingo cards dispensed;

18. Unless a device has resettable and nonresettable accounting meters prescribed by subsections 16 and 17, the device must print a cash pickup and a lifetime activity report.

a. A cash pickup and a lifetime activity report must:

- (1) Be printed and accessible only from the interior of a device;
- (2) State the time and date of the present report and of the preceding report. The time must be expressed in numeric hours and minutes. The hour must be expressed as a.m. or p.m.;
- (3) State the unique device number; and
- (4) State a sequential report number, which must be at least three digits in length, starting with number one.

b. A cash pickup report, based on resettable electronic accounting meters, must include this information for activity since the preceding report:

- (1) For a pull tab device, number and value of pull tabs dispensed from all columns;
- (2) For a bingo card device, number and value of bingo cards and daubers dispensed from each column and from all columns; and
- (3) Value of currency validated.

c. A lifetime activity report, based on nonresettable electronic accounting meters, must include this information for activity since a device was manufactured:

- (1) For a pull tab device, cumulative number and value of pull tabs dispensed from all columns;
- (2) For a bingo card device, number and value of bingo cards and daubers dispensed from each column and from all columns; and
- (3) Cumulative value of currency validated;

19. To ensure a commingling of pull tabs, a random number generator or player button sequencing concept must be used to select a particular column from which a pull tab will be dispensed. A selection process is random if it does not produce a significant statistic of recurring patterns. A player button sequencing concept must field each button at least one hundred times a second;

20. Instructions for player operation must be permanently affixed or placed under glass or other transparent material on the front of a device;
21. A pull tab device must have one or more player buttons located on the front of it which activate the dispensing of a pull tab. However, excluding an "all" player button, the number of player buttons may not exceed the number of columns. Regardless of which player button is pressed, the selection of a particular column from which a pull tab is dispensed must be done by a random number generator or player button sequencing concept;
22. A bingo card device must have a separate button located on the front of it for each column of bingo cards and for the bingo dauber column which activates the dispensing of a card or dauber from that column;
23. A device must have an LED or LCD display screen of at least four digits in length. However, if a device uses two independent nonresettable electronic accounting meters, the device must have an LED or LCD display screen of at least six digits in length. The digits must be one-half of one inch [12.70 millimeters] in height. The value of currency validated must be displayed on the LED or LCD screen as a monetary credit which is drawn down as a device vends a pull tab, bingo card, or dauber. Unless a device prints reports prescribed by subsection 18, the LED or LCD display screen must also display the accounting information required by subsection 16 and pricing information required by subdivision a of subsection 15;
24. A device must record every vend of a pull tab, bingo card, and dauber and every currency validation, including a test vend of a pull tab, bingo card, or dauber and a test validation of currency, on the accounting meters required by subsections 16 and 17 or subsection 18;
25. If a device malfunction occurs or electrical power is interrupted, the value of credits previously displayed on an LED or LCD display screen must be correctly redisplayed immediately after the malfunction is cleared or electrical power is restored. However, this rule does not apply if a device is totally inoperable;
26. In a pull tab device a column of pull tabs must automatically discontinue operation, triggered by an electronic microswitch or optical switch, when the column has fewer than fifty pull tabs remaining. However, this rule does not apply when an organization is closing a game at which time a microswitch or optical switch may be circumvented;

27. A device must automatically stop operating when there is only one column of pull tabs remaining in order when the other columns of pull tabs are out of order due to a low level of pull tabs remaining in one or more stacking columns or due to jams. However, if this occurs and there are unplayed credits on the device, the device may dispense pull tabs equal to the value of the unplayed credits from the remaining column before the device automatically stops operating. A device must automatically stop operating when all the columns of bingo cards are out of order;
28. An identification plate must be affixed at the top of an exterior side panel and contain the device's:
  - a. Manufacturer;
  - b. Serial and model numbers; and
  - c. Date of manufacture which may be part of the model number;
29. No device may have an auxiliary remote control unit for posting credits;
30. A device must automatically stop operating when a nonresettable meter is disconnected;
31. A device must have a maintenance and operations manual;
32. A bingo card device must validate a dispensed bingo card by printing this information in a prescribed area on the card. The validation must be clearly printed in permanent purple or black ink and be electronically printed at least three-sixteenths of one inch [4.76 millimeters] in height:
  - a. Unique machine number or validation control code of at least four characters in length;
  - b. Month and day. The month may be expressed alphabetically and may be abbreviated to three characters or it may be expressed in numeric digits. The day must be expressed in numeric digits; and
  - c. Time expressed in numeric hours and minutes. The hour must be designated as a.m. or p.m. Military time is not allowed;
33. A bingo card device's internal clock must be programmed to automatically adjust the time to change to and from daylight savings time. A device must maintain the proper time for six months after electrical power to the device is turned off; and

34. A bingo card device must have an electronic LED flashboard for posting bingo numbers which, when lit, must be readable from a distance of ten feet [3.05 meters].

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-16-09. Standards for a currency validator - Dispensing device.** A currency validator must:

1. Validate only United States currency and only values of one, two, five, ten, and twenty dollar bills;
2. Have an antipullback mechanism and other anticheat devices that prevent cheating of the bill acceptor by mechanical means;
3. Reject invalid and all known manipulations of United States currency;
4. Have a currency stacker box or drop box; and
5. If a malfunction occurs, automatically discontinue accepting or validating currency.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-16-10. Testing and approval - Dispensing device.**

1. A manufacturer of a pull tab or bingo card dispensing device may not sell or provide a device to a distributor unless a model of the device has been approved by the attorney general.
2. A manufacturer of a device shall provide a device model, a copy of its construction blueprint, wiring schematics, circuit analysis, technical and operation manuals, random number generator or player button sequencing concept source and object code computer programs, proprietary operating software source and object code computer programs, and other information requested by the attorney general. A manufacturer of a currency validator shall provide a copy of the source and object code computer programs and other information requested by the attorney general. A manufacturer may provide a copy of letters of approval and test reports of the device or currency validator from other states, federal jurisdictions, or independent testing laboratories.

3. The attorney general may require a manufacturer of a device or currency validator to transport a working model, and the information required by subsection 2 to the attorney general or designee for analysis, testing, and evaluation. A manufacturer shall pay all the costs and provide special equipment for the testing. The attorney general may require a manufacturer to pay the estimated costs, in advance. After the analysis, testing, and evaluation is done, the designee shall provide the results to the attorney general. An overpayment of costs must be refunded to a manufacturer or the manufacturer shall pay any underpayment of costs. The attorney general shall provide the manufacturer with the results. Before approving a device's model, the attorney general may require a trial period.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1

**99-01.3-16-11. Sales invoice.** A manufacturer may not sell or provide to or accept from a distributor deals of pull tabs or bingo cards, punchboards, or paper bingo cards without recording the transaction on a sales or credit invoice. The invoice must include:

1. License number, business name, and address of the distributor;
2. Business name and address to which the gaming equipment is shipped;
3. Invoice number and date;
4. Date shipped;
5. Indication for a credit invoice;
6. Quantity of deals of pull tabs and bingo cards, and punchboards;
7. Description of each deal of pull tabs and bingo cards, and punchboards sold, including the name of game and game serial number which may be listed on an addendum to a sales invoice. For a deal of pull tabs and bingo cards involving two-ply or three-ply cards with perforated break-open tabs, the description must include the manufacturer's form number;
8. For paper bingo cards, quantity, primary color, type of collated booklet, serial number, size of series, and number of faces on a card; and

9. Name, model, and serial number of a dispensing device.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 53-06.1-01.1

**Law Implemented:** NDCC 53-06.1-01.1