

NORTH DAKOTA ADMINISTRATIVE CODE

Supplement 341

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**Prepared by the Legislative Council staff
for the
Administrative Rules Committee**

TABLE OF CONTENTS

State Department of Health.....	1
Board of Occupational Therapy Practice.....	7
State Board of Pharmacy	15
North Dakota Racing Commission	29
Department of Human Services	131

TITLE 33
STATE DEPARTMENT OF HEALTH

JULY 2011

CHAPTER 33-17-01

33-17-01-07. Inorganic chemical sampling and monitoring requirements.

1. Sampling frequency for community and nontransient noncommunity water systems.
 - a. Inorganics excluding lead and copper. Community and nontransient noncommunity water systems shall conduct monitoring to determine compliance with the maximum contaminant levels for the inorganic chemicals, excluding lead and copper, as set forth under title 40, Code of Federal Regulations, part 141, subpart C.
 - b. Lead and copper. Community and nontransient noncommunity water systems shall comply with the monitoring and treatment technique requirements for lead and copper set forth under title 40, Code of Federal Regulations, part 141, subpart I, as amended July 1, 2009.
 - c. Unregulated contaminants. Community and nontransient noncommunity water systems shall monitor for sulfate as set forth under title 40, Code of Federal Regulations, part 141, subpart E.
 - d. Monitoring waivers. With the exception of arsenic, copper, lead, nitrate, and nitrite, the department may grant community and nontransient noncommunity water systems waivers from the monitoring requirements for the inorganic chemicals as set forth under title 40, Code of Federal Regulations, part 141, subparts C and E. The department may issue monitoring waivers only if the conditions set forth under title 40, Code of Federal Regulations, part 142, subpart B, are fully met.

2. Sampling frequency for transient noncommunity water systems. Transient noncommunity water systems shall conduct monitoring to determine compliance with the maximum contaminant levels for nitrate and nitrite as set forth under title 40, Code of Federal Regulations, part 141, subpart C.

History: Amended effective July 1, 1988; February 1, 1993; August 1, 1994; August 1, 2000; July 1, 2011.

General Authority: NDCC 61-28.1-03

Law Implemented: NDCC 61-28.1-03

33-17-01-13. Public notification. All public water systems are required to notify the public they serve when they fail to comply with the requirements of the national primary drinking water regulations (NPDWRs), fail to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or incur other situations posing a risk to public health. Owners and operators must follow the form, manner, frequency, and content of a public notice as prescribed by the department and set forth under title 40, Code of Federal Regulations, part 141, subpart Q, as amended July 1, 2009.

History: Amended effective December 1, 1982; July 1, 1988; December 1, 1990; August 1, 1991; February 1, 1993; August 1, 1994; August 1, 2000; December 1, 2003; July 1, 2011.

General Authority: NDCC 61-28.1-03

Law Implemented: NDCC 61-28.1-03, 61-28.1-05

33-17-01-13.1. Consumer confidence reports.

1. **Coverage and general requirements.** Community water systems shall deliver an annual consumer confidence report to all billing units or service connections provided drinking water by the system. The report shall contain information on the quality of the drinking water delivered by the system and characterize risks from exposure to contaminants detected in the drinking water. For the purpose of the report, detected means at or above the levels set forth under title 40, Code of Federal Regulations, part 141, subpart O; as amended July 1, 2009.
2. **Effective dates.** Existing community water systems shall deliver the ~~first report by October 19, 1999, and subsequent annual~~ reports by July first of each year. ~~The first report shall contain information collected by December 31, 1998. Subsequent Annual~~ reports shall contain information collected by December thirty-first of the previous calendar year.

New community water systems shall deliver the first report by July first of the year after its first full calendar year in operation and subsequent reports by July first of each year. Community water systems that sell water to other community water systems shall provide applicable

information to the buyer systems as set forth under title 40, Code of Federal Regulations, part 141, subpart O, as amended July 1, 2009.

3. **Content.** Each report shall contain the information set forth under title 40, Code of Federal Regulations, subpart O, as amended July 1, 2009.
4. **Report delivery.** Community water systems shall comply with the report delivery requirements set forth under title 40, Code of Federal Regulations, subpart O, as amended July 1, 2009.

History: Effective August 1, 2000; amended effective July 1, 2011.

General Authority: NDCC 61-28.1-03

Law Implemented: NDCC 61-28.1-03

TITLE 55.5

BOARD OF OCCUPATIONAL THERAPY PRACTICE

JULY 2011

CHAPTER 55.5-02-02

55.5-02-02-01. Code of ethics. The board has adopted and incorporated into this article by reference the principles of occupational therapy code of ethics and ethic standards (2010) of the American occupational therapy association adopted by the representative assembly in ~~2000~~ 2010.

History: Effective April 1, 1988; amended effective November 1, 2000; February 1, 2004; July 1, 2011.

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-16

CHAPTER 55.5-03-01

55.5-03-01-02. Educational background and scope of practice.

1. The educational background of the occupational therapist includes anatomy, physiology, kinesiology, neuroanatomy, psychology, and other courses from the liberal arts and sciences, and enables the occupational therapist to assess and address an individual's deficits in occupational performance through the use of specific procedures, activities, modalities, and techniques, as taught in an accredited occupational therapy professional education program recognized by the board. The educational preparation and scope of practice of the occupational therapist to perform assessment and intervention may include the following:
 - a. Neurological and physiological sciences:
 - (1) Sensory integrative approaches;
 - (2) Developmental approaches;
 - (3) Sensorimotor approaches;
 - (4) Neurophysiological treatment approaches;
 - (5) Neuromuscular treatment approaches;
 - (6) Sensory education and reeducation;
 - (7) Visual and perceptual training;
 - (8) Integrational and cognitive components;
 - (9) Daily life tasks; and
 - (10) Such other approaches in the neurological and physiological sciences as may be recognized by the board.
 - b. Behavioral and social sciences:
 - (1) Behavioral approaches;
 - (2) Sensory integration;
 - (3) Interpersonal and intrapersonal skill development;
 - (4) Movement therapy;
 - (5) Vocational approaches;

- (6) Entry into community living;
- (7) Retirement planning;
- (8) Self-management training;
- (9) Leisure and play activities;
- (10) Daily life tasks;
- (11) Creative dramatics;
- (12) Disability prevention and health promotion; and
- (13) Such other approaches in the behavioral and social sciences as may be recognized by the board.

c. Biomechanical sciences:

- (1) Work-related programs;
- (2) Vocational programs and activities;
- (3) Range of motion;
- (4) Positioning and seating;
- (5) Design, fabrication, and selection of orthotic devices;
- (6) Design, fabrication, and selection of adaptive equipment;
- (7) Prosthetic training;
- (8) Therapeutic exercise and activity;
- (9) Environmental accessibility;
- (10) Design, provision, and training of assistive technology;
- (11) Daily life tasks; and
- (12) Such other approaches in the biomechanical sciences as may be recognized by the board.

d. Liberal arts and sciences.

- 2. The occupational therapist and occupational therapy assistant are responsible for proving competency in the use of specific procedures, activities, modalities, and techniques. Competency may be displayed

through documented educational programs in accordance with section 55.5-02-01-04.

- a. The board recognizes that the occupational therapist may be qualified and competent in the use of a variety of modalities and that the occupational therapy assistant may utilize modalities under the direct supervision of the occupational therapist.
- b. When physical or therapeutic agents are selected, they may be used in preparation for, or as an adjunct to, purposeful activity to enhance occupational performance.
- c. These qualifications and competencies may be obtained through programs recognized by the board, including accredited educational programs (including fieldwork education), specific certification, appropriate continuing education, inservice education, and postbaccalaureate higher education.
- d. The occupational therapist and occupational therapy assistant shall:
 - (1) Document and demonstrate these qualifications and competencies at the request of the board;
 - (2) Comply with federal and state laws which, in the opinion of the board, have a direct bearing upon the ability to serve as an occupational therapist and occupational therapy assistant;
 - (3) Comply with the occupational therapy code of ethics and ethic standards (2010) of the American occupational therapy association adopted by the representative assembly in ~~2000~~ 2010 and the occupational therapy standards of practice (2010) as revised in ~~May 1999~~ 2010 by the American occupational therapy association; and
 - (4) Provide services in the best interests of the client.
- e. Continuing competency offerings specific to modalities and techniques must conform with:
 - (1) Occupation as the common core of occupational therapy;
 - (2) The applicable provisions of the rules of the board;
 - (3) Occupational therapy code of ethics and ethic standards, as revised in ~~2000~~ 2010, by the American occupational therapy association; and

- (4) ~~Standards of practice~~ Occupational therapy standards of practice (2010), as revised in ~~May 1999~~ 2010, of the American occupational therapy association.
- f. Occupational therapist, occupational therapy assistants, and students of occupational therapy use modalities and techniques only when the individual has received the theoretical and technical preparation necessary for safe and appropriate integration of the intervention in occupational therapy.
- 9. When an occupational therapist delegates the use of modalities to an occupational therapy assistant or student, both shall:
 - (1) Comply with appropriate supervision requirements; and
 - (2) Assure that their use is based on service competency.

History: Effective November 1, 1992; amended effective November 1, 2000; February 1, 2004; July 1, 2011.

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-01, 43-40-05

TITLE 61
STATE BOARD OF PHARMACY

JULY 2011

**CHAPTER 61-02-01
PHARMACY PERMITS**

Section	
61-02-01-01	Permit Required
61-02-01-02	Application for Permit
61-02-01-03	Pharmaceutical Compounding Standards
61-02-01-04	Permit Not Transferable
61-02-01-05	Change of Ownership
61-02-01-06	Affidavit of Ownership
61-02-01-07	Renewal of Permits
61-02-01-08	Change of Location
61-02-01-09	Permit for Heirs at Law of Pharmacist
61-02-01-10	Pharmacist-in-Charge - Requirement - Definition - Duties
61-02-01-11	Pharmacist-in-Charge - Termination of Service
61-02-01-12	Posting of Permit
61-02-01-13	Pharmacist on Duty
61-02-01-14	Limitation on Rent
61-02-01-15	Closing a Pharmacy
61-02-01-16	Transfer of Controlled Substances When Selling a Business
61-02-01-17	Identification

61-02-01-01. Permit required. No person, partnership, association, or corporation shall conduct a pharmacy in North Dakota without first obtaining a permit to do so from the board. A fee, set by the board but not to exceed that prescribed by statute, shall be charged for each permit.

1. Each physical location of a pharmacy shall have a separate pharmacy permit. A location is defined as being in the same building at the same physical address. Buildings connected by tunnels, skywalks, or other similar methods must be deemed separate physical locations.
2. Any pharmacy receiving a permit shall advise the board, when applying for the permit and when changes occur, of the name of the employees of the pharmacy who are:

- a. The pharmacist-in-charge of the pharmacy, who shall be a licensed pharmacist in North Dakota in good standing;
 - b. All other licensed pharmacists who shall be licensed pharmacists in North Dakota in good standing;
 - c. All licensed pharmacy interns who shall be licensed pharmacy interns in North Dakota in good standing;
 - d. All registered pharmacy technicians who shall be registered pharmacy technicians in North Dakota in good standing; and
 - e. All supportive personnel permitted in the pharmacy area.
3. Nothing in this section prohibits a pharmacy with other than class F permit from delivering drugs or devices through the United States postal service or other parcel delivery service or hand delivery.
4. Classes of pharmacy permits are as follows:
- a. Class A - Permit to conduct an outpatient pharmacy. These permits are issued to a pharmacy dispensing drugs or devices to the general public pursuant to a valid prescription.
 - b. Class B - Permit to conduct a hospital pharmacy. These permits are issued to a pharmacy dispensing drugs or devices to persons who are patients in a hospital, patients who are being discharged, or patients in emergency situations, pursuant to a valid prescription. These permits shall be issued to facilities licensed under North Dakota Century Code chapter 23-16 and shall be issued in the name of the facility.
 - c. Class C - Permit to conduct a ~~home health care~~ sterile compounding pharmacy. These permits are issued to a pharmacy dispensing sterile injectable drug products and devices to the general public who are not patients within a facility with a class B pharmacy permit pursuant to a valid prescription.
 - d. Class D - Permit to conduct a long-term care pharmacy. These permits are issued to a pharmacy dispensing drugs and devices to residents of facilities licensed under North Dakota Century Code chapters 23-09.3 and 23-16 pursuant to a valid prescription which are not physically accessed by the general public.
 - e. Class E - Permit to conduct a nuclear pharmacy. These permits are issued to a pharmacy dispensing or providing diagnostic or therapeutic radioactive drugs or devices for administration to an ultimate user.

- f. Class F - Permit to conduct a mail-order pharmacy. These permits are issued to a pharmacy dispensing drugs and devices to the general public exclusively through the United States postal service or other parcel delivery service pursuant to a valid prescription but which are not physically accessed by the general public.
 - g. Class G - Permit to conduct an out-of-state pharmacy. These permits are issued to any pharmacy operating outside the state of North Dakota which ships, mails, or delivers in any manner a dispensed prescription drug or legend device into North Dakota, which shall obtain and hold a pharmacy permit issued by the North Dakota state board of pharmacy and that part of the pharmacy operation dispensing the prescription for a North Dakota resident shall abide by state laws and rules of the board.
 - h. Class H - Permit to conduct a governmental agency pharmacy. This permit is issued to a pharmacy operated by the state of North Dakota, dispensing drugs and devices only to patients within correctional facilities or rehabilitation facilities, or for the purpose of teaching at institutions of higher learning, pursuant to a valid prescription.
 - i. Class I - Permit to conduct a research pharmacy. This permit is issued to a pharmacy in which scientific research is conducted under protocols established by an institutional review board meeting federal drug administration guidelines. Pharmaceuticals on hand are incident to the research being conducted. Security and storage for pharmaceuticals must meet United States Pharmacopeia and board of pharmacy requirements. A specific application for a pharmacy permit must be made delineating the specific physical facility to be utilized.
 - j. Class J - Permit to conduct an office practice pharmacy. Any licensed pharmacist may practice in an office pharmacy setting where prescriptions are not routinely dispensed. If legend drugs or devices are maintained, a permit must be obtained by making application to the board of pharmacy delineating specific practice intentions and assuring the board that security and storage requirements are met for any legend drugs or pharmaceuticals on hand.
 - k. Class K - Permit to conduct telepharmacy. A pharmacy staffed by a registered pharmacy technician with access to its main pharmacy and registered pharmacists by computer link, videolink, and audiolink while open.
5. Any applicable rule governing the practice of pharmacy shall apply to all permits under this section.

6. Operating in one class does not preclude permitting in another class. Pharmacies wishing to operate in more than one class shall apply on forms prescribed by the board, pay a fee set by the board, and comply with all rules for each class.

History: Effective October 1, 1999; amended effective January 1, 2004; July 1, 2011.

General Authority: NDCC 43-15-34

Law Implemented: NDCC 43-15-34

61-02-01-17. Identification. All pharmacy employees shall wear a name badge while in the pharmacy, which clearly identifies the person's title.

History: Effective July 1, 2011.

General Authority: NDCC 43-15-10

Law Implemented: NDCC 43-15-10, 43-15-35

CHAPTER 61-02-06 COMPUTER PHARMACY REGULATIONS

Section

61-02-06-01	Input of Drug Information Into Electronic Data Processing Equipment to Be by Pharmacist or Under the Supervision of a Pharmacist
61-02-06-02	Requirements for Storage and Retrieval of Prescription Information
61-02-06-03	Original Prescription Shall Be Retained on File
61-02-06-04	Written Policy and Procedures

61-02-06-01. Input of drug information into electronic data processing equipment to be by pharmacist or under the supervision of a pharmacist. When electronic data processing equipment is employed by a pharmacy, input of drug information shall be performed only by a pharmacist or under the immediate and personal supervision of a pharmacist. If orders are entered by other personnel, the pharmacist must certify the accuracy of the information entered and verify the prescription order prior to the dispensing of the medication. The identity of the pharmacist must be retained in the record.

History: Effective August 1, 1983.

General Authority: NDCC 28-32-02, 43-15-10(9)(12)(14)

Law Implemented: NDCC 28-32-02, 43-15-10(9)(12)(14)

61-02-06-02. Requirements for storage and retrieval of prescription information. Electronic data processing equipment or media, when used to store or process prescription information, shall meet the following requirements:

1. Must guarantee the confidentiality of the information contained in the ~~data-base~~ database. Must require that the transmission of electronic prescriptions from prescriber to pharmacist not be compromised by interventions, control, or manipulation of said prescriptions by any other party.
2. An electronic system must provide ~~on-line~~ online retrieval via ~~catho-ray tube~~ computer screen or hard-copy printout of original prescription order information for those prescription orders which are currently authorized for refilling. If more refills are authorized, it must be noted on the ~~catho-ray tube~~ computer screen or on the hard copy of the prescription or a new prescription must be produced.
3. Must produce a hard-copy daily summary of controlled substance transactions. Monthly summaries must be produced and filed with the biennial inventory.
4. Be capable of recording and carrying in the record all dates of refills of any prescription and the initials of the pharmacist.

5. Be capable of producing a patient profile indicating all drugs being taken and the date of refills of these prescriptions, as required by North Dakota Century Code section 43-15-31.1.
6. Be capable of reconstructing information, by daily backups in the event of a computer malfunction or accident resulting in destruction of the data base database.

History: Effective August 1, 1983; amended effective July 1, 1990; December 1, 1996; July 1, 2011.

General Authority: NDCC 28-32-02, 43-15-10(9)(12)(14)

Law Implemented: NDCC 43-15-10(9)(12)(14)

61-02-06-03. Original prescription shall be retained on file. In all cases where electronic data processing equipment is used, the original prescription (hard copy or saved in an unalterable electronic data filing system that has been approved by the board) shall be retained on file according to law to assure access to the information contained on the prescription in the event of a computer malfunction.

History: Effective August 1, 1983; amended effective July 1, 1990; December 1, 1996.

General Authority: NDCC 28-32-02, 43-15-10(9)(12)(14)

Law Implemented: NDCC 43-15-10(9)(12)(14)

61-02-06-04. Written policy and procedures. Written policy and procedures must be available at each computer location, detailing responsibilities of each pharmacist relative to the operation of the computer and its records.

History: Effective July 1, 1990.

General Authority: NDCC 28-32-02, 43-15-10(9)(12)(14)

Law Implemented: NDCC 43-15-10(9)(12)(14)

ARTICLE 61-04

PROFESSIONAL PRACTICE

Chapter

61-04-01	Return of Drugs and Devices Prohibited
61-04-02	Physician Exemption
61-04-03	Destruction of Controlled Substances
61-04-03.1	Identification Required for Controlled Substances
61-04-04	Unprofessional Conduct
61-04-05	Electronic Transmission of Prescriptions
61-04-05.1	Prescription Transfer Requirements
61-04-06	Prescription Label Requirements
61-04-07	Pharmacy Patient's Bill of Rights
61-04-08	Limited Prescriptive Practices
61-04-09	Warning Notice
61-04-10	CLIA Waived Laboratory Tests
61-04-11	Administration of Medications and Immunizations

CHAPTER 61-04-01

RETURN OF DRUGS AND DEVICES PROHIBITED

Section

61-04-01-01	Return of Drugs and Devices Prohibited
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61-04-01-01. Return of drugs and devices prohibited. Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue, or resale any drugs, prescribed medications, chemicals, poisons, or medical devices except:

1. In a hospital with a licensed pharmacy, drugs, devices, or other items may be returned to the pharmacy for disposition by a pharmacist in accordance with good professional practice.
2. In licensed nursing homes or basic care facilities where United States pharmacopeia storage requirements can be assured, pharmaceuticals (not controlled substances) dispensed in unit dose or in individually sealed doses which meet United States pharmacopeia packaging requirements may be returned to the pharmacy from which they were dispensed. The dispensing pharmacy or pharmacist is responsible to determine the suitability of the product for reuse. No product where lot number and integrity cannot be assured may be credited or reused. A redispensed pharmaceutical must be assigned an expiration date within the manufacturers original limits but not to exceed six months from the date of redispensing. No product may be redispensed more than one time.

3. This section shall not apply to the return of medical devices provided that proper sanitary procedures are used prior to the reuse, resale, or rerent of the devices.

History: Amended effective July 1, 1996.

General Authority: NDCC 28-32-02, 43-15-10(12)(14)

Law Implemented: NDCC 28-32-03

CHAPTER 61-04-03.1
IDENTIFICATION REQUIRED FOR CONTROLLED SUBSTANCES

61-04-03.1-01. Identification required for controlled substances.
Pharmacists, pharmacy interns, pharmacy technicians, and clerical personnel are required to obtain positive identification if they are unsure of the identity of the person picking up a prescription for any controlled substance, tramadol, or carisoprodol. Positive identification means a document issued by a governmental agency which:

1. Contains a description of the person or a photograph of the person, or both; and
2. Includes, but is not limited to, a passport, military identification card, or driver's license.

History: Effective July 1, 2011.

General Authority: 28-32-02, 43-15-10(12)(14)

Law Implemented: 28-32-03, 43-15-10(12)(14)

CHAPTER 61-04-05

61-04-05-03. Computer transmission of prescriptions. In addition to the requirements in section 61-04-05-02, a prescription order may be transmitted from an authorized prescribing practitioner to a pharmacy under the following provisions:

1. Schedule II, III, IV, and V controlled substances prescriptions received via computer require an electronic signature by the authorized prescriber, as defined in North Dakota Century Code section 9-16-01, for the prescription to serve as the original copy.
2. Transmission of schedule II controlled substance prescriptions via computer is ~~not~~ allowed when the prescribing system and the pharmacy system are in compliance with drug enforcement agency requirements for e-prescribing.
3. The required legend must appear on the practitioner's prescription screen. The practitioner must take a specific overt action to include the "brand medically necessary" language with the electronic transmission as set forth in subsections 3 and 4 of North Dakota Century Code section 19-02.1-14.1. For example, the practitioner or the practitioner's agent must type out "brand medically necessary" letter by letter.

History: Effective January 1, 2005; amended effective July 1, 2011.

General Authority: NDCC 28-32-02, 43-15-10(9)(12)(14)

Law Implemented: NDCC 28-32-03, 43-15-10(9)(12)(14)

CHAPTER 61-11-01

61-11-01-01. Fees. The following fees must be paid to the board of pharmacy:

1. North Dakota examination	\$100.00
2. Original or duplicate certificate	25.00
3. Reciprocal licensure	150.00
4. a. Internship licensure - North Dakota State University professional student (\$90 is paid to the North Dakota State University college of pharmacy for student programs)	100.00
b. Internship licensure - Pre-pharmacy students	10.00
5. Manufacturer-distributor-warehouse-reverse distributor Wholesale drug license	450.00 <u>200.00</u>
Penalty for late renewal	50.00
6. Pharmacy or drug store permit	175.00
Permitting in additional classes	0.00
Penalty for late renewal	50.00
7. Annual renewal for pharmacist in state (active)	100.00
Penalty for late renewal	25.00
8. Annual renewal for pharmacist in state (inactive status)	75.00
Penalty for late renewal	25.00
9. Annual renewal for pharmacist out of state	35.00
Penalty for late renewal	25.00
10. Annual registration for pharmacy technician (\$17.50 is forwarded to the northland association of pharmacy technicians (NAPT))	35.00
Penalty for late renewal	10.00
11. Pharmacy technician-in-training (per year) (two years allowed to complete a program)	10.00
12. <u>License verifications (self-addressed return envelope)</u>	<u>25.00</u>

History: Effective January 1, 2006; amended effective October 1, 2010; July 1, 2011.

General Authority: NDCC 43-15-10

Law Implemented: NDCC 43-15-10, 43-15-18, 43-15-20, 43-15-25, 43-15-27, 43-15-34, 43-15-38, 43-15.1-04, 43-15.1-05

TITLE 69.5
NORTH DAKOTA RACING COMMISSION

JULY 2011

CHAPTER 69.5-01-05

69.5-01-05-02. License fees. Each application for a license required by this chapter, or its renewal, must be accompanied by the payment of an annual fee according to the following schedule:

1.	Association license to conduct live racing	\$100.00 + \$10.00 per day of racing
2.	Trainer	\$75.00
3.	Owner, individual	\$50.00
4.	Owner-trainer (combined)	\$75.00
5.	Multiple owner	\$75.00
6.	Owner (partnership, corporation)	\$75.00
7.	Jockey/driver	\$35.00
8.	Jockey apprentice	\$35.00
9.	Jockey agent	\$35.00
10.	Authorized agent	\$25.00
11.	Stable name	\$25.00
12.	Pari-mutuel manager	\$35.00
13.	Auditor	\$15.00
14.	Calculator operator	\$10.00
15.	Totalizator operator	\$15.00
16.	Track tote fee	\$35.00
17.	Pari-mutuel employee	\$15.00
18.	Racing secretary	\$35.00
19.	Association veterinarian	\$100.00
20.	Assistant veterinarian	\$25.00
21.	Chief of security	\$10.00

22.	Director of racing/speed	\$35.00
23.	Horse identifier	\$35.00
24.	Paddock judge	\$35.00
25.	Patrol judge	\$35.00
26.	Racing secretary assistant	\$15.00
27.	Steward	\$35.00
28.	Starter	\$35.00
29.	Track superintendent	\$35.00
30.	Custodian jockey room	\$15.00
31.	Clerk of scales	\$35.00
32.	Handicapper	\$10.00
33.	Placing judge	\$15.00
34.	Patrol judge	\$15.00
35.	Timer	\$15.00
36.	Announcer	\$15.00
37.	Exercise person	\$20.00
38.	Groom	\$10.00
39.	Valet	\$15.00
40.	Attendant	\$15.00
41.	Photo manager	\$25.00
42.	Outrider	\$15.00
43.	Pony person	\$20.00
44.	Tip sheet seller	\$10.00
45.	Gate admission seller	\$10.00
46.	Gate attendant	\$10.00
47.	Hot walker	\$10.00
48.	Office personnel	\$15.00
49.	Photo employee	\$10.00
50.	Security staff	\$10.00
51.	Stable foreman	\$15.00
52.	Others not listed (e.g., track maintenance)	\$10.00
53.	Duplicate license issued to same person or entity during same year	\$10.00
54.	Farrier	\$50.00

55. Simulcast site <u>Site</u> operator	New \$1,000.00 Renew \$250.00
56. Simulcast service <u>Service</u> provider	New \$2,500.00 <u>\$7,500.00</u> Renew \$1,000.00 <u>\$2,500.00</u>
57. Totalizator companies	New \$2,500.00 Renew \$1,000.00 <u>\$1,500.00</u>

History: Effective July 1, 1989; amended effective January 1, 2008; July 1, 2011.

General Authority: NDCC ~~53-06.2-04~~, 53-06.2-05, ~~53-06.2-10~~

Law Implemented: NDCC 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08

CHAPTER 69.5-01-08

69.5-01-08-04. Calculation and distribution of pools.

1. **General.** The only pari-mutuel wagering pools permitted are for win, place, show, daily double, exacta, quinella, trifecta, pick (n) ~~pools~~, superfecta ~~pools~~, twin trifecta ~~pools~~, and tri-superfecta, twin superfecta, twin quinella, mad scramble, pick 1-2-3, and pick 1-2-3-4-5. In each pool there must be a separate and independent calculation and distribution. From each pool there must be deducted by each association the commissions as provided by state law. ~~Odd cents over any multiple of ten cents of winning per dollar wagered are deducted and retained by the licensee as breaks as the outs set forth in subsection 4 of section 69.5-01-08-11.~~ The remainder of the moneys in the pool constitute the net pool for distribution as payoff to ticketholders as set out in subsections 2 through 11.
2. **Win pool.** The amount wagered on the horse or betting interest which finished first is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the horse or betting interest finishing first, such quotient being the profit per dollar wagered to win; payoff includes return of amount wagered and profit thereon.
 - a. In the event of a dead heat for first involving horses of two different betting interests, the win pool is distributed as if a place pool; if involving horses of three different betting interests, the win pool is distributed as if a show pool.
 - b. In the event no win ticket is sold on the horse which finishes first, the net win pool is distributed to holders of win tickets on the horse finishing second.
3. **Place pool.** The amounts wagered to place on the first two horses to finish are deducted from the net pool to determine the profit; the profit is divided into two equal amounts; one-half of the profit is divided by the amount wagered to place on the first finisher, such quotient being the profit per dollar wagered to place on the first finisher; and one-half of the profit is divided by the amount wagered to place on the second finisher, such quotient being the profit per dollar wagered to place on such second finisher; payoffs include return of amount wagered and profit thereon as to each of the first two finishers.
 - a. In the event of a dead heat for first between horses representing the same betting interests, the place pool is distributed as if a win pool; if between horses representing two different betting interests, the place pools distributed as if one betting interest finished first and the other finished second; if between horses representing three

different betting interests, the place pool is distributed as if a show pool.

- b. In the event of a dead heat for second between horses representing the same betting interest, the place pool is distributed as if no dead heat occurred; if between horses representing two or more different betting interests, the profit is divided in half, with one-half allocated for wagers to place on the horse which finished first, and other half divided equally so as to allocate one-fourth of the profit on the net place pool for wagers to place on each of the two horses finishing in a dead heat for second, or one-sixth of the profit for wagers to place on each of three horses finishing in a dead heat for second.
 - c. In the event the first and second finishers comprise a single betting interest, the place pool is distributed as if a win pool.
 - d. In the event no place ticket is sold on a horse which finishes first or second, then the horse which finished third shall replace the horse in the distribution of wagers in the place pool.
4. **Show pool.** The amounts wagered to show on the first three horses to finish are deducted from the net pool to determine the profit. The profit is divided into three equal amounts; one-third of the profit is divided by the amount wagered to win on the first finisher, such quotient being the profit per dollar wagered to show on such first finisher; one-third of the profit is divided by the amount wagered to show on the second finisher, such quotient being the profit per dollar wagered to show on such second finisher; and one-third of the profit is divided by the amount wagered to show on the third finisher, such quotient being the profit per dollar wagered to show on such third finisher. Payoffs include return of amount wagered and profits thereon as to each of the first three finishers.
- a. In the event of a dead heat for first: between two horses involving different betting interests, or three horses involving three different betting interests, the show pool is distributed as if no dead heat occurred; if between two horses involving the same betting interest, two-thirds of the profit is allocated to wagers to show on the coupled betting interest, and one-third allocated to wagers to show on the other horse among the first three finishers; if between three horses involving one betting interest, the show pool is distributed as if a win pool.
 - b. In the event of a dead heat for second: between two horses involving two different betting interests, the show pool is distributed as if no dead heat occurred; if between horses involving the same betting interest, two-thirds of the profit is allocated to wagers to show on the coupled betting interest, and one-third allocated to wagers to show on the horse finishing first; if between three horses involving one, two, or three betting interests, one-third of

the profit is allocated to wagers to show on the horse finishing first, and the remaining two-thirds of the profit is divided equally by the number of betting interests finishing in a dead heat for second for proportionate distribution on wagers to show for each such betting interest finishing in a dead heat for second.

- c. In the event of a dead heat the third: between horses involving the same betting interests, the show pool is distributed as if no dead heat occurred; if between horses involving two or more betting interests, two-thirds of the profit shall be allocated to wagers to show on the first two finishers, and the remaining one-third is divided equally by the number of betting interests finishing in a dead heat for third for proportionate distribution on wagers to show for each such betting interest finishing in a dead heat for third.
 - d. In the event the first three horses to finish comprise one betting interest, the show pool must be distributed as a win pool. In the event two horses coupled as a single betting interest finish first and second, or first and third, or second and third, two-thirds of the profit must be allocated to wagers to show on the other horse among the first three finishers.
 - e. In the event one horse coupled in the betting by reason of being in the mutuel field or part of a mutuel entry finishes first or second and another horse included in the same betting interest finishes in a dead heat for third: one-half of the profit in the show pool must be allocated to wagers on such field or entry, one-third of the profit in the show pool must be allocated to wagers on the horse finishing first or second, and the remaining one-sixth of such profit must be allocated to wagers on the horse finishing in a dead heat for third with such field or entry.
 - f. In the event only two horses finish, the show pool, if any, must be distributed as if a place pool; if only one horse finishes, the place and show pools, if any, must be distributed as if a pool; if no horse finishes, all money wagered on such race must be refunded upon presentation and surrender of pari-mutuel tickets sold thereon. In the event no show ticket is sold on a horse which finishes first, or second, or third, then, the horse which finished fourth shall replace that horse in the distribution of wager in the show pool.
5. **Daily double pool.** The amount wagered on the winning combination, such being the horse or betting interest which finishes first in the first daily double race, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, such quotient being the profit per dollar wagered on the winning daily double combination; payoff includes the amount wagered and profit thereon.

- a. In the event of a dead heat for first involving two different betting interests, in one of the two daily double races, the daily double pool is distributed as if a place pool, with half the profit allocated to wagers combining the single winner of one daily double race and of the betting interests involved in the dead heat in the other daily double race, with the other half of the profit allocated to wagers combining the single winner of one daily double race and the other betting interest involved in the dead heat in the other daily double race.
- b. In the event of dead heats for first involving different betting interests in each of the daily double races, resulting in four, or six, or nine, winning combinations for proportionate allocation for each such winning daily double wager.
- c. In the event no daily double ticket is sold combining the horse or betting interest which finishes first in one of the daily double races, the daily double pool is distributed as if a win pool with the profit allocated to the wagering combination which includes the horse or betting interest which finished first in one of the daily double races.
- d. In the event no daily double ticket is sold combining the horses or betting interest which finished first in both the first and second race of the daily double, then the winning combination for distribution of the daily double profit must be that combining the horses or betting interests which finished second in each of the daily double races.
- e. If after daily double wagering has commenced and a horse not coupled with another as a betting interest in the first race of the daily double is excused by the stewards or is prevented from racing because of failure of the starting gate to open properly, then daily double wagers combining such horse must be deducted from the daily double pool and refunded upon presentation and surrender of daily double tickets thereon.
- f. If, prior, to closing of the daily double wagering, a scheduled starter in the second half on the daily double which is not coupled in the betting with another horse is excused by the stewards, then daily double wagers combining such horse must be deducted from the daily double pool and refunded upon presentation and surrender of daily double tickets thereon.
- g. If after the first race of the daily double has been run, and a horse not coupled with another as a betting interest in the second race of the daily double is excused by the stewards or prevented from racing because of failure of the starting gate door to open properly, then daily double wagers combining the winner of the first daily double race with such horses prevented from racing in the second daily double race must be allocated consolation payoffs.

- h. Consolation daily double payoffs must be determined by dividing the net daily double pool by the amount wagered combining the winner of the first daily double race with every horse or betting interest scheduled to start in the second daily double race, such quotient being the consolation payoff per dollar wagered combining the winner of the first daily double with such horse prevented from riding in the second daily double race. Such consolation payoffs must be deducted from the net daily double pool before calculation and allocation of wagers on the winning daily double combination.
 - i. If for any reason the first daily double race is canceled or declared "no race" by the stewards, then the entire daily double pool must be refunded upon presentation and surrender of daily double tickets thereon. If for any reason the second daily double race is canceled or declared "no race" by the stewards after the first daily double race is declared official, then the net daily double pool must be distributed to wagering combinations which include the horse or betting interest which finished first in the first daily double race.
 - j. If no daily double ticket is sold requiring distribution, then the entire daily double pool must be refunded upon presentation and surrender of daily double tickets thereon.
6. **Quinella pool.** The amount wagered on the winning combination, such being the first two finishers irrespective of which horse finishes first and which horse finishes second, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, such quotient being the profit per dollar wagered on the winning quinella combination; payoff includes the amount wagered and profit thereon.
- a. In the event of a dead heat for first: between horses involving two different betting interests, the net quinella pool is distributed as if no dead heat occurred; if between horses involving three different betting interests, the net quinella pool is distributed as if a show pool and is allocated to wagers combining any of the three horses finishing in a dead heat for first.
 - b. In the event of a dead heat for second: between horse involving two different betting interests, the net quinella pool is distributed as if a place pool and is allocated to wagers combining the first finisher with either horse finishing in a dead heat for second; if between horses involving three different betting interests, the net quinella pool is distributed as if a show pool, and allocated to wagers combining the first horse with each of the three horses finishing in a dead heat for second.
 - c. In the event horses representing a single betting interest finish first and second, the net quinella pool must be allocated to wagers

combining such single betting interest with the horse or betting interest which finishes third.

d. In the event no quinella ticket is sold combining:

- (1) The first finisher with one of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the first finisher with the other horse finishing in a dead heat for second.
- (2) The second finisher with either of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the two horses which finished in the dead heat for second.
- (3) The first finisher with either of the horses finishing in a dead heat for second or combining the two horses which finished in a dead heat for second, then the net quinella pool is distributed as if a show pool and is allocated to wagers combining any of the first three finishers with any other horses.
- (4) The first two finishers, then the net quinella pool must be distributed as if a place pool and is allocated to wagers combining the first finisher with any other horses, and wagers combining the second finisher with any other horse.
- (5) Horses or betting interest as would require distribution, then the entire quinella pool must be refunded upon presentation and surrender of quinella tickets thereon.

7. **Exacta pool.** The exacta pool is a contract by the purchaser of a ticket combining two horses in a single race, selecting the two horses that will subsequently finish first and second in that race. Payment of the ticket may be made only to the purchaser who has selected the same order of finish as officially posted.

- a. The exacta is not a parlay and has no connection with or relation to the win, place, and show betting and will be calculated as an entirely separate pool.
- b. If no ticket is sold on the winning combination of an exacta pool, the net pool must be distributed equally between holders of tickets selecting the winning horse to finish first or holders of tickets selecting the second place horse to finish second or both.
- c. If no ticket is sold that would require distribution of an exacta pool to winners as above defined, the association shall make a complete and full refund of exacta pool.

- d. In case of a dead heat between two horses for first place, the net exacta pool must be calculated and distributed as a place pool to holders of tickets of the winning combinations. In case of a dead heat between two horses for second place, the exacta pool must be figured as a place pool, the holders of tickets combining the winning horse and the two horses finishing second participating in the payoff.
 - e. In the event of a dead heat for second place, if no ticket is sold on one of the two winning combinations, the entire net pool must be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the exacta pool must be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.
 - f. In the event of an entry finishing first and second, the net exacta pool must be distributed to holders of tickets selecting the entry to win combined with the horse finishing third.
8. **Trifecta pool.** The trifecta pool is a contract by the purchaser of a ticket combining three horses in a single race that will subsequently finish first, second, and third in that race. Payment of the ticket may be made only to the purchaser who has selected the same order of finish as officially posted.
- a. The trifecta is not a parlay and has no connection with the relation to the win, place, and show betting and will be calculated as an entire separate pool.
 - b. If no ticket is sold on the winning combination of the trifecta pool, the net pool must be distributed in that order. If no ticket is sold combining the win and place finish then that pool must be distributed to the holders of tickets selecting the winner. If less than three horses finish the payoff will be made to holders of tickets selecting the finishing horses in order, ignoring the balance of the selection.
 - c. If no ticket is sold that would require distribution of the net trifecta pool to a winner as above defined, the association shall make a full refund of the trifecta pool.
 - d. In the event of a dead heat or dead heats all trifecta tickets selecting the correct order of finish counting a horse in a dead heat as finishing in either position dead heated must be winning tickets. The payoff will be calculated as a place pool.

- e. In the event of a scratch in the trifecta, no exchanges will be made. All tickets which include the scratched horse are eliminated from further participation of the trifecta pool and will be refunded.

9. Pick (n) pools.

- a. The pick (n) requires selection of the first-place finisher in each of a designated number of contests. The association must obtain written approval from the commission concerning the scheduling of pick (n) contests, the designation of one of the methods prescribed in subdivision b, and the amount of any cap to be set on the carryover. Any changes to the approved pick (n) format require prior approval from the commission.
- b. The pick (n) pool shall be apportioned under one of the following methods:
 - (1) Method 1, pick (n) with carryover. The net pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; and the remainder shall be added to the carryover.
 - (2) Method 2, pick (n) with minor pool and carryover. The major share of the net pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) contests, the minor who selected the first-place finisher in the greatest number of pick (n) contests; and the major share shall be added to the carryover.
 - (3) Method 3, pick (n) with no minor pool and no carryover. The net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.
 - (4) Method 4, pick (n) with minor pool and no carryover. The major share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the greatest

number of pick (n) contests, based upon the official order of finish. The minor horse of the pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) contests, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

- (5) Method 5, pick (n) with minor pool and no carryover. The major share of net pick (n) pool shall be distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish. The minor place finisher in the second greatest number of pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all pick (n) contests, the entire net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests. If there are no wagers selecting the first-place finisher in a second greatest contest, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) contests. If there are no winning wagers, the pool is refunded.
- (6) Method 6, pick (n) with minor pool, jackpot pool, major carryover and jackpot carryover. Predetermined percentages of the net pick (n) pool shall be set aside as a major pool, minor pool, and jackpot pool. The major share of the net pick (n) pool and the major carryover, if any, shall be distributed to those who selected the first-place finisher of each of the pick (n) contests, based on the official order of finish. If there are no tickets selecting the first-place finisher in each of the pick (n) contests, the major net pool shall be added to the major carryover. If there is only one single ticket selecting the first-place finisher of each of the pick (n) contests, based on the official order of finish, the jackpot share of the net pick (n) pool and the jackpot carryover, if any, shall be distributed to the holder of that single ticket, along with the major net pool and the major carryover, if any. If more than one ticket selects the first-place finisher of each of the pick (n) contests the jackpot net pool shall be added to the jackpot carryover. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher of the second greatest number of pick (n) contests, based on the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) contests, the minor net pool of the pick

- (n) pool shall be distributed as a single price pool to those who selected the first-place finisher of the greatest number of pick (n) contests.
- (7) Method 7, pick (n) with no minor pool and carryover. The net pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) contests, based on the official order of finish. If there are no such wagers, the net pick (n) pool shall be added to the carryover.
- c. If there is a dead heat for the first in any pick (n) contests involving:
- (1) Contestants representing the same betting interest, the pick (n) pool shall be distributed as if no dead heat occurred.
 - (2) Contestants representing two or more betting interests, the pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.
- d. Should a betting interest in any of the pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the host association for the contest as the close of wagering on that contest, shall be substituted for the scratch betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program combinations with substituted betting interests which became winners as a result to the substitution, in addition to the normal winning combination.
- e. The pick (n) pool shall be canceled and all pick (n) wagers for the individual performance shall be refunded if:
- (1) All three contests included as part of a pick 3 are canceled or declared no contest.
 - (2) At least three contests included as part of a pick 4, pick 5, or pick 6 are canceled or declared no contest.
 - (3) At least four contests included as part of a pick 7, pick 8, or pick 9 are canceled or declared no contest.
 - (4) At least five contests included as part of a pick 10 are canceled or declared no contest.
- f. If at least one contest included as part of a pick (n) is canceled or declared no contest, but not more than the number specified in subdivision e, the net pool shall be distributed as a single price

pool to those whose selection finished first in the greatest number of pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous performances.

9. The pick (n) carryover may be capped as designated level approved by the commission so that if, at the close of any performance, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the pick (n) carryover is frozen, one hundred percent of the net pool, part of which ordinarily would be added to the pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of pick (n) contests for that performance.
- h. A written request for permission to distribute the pick (n) carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.
- i. Should the pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) contests. The pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:
 - (1) Upon written approval from the commission as provided in subdivision h.
 - (2) Upon written approval from the commission when there is a change in the carryover cap, a change from one type of pick (n) wagering to another or when the pick (n) is discontinued.
 - (3) On the closing performance of the meet or split meet.
- j. If for any reason, the pick (n) carryover must be held over to the corresponding pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick (n) carryover plus accrued interest shall then be added to the net pick (n) pool of the following meet on a date and performance so designated by the commission.

- k. With the written approval of the commission, the association may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.
- l. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.
- m. The association may suspend previously approved pick (n) wagering with the prior approval of the commission. Any carryover shall be held until the suspended pick (n) wagering is reinstated. An association may request approval of a pick (n) wager or separate wagering pool for specific performances.

10. Twin trifecta pools.

- a. The twin trifecta requires selection of the first three finishers, in their exact order, in each of two designated contests. Each winning ticket for the first twin trifecta contest must be exchanged for a free ticket on the second twin trifecta contest in order to remain eligible for the second-half twin trifecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second twin trifecta contest. Winning first-half twin trifecta wagers will receive both an exchange and a monetary payout. Both of the designated twin trifecta contests shall be included in only one twin trifecta pool.
- b. After wagering closes for the first half of the twin trifecta and commissions have been deducted from the pool, the net pool shall then be divided into separate pools: the first-half twin trifecta pool and the second-half twin trifecta pool.
- c. In the first twin trifecta contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin trifecta contest:
 - (1) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers; then
 - (2) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers; then
 - (3) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers; then

- (4) The entire twin trifecta pool shall be refunded on twin trifecta wagers for that contest and the second-half shall be canceled.
- d. If no first-half twin trifecta ticket selects the first three finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin trifecta pool. In such case, the second-half twin trifecta pool shall be retained and added to any existing twin trifecta carryover pool.
- e. Winning tickets from the first-half of the twin trifecta shall be exchanged for tickets selecting the first three finishers of the second-half of the twin trifecta. The second-half twin trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta contest:
 - (1) As a single price pool, including any existing carryover moneys, to those whose combination finished in correct sequence as the first three betting interests; but if there are no such tickets; then
 - (2) The entire second-half twin trifecta pool for the contest shall be added to any existing carryover moneys and retained for the corresponding second-half twin trifecta pool of the next consecutive performance.
- f. If a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta contest, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool, except where expressly provided in subdivision m.
- g. Coupled entries and mutual fields may be permitted in twin trifecta contests with the prior written approval of the commission.
- h. Should a betting interest in the first-half of the twin trifecta be scratched, those twin trifecta wagers including the scratched betting interest shall be refunded.
- i. Should a betting interest in the second-half of the twin trifecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest.
- j. If, due to a late scratch, the number of betting interests in the second-half of the twin trifecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning

tickets shall be entitled to the second-half twin trifecta pool for that contest as a single price pool, but not the twin trifecta carryover.

- k. If there is a dead heat or multiple dead heats in either the first-half or second-half of the twin trifecta, all twin trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:
 - (1) The first-half of the twin trifecta, the payout shall be calculated as a profit split.
 - (2) The second-half of the twin trifecta, the payout shall be calculated as a single price pool.
- l. If either of the twin trifecta contests are canceled prior to the first twin trifecta contest or the first twin trifecta contest is declared no contest, the entire twin trifecta pool shall be refunded on twin trifecta wagers for the contest and the second-half shall be canceled.
- m. If the second-half twin trifecta contest is canceled or declared no contest, all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that contest as a single price pool, but not twin trifecta carryover. If there are no such tickets, the net twin trifecta pool shall be distributed as described in subdivision c.
- n. The twin trifecta carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the twin trifecta carryover equals or exceeds the designated cap, the twin trifecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the twin trifecta carryover is frozen, one hundred percent of the net twin trifecta pool for each individual contest shall be distributed to winners of the first-half of the twin trifecta pool.
- o. A written request for permission to distribute the twin trifecta carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.
- p. Should the twin trifecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the twin trifecta after completion of the first-half of the twin trifecta:

- (1) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers; then
 - (2) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers; then
 - (3) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers; then
 - (4) As a single price pool to holders of valid exchange tickets.
 - (5) As a single price pool to holders of outstanding first-half winning tickets.
- q. Contrary to subdivision d, during a performance designated to distribute the twin trifecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the twin trifecta. If there are no wagers correctly selecting the first-place, second-place, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place and second-place betting interests. If there are no wagers correctly selecting the first-place and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only in the first-half of the twin trifecta, all first-place tickets will become winners and will receive one hundred percent of that day's net twin trifecta pool and any existing twin trifecta carryover.
- r. The twin trifecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:
- (1) Upon written approval from the commission as provided in subdivision o.
 - (2) Upon written approval from the commission when there is a change in the carryover cap or when the twin trifecta is discontinued.
 - (3) On the closing performance of the meet or split meet.
- s. If, for any reason, the twin trifecta carryover must be held over to the corresponding twin trifecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The twin trifecta carryover plus

accrued interest shall then be added to the second-half twin trifecta pool of the following meet on a date and performance so designated by the commission.

- t. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.
- u. The association must obtain written approval from the commission concerning the scheduling of twin trifecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved twin trifecta format require prior approval from the commission.

11. Tri-superfecta pools.

- a. The tri-superfecta requires selection of the first three finishers, in the exact order, in the first of two designated contests and the first four finishers, in exact order, in the second of the two designated contests. Each winning ticket for the first tri-superfecta contest must be exchanged for a free ticket on the second tri-superfecta contest in order to remain eligible for the second-half tri-superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second tri-superfecta contest. Winning first-half tri-superfecta tickets will receive both an exchange and a monetary payout. Both of the designated tri-superfecta contests shall be included in only one tri-superfecta pool.
- b. After wagering closes for the first-half of the tri-superfecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools, the first-half tri-superfecta pool and the second-half tri-superfecta pool.
- c. In the first tri-superfecta contest only, winning tickets shall be determined using the following precedence, based upon the official order of finish for the first tri-superfecta contest:
 - (1) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers; then
 - (2) As a single price pool to those whose combination included, in correct sequence as the first two betting interests; but if there are no such wagers; then

- (3) As a single price pool to those whose combination correctly selected the first-place betting interests, but if there are no such wagers; then
 - (4) The entire tri-perfecta pool shall be refunded on tri-perfecta wagers for that contest and the second-half shall be canceled.
- d. If no first-half tri-perfecta ticket selects the first three finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half tri-perfecta pool. In such case, the second-half tri-perfecta pool shall be retained and added to any existing tri-perfecta carryover pool.
- e. Winning tickets from the first-half of the tri-perfecta shall be exchanged for tickets selecting the first four finishers of the second-half of the tri-perfecta. The second-half tri-perfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second tri-perfecta contest:
 - (1) As a single price pool, including any existing carryover moneys, to those whose combination finished in correct sequence as the first four betting interests; but if there are no such tickets; then
 - (2) The entire second-half tri-perfecta pool for that contest shall be added to any existing carryover moneys and retained for the corresponding second-half tri-perfecta pool of the next performance.
- f. If a winning first-half tri-perfecta ticket is not presented for cashing and exchange prior to the second-half tri-perfecta contest, the ticket holder may still collect the monetary value associated with the first-half tri-perfecta pool but forfeits all rights to any distribution of the second-half tri-perfecta pool, except where expressly provided in subdivision m.
- g. Couple entries and mutuel fields may be permitted in tri-perfecta contests with the prior written approval of the commission.
- h. Should a betting interest in the first-half of the tri-perfecta be scratched, those tri-perfecta tickets, including the scratched betting interest shall be refunded.
- i. Should a betting interest in the second-half of the tri-perfecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest.

- j. If, due to a late scratch, the number of betting interests in the second-half of the tri-superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half tri-superfecta pool for that contest as a single price pool, but not the tri-superfecta carryover.
- k. If there is a dead heat or multiple dead heats in either the first-half or second-half of the tri-superfecta, all tri-superfecta tickets selecting the correct order of finish counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner, in the case of a dead heat occurring in:
 - (1) The first-half of the tri-superfecta, the payout shall be calculated as a profit split.
 - (2) The second-half of the tri-superfecta, the payout shall be calculated as a single price pool.
- l. If either of the tri-superfecta contests are canceled prior to the first tri-superfecta contest or the first tri-superfecta contest is declared no contest, the entire tri-superfecta pool shall be refunded on tri-superfecta wagers for that contest and the second-half shall be canceled.
- m. If the second-half of the tri-superfecta contest is canceled or declared no contest, all exchange tickets and outstanding first-half winning tri-superfecta tickets shall be entitled to the net tri-superfecta pool for that contest as a single price pool, but not the tri-superfecta carryover. If there are no such tickets, the net tri-superfecta pool shall be distributed as described in subdivision c.
- n. The tri-superfecta carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the tri-superfecta carryover equals or exceeds the designated cap, the tri-superfecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the second-half tri-superfecta carryover is frozen, one hundred percent of the net tri-superfecta pool for each individual contest shall be distributed to winners for the first-half of the tri-superfecta pool.
- o. A written request for permission to distribute the tri-superfecta carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

- p. Should the tri-superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the tri-superfecta after completion of the first-half of the tri-superfecta:
- (1) As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers; then
 - (2) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers; then
 - (3) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers; then
 - (4) As a single price pool to those whose combination included, in correct sequence, the first-place betting interests only; but if there are no such wagers; then
 - (5) As a single price pool to holders of valid exchange tickets.
 - (6) As a single price pool to holders of outstanding first-half winning tickets.
- q. Contrary to subdivision d, during a performance designated to distribute the tri-superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the tri-superfecta. If there are no wagers correctly selecting the first-place, second-place, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place and second-place betting interests. If there are no wagers correctly selecting the first-place and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the tri-superfecta, all first-half tickets will become winners and will receive one hundred percent of that day's net tri-superfecta pool and any existing tri-superfecta carryover as a single price pool.
- r. The tri-superfecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:
- (1) Upon written approval from the commission as provided in subdivision o.

- (2) Upon written approval from the commission when there is a change in the carryover cap or when the tri-superfecta is discontinued.
 - (3) On the closing performance of the meet or split meet.
- s. If, for any reason, the tri-superfecta carryover must be held over to the corresponding tri-superfecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The tri-superfecta carryover plus accrued interest shall then be added to the second-half tri-superfecta pool of the following meet on a date and performance so designated by the commission.
 - t. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.
 - u. The association must obtain written approval from the commission concerning the scheduling of tri-superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to be approved tri-superfecta format require prior approval from the commission.

12. Twin superfecta pools.

- a. The twin superfecta requires selection of the first four finishers, in their exact order, in each of two designated contests. Each winning ticket for the first twin superfecta contest must be exchanged for a free ticket on the second twin superfecta contest in order to remain eligible for the second-half twin superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second twin superfecta contest. Winning first-half twin superfecta tickets will receive both an exchange and a monetary payout. Both of the designated twin superfecta contests shall be included in only one twin superfecta pool.
- b. After wagering closes for the first-half of the twin superfecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools: the first-half twin superfecta pool and the second-half twin superfecta pool.

13. Superfecta pools.

- a. The superfecta requires selection of the first four finishers in their exact order for a single contest.
- b. The net superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
 - (1) As a single price pool to those whose combination finished in correct sequence as the first four betting interests, but if there are no such wagers; then
 - (2) As a single price pool to those whose combination included, in correct sequence, the first three betting interests, but if there are no such wagers; then
 - (3) As a single price pool to those whose combination included, in correct sequence, the first two betting interests, but if there are no such wagers; then
 - (4) As a single price pool to those whose combination correctly selected the first-place betting interest only, but if there are no such wagers; then
- c. If less than four betting interests finish and the contest is declared official, payouts will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest shall be ignored.
- d. If there is a dead heat for first involving:
 - (1) Contestants representing the four or more betting interests, all of the wagering combinations selecting the four betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.
 - (2) Contestants representing three betting interests, all of the wagering combinations selecting the three dead-heated betting interests, irrespective of order, along with the fourth-place betting interest shall share in a profit split.
 - (3) Contestants representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests shall share in a profit split.
- e. If there is a dead heat for second involving:
 - (1) Contestants representing three or more betting interests, all of the wagering combinations correctly selecting the winner

combined with any of the three betting interests involved in the dead heat for second share in a profit split.

- (2) Contestants representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place betting interests shall share in a profit split.
- f. If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence along with any two of the betting interests involved in the dead heat for third shall share in a profit split.
- g. If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth shall share in a profit split.
- h. Coupled entries and mutual fields shall be prohibited in superfecta contests.

14. Twin quinella pools.

- a. The twin quinella requires selection of the first two finishers, irrespective of order, in each of two designated contests. Each winning ticket for the first twin quinella contest must be exchanged for a free ticket on the second twin quinella contest in order to remain eligible for the second-half twin quinella pool. Such tickets may be exchanged only at attended ticket windows prior to the second twin quinella contest. Both of the designated twin quinella contests shall be included in only one twin quinella pool.
- b. In the first twin quinella contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin quinella contest:
 - (1) If coupled entry of mutual field finishes as the first two finishers, those who selected the coupled entry or mutual field combined with the next separate betting interest in the official order of finish shall be winners; otherwise
 - (2) Those whose combination finished as the first two betting interests shall be winners, but if there are no such wagers; then
 - (3) Those whose combination included either the first-place or second-place finisher shall be winners, but if there are no such wagers on one of those two finishers; then

- (4) Those whose combination included the one covered betting interest included within the first two finishers shall be winners, but if there are no such wagers; then
- (5) The entire pool shall be refunded on twin quinella wagers for that contest.

15. Mad scramble pool.

- a. The mad scramble pool requires selection of the official first six place finishers, in their exact positions, in designated contests. The service provider must obtain written approval from the commission and site operator concerning the scheduling of the mad scramble contests and designate the percentage of the amount of carryover. The mad scramble pool consists of a daily pool and jackpot carryover and must have predetermined percentages set aside for the daily pool designated to winners who selected the first six place finishers. The daily pool will be distributed to the winners who selected the first six place finishers, in their exact positions, and they will then be eligible for the random drawing of the numbers assigned to the wager's ticket to be drawn for the awarding of the jackpot pool. To be awarded the jackpot pool, the winner of the daily pool must have the matching number on the person's ticket that is drawn randomly from the group of sixty numbers. Any changes to the approved mad scramble format require prior approval from the commission and the site operator.
- b. Unless otherwise stated, the major share of the net mad scramble pool shall be distributed as a single price pool to those who selected all six finishers, in exact positions, based upon the official order of finish.
- c. The mad scramble pool shall be apportioned with no minor pool and carryover by choosing the first six horses in exact order of finish. The service provider must make a written request to the commission and the site operator for approval to offer consolation and minor pools in the mad scramble pool, and be granted approval before implementation.
 - (1) The net mad scramble pool shall be distributed in accordance with the method for distributing the major share to all winners who selected the first six place finishers, in exact positions.
 - (2) If there are no wagers qualifying for the major share, the net major share shall be added to the carryover.
- d. If there is a dead heat in the mad scramble pool involving:

- (2) Contestants representing the same betting interest, the daily pool will be distributed as if no dead heat occurred.
 - (2) Contestants representing two or more betting interests, the daily pool will be distributed as a single price pool with each winning wager receiving an equal share of the profit.
- e. The mad scramble pool shall be canceled and all mad scramble wagers for the individual performance shall be refunded under the following conditions:
 - (1) If the mad scramble contests are canceled or declared no contest prior to the first mad scramble contest being declared official, the entire mad scramble pool shall be refunded on wagers for those contests.
 - (2) If all remaining mad scramble contests are canceled or declared no contests after the first mad scramble contest is declared official, the entire mad scramble pool, but not the mad scramble carryover, shall be distributed as a single price pool to wagers selecting the winning combination in the mad scramble contest. However, if there are no wagers selecting the winning combination in the mad scramble contest, the entire pool shall be refunded on wagers for those contests.
- f. Mandatory distribution.
 - (1) The service provider must submit a written request to the commission and the site operator for permission to distribute the mad scramble carryover on a specific performance. The request to the commission and site operator shall contain justification for the mandatory distribution, an explanation of the benefit to be derived, and the intended date and performance of the distribution. The service provider must notify the commission and site operator at least ten days prior to implementation. If the mad scramble pool cannot be distributed during a designated performance, the mandatory distribution shall resume on the next approved mandatory distribution performance.
 - (2) If the mad scramble carryover is designated for distribution on a specific date and performance, and if there are no wagers qualifying for the major share, which is sixty-five percent of the pool, then the following precedence shall be followed in determining the winning wagers for the mad scramble pool and carryover pool:

- (a) The major share and the mad scramble carryover shall be distributed as a single price pool to those who selected all six finishers, in exact positions, based upon the official order of finish, and who have received a matching random number selected through a drawing of one of sixty numbers, minus the service provider or racetrack take-out.
 - (b) The major share and the mad scramble carryover shall be distributed as a single price pool to those who correctly selected the most finishers, in their exact positions, based upon the official order of finish.
 - g. If for any reason, the mad scramble carryover must be held over to the corresponding mad scramble pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission and the site operator. The mad scramble carryover plus accrued interest shall then be added to the mad scramble pool of the following meet on a date and performance so designated by the commission and approved by the site operator.
 - h. With written approval of the commission and the site operator, the service provider may contribute to the mad scramble carryover a sum of money to be designated by the service provider or the racetrack. Moneys contributed to the pool may be withdrawn when the pool accumulation totals the moneys contributed.
 - i. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.
 - j. The service provider may suspend previously approved mad scramble wagering with prior approval from the commission and upon notification to the site operator. Any carryover shall be held until the suspended mad scramble wagering is reinstated. A service provider may request approval of the mad scramble wager or a separate mad scramble wagering pool for specific performances.
16. **Pick 1-2-3 pool.** The pick 1-2-3 pool requires selection of the first three finishers, irrespective of order, in each of three designated contests. Payment of the ticket may be made only to the purchaser who has selected the qualifying finishers in three designated races.

- a. Pick 1-2-3 requires a selection of a combination of either nine, eight, seven, or six, first, second, and third place finishers, in any order, in three consecutive races that are designated as pick 1-2-3 races to qualify for a payout. There will be no monetary award for the winning combination for winning the first pick 1-2-3 race or any combination of five or less qualifiers in each of the three races.
- b. The service provider must obtain written approval from the commission and site operator concerning the scheduling of the pick 1-2-3 contests, the designation of qualifying races, and the cap to be set on the carryover. Any changes to the pick 1-2-3 wager format requires prior approval from the commission and the site operator.
- c. The pick 1-2-3 pool and carryover, if any, shall be distributed as a single price pool to those who selected the winning combination of the top three finishers in three races, or a decreasing scale of qualifiers eight of nine, seven of nine, or six of nine, in the following payout method:
 - (1) Fifty percent of net pool and accumulated jackpot divided between players selecting nine of nine.
 - (2) Thirty percent of net pool divided between players selecting eight of nine.
 - (3) Fifteen percent of net pool divided between players selecting seven of nine.
 - (4) Five percent of net pool divided between players selecting six of nine.
 - (5) If there are no winning wagers for the nine of nine winners, then fifty percent of the net pool carryover will be added to the next pick 1-2-3 race in the race meet schedule.
 - (6) If there are no winning wagers for the eight of nine winners, then thirty percent of the net pool carryover will be added to the next pick 1-2-3 race in the race meet schedule.
 - (7) If there are no winning wagers for the seven of nine winners, then fifteen percent of the net pool carryover will be added to the next pick 1-2-3 race in the race meet schedule.
 - (8) If there are no winning wagers for the six of nine winners, then five percent of the net pool carryover will be added to the next pick 1-2-3 race in the race meet schedule.

- d. Dead heats. In the event of a dead heat in any of the position pick 1-2-3 contest based upon the official order of finish for the purposes of determining whether a wager correctly selected the finishers in exact position, contestants in a dead heat are deemed to jointly occupy both or all positions in the dead heat. For example, if five and six finish in a dead heat for first, then a selection of five for either first or second is correct and a selection of six for either first or second is also correct.
- e. Scratches.
- (1) If, due to a late scratch, the number of betting interests in a contest of the pick 1-2-3 pool is reduced to fewer than six contestants, for the purposes of the pick 1-2-3 pool only, such contests shall be declared no contest and the pick 1-2-3 pool shall be declared a canceled contest.
 - (2) Should a betting interest in any contest of the pick 1-2-3 pool be scratched or excused from the contest, no more wagers shall be accepted selecting that scratched contestant.
 - (3) Scratch contestant losers:
 - (a) The scratch contestant is deemed to be a loser, for the purposes of the pick 1-2-3 pool only.
 - (b) Other correctly selected finishers in the pick 1-2-3 shall continue to count toward winning, as usual.
- f. Canceled contests.
- (1) If any of the pick 1-2-3 contests are canceled or declared no contest prior to the first pick 1-2-3 contest being declared official, the daily pick 1-2-3 pool shall be refunded on the pick 1-2-3 wagers for those contests.
 - (2) If all remaining pick 1-2-3 contests are canceled or declared no contest after the first pick 1-2-3 contest is declared official, the entire net pick 1-2-3 pool, but not the pick 1-2-3 carryover, shall be distributed as a single price pool to wagers selecting the winning combination in the first pick 1-2-3 contest. However, if there are no wagers selecting the winning combination in the first pick 1-2-3 contest, the daily pick 1-2-3 pool shall be refunded on pick 1-2-3 wagers for those contests.
- g. Mandatory distribution. The service provider must submit a written request for permission to distribute the pick 1-2-3 carryover on a specific performance to the commission and site operator. The

request shall contain justification for the mandatory distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. The service provider must notify the commission at least ten days prior to implementation. If the pick 1-2-3 pool cannot be distributed during a designated performance, the mandatory distribution shall resume on the next approved mandatory distribution performance.

17. Pick 1-2-3-4-5 pool. Pick 1-2-3-4-5 requires selection of the first five finishers, irrespective of order, in each of three designated contests. Payment of the ticket may be made only to the purchaser who has selected the qualifying finishers in three designated races.

a. Pick 1-2-3-4-5 requires the selection of a combination of either fifteen, fourteen, thirteen, or twelve first, second, third, fourth, and fifth place finishers, in any order, in three consecutive races that are designed as pick 1-2-3-4-5 races to qualify for a payout. There will be no monetary award for the winning combination for winning the first pick 1-2-3-4-5 race or any combination of eleven or less qualifiers in each of the three races.

b. The service provider must obtain written approval from the commission and the site operator concerning the scheduling of the pick 1-2-3-4-5 contests, the designation of qualifying races and the cap to be set on the carryover. Any changes to the pick 1-2-3-4-5 wager format require prior approval from the commission and the site operator.

c. The pick 1-2-3-4-5 pool and carryover, if any, shall be distributed as a single price pool to those who selected the first five finishers in three races or a decreasing scale of qualifiers fifteen of fifteen, fourteen of fifteen, thirteen of fifteen, or twelve of fifteen in the following payout method:

(1) Fifty percent of net pool and accumulated jackpot divided between players selecting fifteen of fifteen.

(2) Thirty percent of net pool divided between players selecting fourteen of fifteen.

(3) Fifteen percent of net pool divided between players selecting thirteen of fifteen.

(4) Five percent of net pool divided between players selecting twelve of fifteen.

(5) If there are no winning wagers for the fifteen of fifteen winners, then fifty percent of the net pool carryover will be added to the next pick 1-2-3-4-5 race in the race meet schedule.

- (6) If there are no winning wagers for the fourteen of fifteen winners, then thirty percent of the net pool carryover will be added to the next pick 1-2-3-4-5 race in the race meet schedule.
- (7) If there are no winning wagers for the thirteen of fifteen winners, then fifteen percent of the net pool carryover will be added to the next pick 1-2-3-4-5 race in the race meet schedule.
- (8) If there are no winning wagers for the twelve of fifteen winners, then five percent of the net pool carryover will be added to the next pick 1-2-3-4-5 race in the race meet schedule.

d. Dead heats. In the event of a dead heat in any of the position pick 1-2-3-4-5 contests based upon the official order of finish for the purposes of determining whether a wager correctly selected the finishers in exact position, contestants in a dead heat are deemed to jointly occupy both or all positions in the dead heat. For example, if five and six finish in a dead heat for first, then a selection of five for either first or second is correct and a selection of six for either first or second is also correct.

e. Scratches.

- (1) If, due to a late scratch, the pick 1-2-3-4-5 pool is reduced to fewer than six contestants, for the purposes of the pick 1-2-3-4-5 pool only, such contests shall be declared no contest and the pick 1-2-3-4-5 pool shall be declared a canceled contest.
- (2) Should a betting interest in any contest of the pick 1-2-3-4-5 pool be scratched or excused from the contest, no more wagers shall be accepted selecting that scratched contestant.
- (3) Scratch contestant losers:
 - (a) The scratch contestant is deemed to be a loser, for the purposes of the pick 1-2-3-4-5 pool only.
 - (b) Other correctly selected finishers in the pick 1-2-3-4-5 shall continue to count toward winning, as usual.

Canceled contests.

- (1) If any of the pick 1-2-3-4-5 contests are canceled or declared no contest prior to the first pick 1-2-3-4-5 contest being

declared official, the entire pick 1-2-3-4-5 pool shall be refunded on the pick 1-2-3-4-5 wagers for those contests.

(2) If all remaining pick 1-2-3-4-5 contests are canceled or declared no contest after the first pick 1-2-3-4-5 contest is declared official, the entire net pick 1-2-3-4-5 pool, but not the pick 1-2-3-4-5 carryover, shall be distributed as a single price pool to wagers selecting the winning combination in the first pick 1-2-3-4-5 contest. However, if there are no wagers selecting the winning combination in the first pick 1-2-3-4-5 contest, the entire pick 1-2-3-4-5 pool shall be refunded on pick 1-2-3-4-5 wagers for those contests.

g. Mandatory distribution. The service provider must submit a written request for permission to distribute the pick 1-2-3-4-5 carryover on a specific performance to the commission and site operator. The request shall contain justification for the mandatory distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. The service provider must notify the commission at least ten days prior to implementation. If the pick 1-2-3-4-5 pool cannot be distributed during a designated performance, the mandatory distribution shall resume on the next approved mandatory distribution performances.

h. Coupled entries and mutuel fields. Coupled entries and mutuel fields are not permitted in pick 1-2-3-4-5 contests.

18. Refunds. After Unless otherwise provided, after wagering has commenced, if a horse not coupled with another as a betting interest is excused by the stewards or is prevented from racing because of failure of the starting gate door to open properly, the wagers on such horse must be deducted from the pools, and refunded upon presentation and surrender thereof. If more than one horse represents a single betting interest by reason of coupling as a mutuel entry or mutuel field, such single betting interest being the sole subject of a wager or part of a combination then there may be no refund unless all of the horses representing such single betting interest are excused by the stewards or are prevented from racing because of failure of the starting gate doors to open properly, or both.

~~46. 19.~~ **Race canceled.** If for any reason a race is canceled or declared "no race" by the stewards after wagering has commenced on such race, then all wagering thereon must be refunded upon presentation and surrender of pari-mutuel tickets thereon; ~~except as to daily double wagers upon cancellation of the second daily double race, which must be distributed as provided under subsection 5~~ otherwise provided.

~~47. 20.~~ **Totalizator breakdown.** In the event of an irreparable breakdown of the totalizator during the wagering on a race, the wagering on that race

must be declared closed and the payoff must be computed on the sums wagered in each pool up to the time of the breakdown.

History: Effective July 1, 1989; amended effective January 1, 2008; July 1, 2011.

General Authority: NDCC ~~53-06.2-04~~, 53-06.2-05, ~~53-06.2-10~~

Law Implemented: NDCC 53-06.2-06, 53-06.2-10, 53-06.2-10.1, 53-06.2-11

**CHAPTER 69.5-01-09
NORTH DAKOTA BREEDERS' FUND**

Section	
69.5-01-09-01	Definitions
69.5-01-09-02	Registration and Requirements for North Dakota-Bred Eligibility
69.5-01-09-03	Administration of North Dakota Breeders' Fund Program
69.5-01-09-04	Registration Required for North Dakota-Bred Eligibility [Repealed]
69.5-01-09-05	Decision as to Eligibility of North Dakota-Bred
69.5-01-09-06	False Statement Concerning North Dakota-Bred Registration
69.5-01-09-07	North Dakota-Bred Racing Program
69.5-01-09-08	Change of Ownership
69.5-01-09-09	Establishment of North Dakota-Bred Added Money and Award Payments at a Race Meeting
69.5-01-09-10	Distribution of Funds for North Dakota-Bred Pari-mutuel Races
69.5-01-09-11	Open Company Wins Awards
69.5-01-09-12	Special Interim Clause
69.5-01-09-13	Guidelines of a Major Racing Facility

69.5-01-09-01. Definitions. ~~As used in this chapter:~~

1. "Accredited North Dakota-bred race horse" means a horse qualifying for and duly registered in the North Dakota breeders' fund program. For purposes of awards and purse supplements, such accreditation for horses racing shall continue through the age of ~~six~~ twelve years. Awards for breeding mares and stallions shall continue indefinitely.
2. "Breeder" means the owner or lessee or the respective breed-registering organization of the dam at the time of foaling in North Dakota.
3. "North Dakota-bred" means a foal born in North Dakota out of a mare registered with the North Dakota racing commission which mare was in North Dakota:
 - a. On or before February first of the year foaled; or
 - b. Within thirty days after the date of a bona fide purchase or lease transaction, whichever of those dates is the latest, and provided, in either case, that mare remained physically within the boundaries of North Dakota until foaling.
4. "North Dakota-foaled" means a horse foaled in North Dakota.
5. "Race horse owner" means the owner or lessee of record with the respective breed-registering organization at the time the horse

participates in a race qualifying the horse for breeders' fund awards or purse supplements under the provisions of this chapter.

6. "Stallion owner" means the owner of a stallion registered as a breeding stallion in the North Dakota breeders' fund program. North Dakota breeders' fund awards accruing to the owner of a stallion as a result of qualifying race performances by North Dakota-breds sired by a stallion shall be awarded to the owner of the stallion at the time of conception of such progeny.

In a case involving extraordinary circumstances, the North Dakota racing commission or designated registering agency retains the right to allow or disallow the registration of a foal as North Dakota-bred at its sole discretion.

The requirements of this section apply to all breeds.

History: Effective January 1, 1990; amended effective March 1, 2002; July 1, 2011.

General Authority: NDCC ~~53-06.2-04~~, 53-06.2-05

Law Implemented: NDCC 53-06.2-04.1, 53-06.2-11

69.5-01-09-02. Registration and requirements for North Dakota-bred eligibility.

1. The breeder or owner of a North Dakota-bred horse shall register such horse with the North Dakota racing commission. The commission may contract with and designate an official registering agency to implement the registration of North Dakota-bred horses.
2. Broodmare registration. A broodmare must meet the qualifications as outlined in subsection 4 of section 69.5-01-09-01 to be eligible for broodmare award payments based on a percentage of the North Dakota breeders' fund program awards earned by accredited North Dakota-bred horses foaled by the mare. In addition, the broodmare must meet the following conditions:
 - a. The North Dakota racing commission or the designated agency must receive the broodmare's original breed registration certificate for embossing, a completed North Dakota breeders' fund program registration application as furnished by the North Dakota racing commission, and a registration fee of ten dollars.
 - b. Failure to properly register the broodmare, as outlined in section 69.5-01-09-01 and in this section, will disqualify any subsequent claims for North Dakota breeders' fund award payments.
 - c. A broodmare may be registered at any time.
3. Stallion registration. To be eligible to receive stallion award payments, the following requirements must be met:

- a. Stallions must physically be in North Dakota and registered or the registration renewed with the North Dakota racing commission or official registering agency by February first of the current breeding year. The stallion's original breed registration certification must be received by the North Dakota racing commission or official registering agency for embossing, with a completed North Dakota breeders' fund program registration application and a registration fee of twenty dollars. If the stallion is leased, a copy of the lease must accompany the registration application. The lease must include a statement that the lessee is authorized to sign the breeding certificate.
 - b. When a stallion is purchased after February first of the current breeding season, the new owner must register the stallion within thirty days after the date of a bona fide purchase with the North Dakota racing commission or official registering agency to be eligible for the North Dakota breeders' fund program.
 - c. Stallions must remain in North Dakota for the entire current breeding season from February first to July thirty-first. Stallions registered pursuant to subdivision b must be in North Dakota as of the date of registration and remain in North Dakota through July thirty-first.
4. Foal registration and certification. For a horse foaled in North Dakota to be registered and subsequently certified as a North Dakota-bred, the following requirements must be met:
- a. Any time from foaling through December thirty-first of the foaling year that the horse was foaled in North Dakota, the foal must be registered with the North Dakota racing commission or official registering agency. The registration form must be provided by the commission and must contain the date, name, registration number, owner's name of the foaling dam, date the foal was born, and foal owner's statement that the foal was born in North Dakota. The application to register a foal in the North Dakota breeders' fund program as a North Dakota-bred must be accompanied by a ten dollar registration fee.
 - b. Registration applications that meet all other requirements provided in this section, but are received after the December thirty-first deadline, may be processed and approved provided that applications and registration fees received after December thirty-first of the foaling year but prior to December thirty-first of the yearling year are accompanied by a late fee of one thousand dollars.
 - c. An investigator appointed by the commission shall have access to the premises on which qualified mares, North Dakota-registered

stallions, and North Dakota-bred foals or horses are kept. The investigator may perform random inspections of North Dakota-registered foals as required by the commission.

- d. The original breed registration certificate must be embossed by the commission or official registering agency prior to the entry into any restricted race.
- e. Failure to have the breed registration certificate embossed shall disqualify a horse from entry in a race restricted to, or with preference given to, accredited North Dakota-bred horses, and shall prohibit an award or payment from the North Dakota breeders' fund.
- f. The owner of the dam of a foal submitted to the registering agent or the North Dakota racing commission for registration in the North Dakota breeders' fund program must notify the North Dakota racing commission ten days prior to shipping if the dam is to be leaving the state prior to ninety days after foaling.
- g. The foal of a mare registered in the North Dakota breeders' fund program, but owned by an out-of-state individual or corporation, will be required to be inspected by a state-licensed veterinarian at the expense of the owner.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-03. Administration of North Dakota breeders' fund program.

- 1. The North Dakota racing commission shall deduct one-half of one percent from each pari-mutuel pool resulting from a licensed race meet or simulcast display for the purpose of providing a North Dakota breeders' fund as provided for by North Dakota Century Code section 53-06.2-11. All moneys held in the fund must be deposited with the North Dakota state treasurer in accordance with North Dakota law. All moneys shall remain in the control of the state treasurer until, upon action of the North Dakota racing commission, funds are transferred to the account of the fund administrator. The director of racing of the racing commission is responsible for the timely deposit of all revenue derived from the breeders' fund take-out and shall keep accurate records of deposits and disbursements.
- 2. The management procedures, rules, fee schedules, registration forms, publications, and all other instruments necessary to the operation of the North Dakota breeders' fund program by the official registering agency are subject to the review and approval of the commission. The commission must be provided copies of the completed registration

forms for all horses entered in the North Dakota breeders' fund program, or the North Dakota stallion or broodmare registry. The official registering agency shall provide the commission with a financial accounting of the North Dakota breeders' fund program by an independent accountant within ninety days of the end of the calendar year. Costs of administering this program will be funded by a deduction of no more than five percent of the yearly accumulated North Dakota breeders' fund.

3. The racing industry advisory committee shall be the officially recognized advisory body to the North Dakota racing commission on all matters pertaining to the North Dakota breeders' fund program. The actions of the racing industry advisory committee shall be advisory only and shall not be binding upon the North Dakota racing commission. Establishment and membership of the racing industry advisory committee as to number and representative affiliation shall be at the discretion of the North Dakota racing commission.
4. Any person who desires to contest the accuracy of the commission's records or accounting of the North Dakota breeders' fund distribution in any one year shall file a written claim with the commission prior to the end of the calendar year. The written claim must state the basis for the claim.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-05. Decision as to eligibility of North Dakota-bred. Questions as to the registration, eligibility for registration, or breeding of a North Dakota-bred horse must be decided by the North Dakota racing commission or official registering agency. The North Dakota racing commission or the official registering agency may demand and inspect any breed registration certificate or record of a North Dakota breeder and may require affidavits in support of any claim for North Dakota-bred registration. Concerning questions as to parentage, the official registering agency may require testing of the horse in question, as well as its sire and dam. Such testing must be done by an organization approved by the official registering agency. The results of this test may be taken into consideration by the official registering agency in its determination of the horse's parentage. A decision of the official registering agency shall be subject to review by the commission, which retains the right to make the final decision as to any right or liability under this article.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-07. North Dakota-bred racing program. Any organization licensed by the commission to conduct a race meeting with pari-mutuel wagering shall provide a North Dakota-bred program and publish such conditions in the

condition book prior to the commencement of the race meeting. Prior to publication and distribution of the condition book, the commission shall review and approve the North Dakota-bred racing program. Any changes thereto must be filed with the commission and none may substantially deviate from the conditions previously published, unless approved by the commission.

The racing secretary at each racetrack shall be required to write and offer no less than one race each day for accredited North Dakota-bred horses. If the race meeting being conducted is a mixed race meeting, there shall be offered no less than one race each day per major breed racing (thoroughbreds, American quarter horses, or standardbreds) for accredited North Dakota-bred horses. In the event a race does not fill, a race may be opened up with North Dakota-bred horses preferred. For the purposes of this clause, a full gate shall consist of six or more horses. All entries must be publicly posted in the race office whether the race fills or not.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-10. Distribution of funds for North Dakota-bred pari-mutuel races.

1. Sixty percent of the moneys accruing to the North Dakota breeders' fund shall be awarded to accredited North Dakota-bred horses who qualify for awards at licensed races outside the state and forty percent shall be awarded to accredited North Dakota-bred horses who win awards at licensed races within the state. Any race considered in this category must have a minimum purse of one thousand dollars and, if a claiming race, must have a minimum claiming price of two thousand five hundred dollars. All amount minimums will be determined in United States currency.
2. The official order-of-finish distribution amounts accredited must be as follows:
 - a. Fifty percent of the total scheduled award payment to a winning accredited North Dakota-bred horse and the accredited North Dakota-bred broodmare and sire of such horse, if any;
 - b. Thirty percent of the total scheduled award payment to the placing accredited North Dakota-bred horse and the accredited North Dakota-bred broodmare and sire of such horse, if any; and
 - c. Twenty percent of the total scheduled award payment to the showing accredited North Dakota-bred horse and the accredited North Dakota-bred broodmare and sire of such horse, if any.

3. The North Dakota racing commission shall establish a point system assigning monetary values for each win, place, or show by North Dakota-bred horses at licensed race meets within the state and outside the state. The point system will assign values based on the relative moneys available for distribution inside the state and outside the state, and the number of horses that qualify for such awards inside the state and outside the state. The North Dakota racing commission shall award additional points within the system it establishes for qualifying performances by accredited North Dakota-bred horses who win, place, or show in a race at a licensed race meet outside the state where the purse is ten thousand dollars or more as follows:
 - a. Purse of ten thousand dollars or more but less than twenty-five thousand dollars is worth double points.
 - b. Purse of twenty-five thousand dollars or more but less than fifty thousand dollars is worth triple points.
 - c. Purse of fifty thousand dollars or more is worth quadruple points.
4. Distribution points for win, place, or show shall be established by the North Dakota racing commission for such performances by North Dakota-bred horses. Separate pools shall be established for moneys to be awarded to North Dakota-bred horses that earn awards at licensed races outside the state and for North Dakota-bred horses who earn awards at licensed races within the state.
5. The distribution of North Dakota breeders' fund award payments must be as follows:
 - a. Sixty percent of the scheduled award payment to owners of accredited North Dakota-breds who earn such awards, provided however, that if either the dam or sire, or both, are not duly registered in the program as broodmares or stallions, that the award percentages that would have accrued to them, had they been in the program, be paid to the owner of the accredited foal up to one hundred percent of the scheduled award.
 - b. Thirty percent of the scheduled award payment to the owner of the dam of an accredited North Dakota-bred who earns awards, provided that the dam was registered in the North Dakota breeders' fund program as a broodmare at the time the accredited North Dakota-bred was foaled.
 - c. Ten percent of the scheduled award payment to the owner of the sire at the time of conception of an accredited North Dakota-bred who earns awards provided that the sire was registered in the North Dakota breeders' fund program as a breeding stallion at the time the foal was conceived.

6. No more than a total of ten race awards per horse will be permitted. The owner may select the ten races (win, place, or show) for breeders' fund awards. Applications for breeders' fund awards of the preceding year's races must be received in the North Dakota racing commission office on approved forms by January fifteenth of the year, following those races.
7. Award checks must have imprinted on them "This check is void if not cashed within sixty days after date of issuance". This statement is binding and checks not cashed within sixty days of issuance shall revert to the commission to be redeposited in the breeders' fund for future distribution awards with the exception that in the event the commission is unable to locate and award the recipient by United States first-class mail, the commission shall be given an additional sixty days beyond the void date of the award check to attempt to locate the payee. If unable to locate the payee within the additional sixty days, any such award shall revert back to the commission to be held in the breeders' fund for future distribution. Any subsequent claims for such awards by the person or entities not cashing award checks as prescribed or not located as defined by this section shall not be allowed.
8. In no event may North Dakota breeders' fund moneys be used to subsidize restricted races, other than those restricted to North Dakota-breds.
9. All broodmare and stallion awards must be calculated at the end of the year for distribution.
10. All owner's awards may be distributed with purse distribution or, until such time as sufficient criteria is established, may be calculated at yearend for distribution.
11. No breeders' fund moneys will be payable to the owner or owners of the sire or dam unless the owner or owners of the runner makes application for and receives an award.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-11. Open company wins awards. Accredited North Dakota-bred horses that win open races at a North Dakota pari-mutuel track will be eligible to receive owner, breeder, and stallion awards authorized by the commission.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

CHAPTER 69.5-01-11 SIMULCASTING

Section	
69.5-01-11-01	Definitions
69.5-01-11-02	General Licensing Requirements
69.5-01-11-03	Licensing Service Providers and Totalizator Companies
69.5-01-11-04	Duties of Service Providers
69.5-01-11-05	Licensing Site Operators
69.5-01-11-06	Duties of Site Operators
69.5-01-11-07	Licensing of Simulcast Employees
69.5-01-11-08	North Dakota Tracks Offering Extended Wagering
69.5-01-11-09	Denial, Suspension, and Revocation of Licenses
69.5-01-11-10	Pari-Mutuel Wagering
69.5-01-11-11	Account Wagering [Repealed]
69.5-01-11-11.1	Account Wagering
69.5-01-11-11.2	Totalizator System General Provisions
69.5-01-11-12	Totalizator System Standards [Repealed]
69.5-01-11-13	Totalizator System Standards - Facilities and Equipment
69.5-01-11-14	Totalizator System Standards - Operational Requirements
69.5-01-11-15	Totalizator System Standards - Reporting and Log Requirements

69.5-01-11-01. Definitions. For the purposes of this chapter, unless the context otherwise requires:

1. ~~"Association" means an organization eligible to conduct offtrack wagering pursuant to North Dakota Century Code section 53-06.2-06. Unless otherwise specifically defined, the simulcast site operator shall be defined as the association.~~ "Account wagering" means a form of pari-mutuel wagering in which an individual deposits money in an account and uses the account balance to pay for pari-mutuel wagers. It includes advance deposit wagering.
2. "Authorized pari-mutuel wagering entity" means a licensed racetrack, association, simulcast service provider, or simulcast site operator.
3. ~~"Authorized receivers" means simulcast site operators and simulcast service providers.~~
4. "Combined pari-mutuel pool" means the pari-mutuel wagers received at simulcast sites being contributed into one or more pari-mutuel pools as required by the commission.
5. ~~"Commission" means the North Dakota racing commission.~~
6. ~~"Decoder" means a device or means to convert encrypted audiovisual signals or data, or both, into a form recognizable as the original content of the signals.~~

7. ~~"Downlink" means a receiving antenna coupled with an audiovisual signal receiver compatible with and capable of receiving simultaneous audiovisual signals or data emanating from a sending track, and includes the electronic transfer of received signals from the receiving antenna to television monitors within the satellite facility.~~
8. 4. "Eligible organization" means an organization eligible to conduct ~~offtrack~~ pari-mutuel wagering pursuant to North Dakota Century Code section 53-06.2-06.
9. ~~"Encryption" means the scrambling or other manipulation of the audiovisual signals to mask the original content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal.~~
10. ~~"Guest association" means the simulcast service provider.~~
11. 5. "Independent real-time monitoring system" means a system operated and approved by the commission for the purpose of immediate and continuous analysis of wagering and other pari-mutuel systems data in order to detect suspect wagering transactions or other activity indicating a possible problem relating to the integrity of the pari-mutuel system and which transmits transactional level data to a wagering security data base.
12. ~~"Interstate simulcast wagering" means wagering conducted by a betting system outside the state of North Dakota on the results of one or more races being run at a North Dakota track or wagering conducted by a betting system within the state of North Dakota on the results of one or more races being run at a site outside the state of North Dakota.~~
13. ~~"Intrastate simulcast wagering" means pari-mutuel wagering at a North Dakota simulcast site on horse races run at a North Dakota track.~~
14. ~~"Landlord" means the person or other entity owning or operating the physical plant or base business within which the simulcast site is located.~~
15. 6. "Pari-mutuel manager" means the person responsible for managing the pari-mutuel wagering system, including managing all teller and wagering operations, monitoring tote operations, opening and closing tote, communicating with tote hub, issuing wagering system reports, and maintaining wagering system records.
16. ~~"Person" means any person, firm, corporation, association, or organization.~~
17. 7. "Sending track" means any track from which simulcast signals originate.

- ~~18-~~ 8. "Simulcast employee or agent" means any person employed by a simulcast service provider or simulcast site operator, but does not include custodial or maintenance personnel not directly involved in wagering and others exempted by the commission.
- ~~19-~~ 9. "~~Simulcast service~~ Service provider" means a person engaged in providing simulcasting or account wagering services to a ~~simulcast~~ site operator and establishing, operating, and maintaining the combined pari-mutuel pool, but does not include persons authorized by the federal communications commission to provide telephone service or space segment time on satellite transponders.
- ~~20-~~ 10. "Simulcast services" means services provided to a simulcast site operator including the simulcast signal from a sending track and the operation of the combined North Dakota pari-mutuel pool.
- ~~21-~~ 11. "~~Simulcast site~~ Site" means the physical premises, structure, and equipment utilized by a ~~simulcast~~ site operator for the conduct of pari-mutuel wagering on horse racing events being run elsewhere.
- ~~22-~~ 12. "~~Simulcast site~~ Site operator" means an eligible organization licensed by the commission to offer, sell, cash, redeem, or exchange pari-mutuel tickets on races being simulcast from a sending track or to conduct account wagering.
- ~~23-~~ "~~Totalizator system standards~~" means ~~the minimum standards for approval and operation of a pari-mutuel wagering system.~~
- ~~24-~~ "~~Uplink~~" means ~~an earth station broadcasting facility, whether mobile or fixed, which is used to transmit audiovisual signals or data, or both, on federal communications commission-controlled frequencies, and includes any electronic transfer of the audiovisual signals from within the racing enclosure to the location of the transmitter at the uplink.~~
- ~~25-~~ 13. "Voucher" means a document or card produced by a pari-mutuel system device on which a stored cash value is represented and the value of which is recorded in and redeemed through the pari-mutuel system.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

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

1. Any ~~simulcast~~ site operator, ~~simulcast~~ service provider, or totalizator company must be licensed by the commission and approved by the attorney general. Totalizator companies contracting for service within the state and their employees whose principal work address is within the state must be licensed by the commission. Other vendors and

their employees may be required to be licensed at the discretion of the commission. Application for a license must include the license fee as prescribed by the commission. Applications for licenses must be in such form as may be prescribed by the commission and must contain such information or other material or evidence as the commission may require. All licenses must be for a period of one year commencing January first and ending December thirty-first of each calendar year. The initial license fee for a ~~simulcast~~ service provider is ~~two~~ seven thousand five hundred dollars, for a ~~simulcast~~ site operator is one thousand dollars, and for a totalizator company is two thousand five hundred dollars.

2. The application for renewal of license must be made to the commission by such date as may be prescribed by the commission. If the commission has not specifically set application dates for renewal of the class of license, application must be made no later than thirty days prior to the date of expiration of the license. Application for renewal of license must be made in such form as may be prescribed by the commission. Application for license renewal must include the license fee for a ~~simulcast~~ service provider, ~~one~~ two thousand five hundred dollars; ~~simulcast~~ site operator, two hundred fifty dollars; and totalizator company, one thousand five hundred dollars.
3. Approval or disapproval of an application for ~~simulcast~~ site operator or ~~simulcast~~ service provider, or totalizator company license must include consideration by the commission of the following:
 - a. The ~~operator's or provider's~~ applicant's general benefit to the state of North Dakota.
 - b. The ~~operator's or provider's~~ applicant's general benefit to the state's horse racing industry.
 - c. The ~~operator's or provider's~~ applicant's integrity.
 - (1) Individual and corporate conduct and reputation.
 - (2) Criminal history.
 - (3) Betting and gaming industry conduct and reputation.
 - d. The ~~operator's or provider's~~ applicant's credibility.
 - (1) Accuracy of feasibility study.
 - (2) Experience and expertise of the ~~operator or provider~~ applicant in the ~~simulcast~~ industry.
 - e. Financial stability.

4. A ~~simulcast~~ service provider cannot operate without an executed contract with a ~~simulcast~~ site operator.
5. The commission may require licensing of any entity or person contracting with or providing services or commodities to any ~~simulcast~~ site operator, ~~simulcast~~ service provider, or ~~simulcast~~ employee licensed by the commission.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

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

1. ~~Simulcast service~~ Service providers and totalizator companies must be licensed by the commission and approved by the attorney general.
2. Before the commission may grant such license, it shall review and approve the services to be provided by the applicant. The applicant shall submit such information as required by the commission which must include, but not be limited to:
 - a. The services and equipment to be provided.
 - b. Projected revenue and costs associated with the operations of the applicant ~~as a simulcast service provider.~~
 - c. A complete financial statement demonstrating adequate capitalization to maintain the intended services.
 - d. A description of the management or management groups responsible for the operation of the ~~simulcast services company~~ service provider or totalizator company.
 - e. A complete description of the transmission, totalizator, and data processing equipment to be used.
 - f. A history of the company demonstrating the experience and technical knowledge necessary to supply the intended services.
 - g. Written agreements between the applicant and all parties assisting in providing ~~simulcast~~ services.
 - h. A description of the security measures to be used to protect the propriety of the signal and the integrity of the wagering process.

- i. The system of accounts to be utilized in the collection and distribution of revenues directly or indirectly related to the ~~simuleast~~ operation and the combined pari-mutuel pool.
 - j. A detailed statement demonstrating individual and corporate conduct, ability, and reputation of the applicant and supervisory personnel.
 - k. The commission may require an audit of the applicant at the expense of the applicant.
 - l. The commission may require totalizator companies to provide documentation of third-party compliance and testing within two years of application.
3. The commission may license one or more ~~simuleast~~ service providers or totalizator companies concurrently to provide services, as defined by this chapter, to one or more licensed ~~simuleast~~ site operators within the state. Fees for such license shall be as prescribed by the commission. Licenses will be for a term of one calendar year. The commission may establish license fees separately for first-time applicants and for renewal of existing licenses in order to recognize additional costs of investigation and analysis required for first-time licenses.
 4. Each applicant for a service provider license shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-04. Duties of ~~simuleast~~ service providers.

1. ~~Simuleast service~~ Service providers shall comply with all state and federal laws, including section 3001, et seq. of title 15 of the United States Code.
2. A ~~simuleast~~ service provider intending to make any change in its structure or operations which would alter any of the responses given in its original license application must obtain prior approval of such changes by the commission and must file with the commission a statement including, but not limited to:
 - a. The changes to be made.

- b. A statement that the ~~simuleast~~ service provider is in compliance with section 3001, et seq. of title 15 of the United States Code and any other applicable federal laws.
 - c. The date and time the ~~simuleast~~ service provider intends to commence said changes.
- 3. A ~~simuleast~~ service provider may not be licensed as a ~~simuleast~~ site operator.
- 4. A service provider shall maintain records of all wagering at sites where it provides services. Such records shall be available to the commission for review and shall be retained in safekeeping for periods of time as follows:
 - a. ~~Hard~~ A copy of daily computer report - for one year and until payment is made to the commission for unclaimed tickets.
 - b. Digital storage - for three years.
 - c. Summary reports - for five years.
 - d. Other wagering records as may be required from time to time and are specifically defined by the commission.
- 5. ~~A licensed service provider shall initiate testing as provided in section 69.5-01-11-12.~~
- 6. A ~~simuleast~~ service provider shall maintain such security controls over its simulcast, account wagering, and communications system as directed by the commission.
- 7. ~~6.~~ A ~~simuleast~~ service provider shall provide the commission with a certified report of its operations as directed by the commission. The operations summary shall be provided to the commission on a weekly basis, with race weeks ending on Sunday. The report must contain content as directed by the commission. ~~The report of a simuleast service provider may also include information, and may also satisfy the operations report of guest associations required by section 69.5-01-11-12.~~
- 8. ~~7.~~ A ~~licensed simuleast~~ service provider may only provide simulcast and account wagering services to a ~~simuleast~~ site operator licensed by the commission, except that a ~~simuleast~~ service provider may provide simulcast services to an Indian tribal entity within the state which may not be licensed pursuant to the provision of an existing racing addendum to a tribal gaming compact ~~or to a racing association or simuleast site operator properly licensed by the recognized authority within another state.~~

9. ~~8.~~ ~~A simulcast service provider shall provide access to the simulcast system to all simulcast site operators licensed by the commission on an equal, nondiscriminatory basis. A simulcast service provider may require compliance by the simulcast site operator with contractual provisions necessary to maintain the integrity of the simulcast and pari-mutuel systems and to ensure proper operation of offtrack wagering.~~
10. ~~9.~~ A simulcast service provider shall provide access by the commission or its designated representative to the provider its facility ~~and to all~~ records ~~of the provider~~, and any other information as required by the commission or its representative.
11. ~~10.~~ Simulcasting and account wagering may be permitted only on races conducted at approved locations at pari-mutuel tracks governed by a racing commission, racing board, or governmental agency.
12. ~~11.~~ A simulcast service provider shall participate in a combined pari-mutuel pool, ensure the integrity of its participation, and establish procedure as approved by the commission for the use of federally insured financial institutions for receipt and disbursement of funds which are part of the combined pari-mutuel pool. Such procedure must include provision for timely reconciliation and settlement of pool accounts with simulcast site operators serviced by a simulcast service provider. Times within which settlement of pool accounts are to be settled must be specified in contracts or service agreements between a simulcast service provider and ~~host associations or simulcast site operators.~~
13. ~~12.~~ Payment of taxes and other funds:
- a. A simulcast service provider shall pay all pari-mutuel taxes, special fund contributions, and other funds due and owing the state of North Dakota as indicated in the certified report of its operations, required in this chapter, directly to the ~~racing~~ commission.
 - b. Amounts due to ~~the state of~~ North Dakota for pari-mutuel taxes, promotion fund, breeders' fund, purse fund, and breakage shall be paid to the ~~racing~~ commission in monthly payments on or before the last day of the next month succeeding the month in which the pari-mutuel tax or other funds due to ~~the state of~~ North Dakota occurred or accrued.
 - c. A simulcast service provider shall submit a report and a corresponding payment of funds owing to the ~~racing~~ commission for the full amount of outs (unclaimed winning tickets) within fifteen days after the end of the calendar quarter following the calendar quarter in which such wager was made. A simulcast service provider shall also submit a report and a corresponding payment of funds to the ~~racing~~ commission for the full amount of

all breakage retained by a ~~simulcast~~ service provider. Breakage shall be calculated by deducting odd cents over any multiple of five cents of winnings per dollar from the portion of the pari-mutuel pool to be redistributed.

- d. The ~~racing~~ commission may, when a ~~simulcast~~ service provider is delinquent in remittance of taxes or other funds owed to ~~the state North Dakota~~, notify the surety providing bond coverage to ~~the state North Dakota~~ of the delinquent status of such taxes or funds, and may make a claim for payment from the surety.
- e. If a ~~simulcast~~ service provider fails to submit a report of its operations as required, or fails to pay pari-mutuel taxes or other funds due ~~the state North Dakota~~ within the time required by this section, or if upon audit it is found to owe additional taxes or other funds, a ~~simulcast~~ service provider is subject to a late fee of five percent of the amount of tax or other funds due, plus interest of one percent of the tax or other funds due per month or a fraction of a month of delay after the due date for the remittance of the moneys according to this chapter. A ~~simulcast~~ service provider with seven of fourteen delinquent payments may be subject to a late fee of ten percent of the moneys due plus interest of one percent of the amounts due per month or a fraction of a month of delinquency. The late fees and interest must be paid to the ~~racing~~ commission and disposed of in the same manner as other receipts under this chapter.
- f. The ~~racing~~ commission may suspend or revoke a license of a ~~simulcast~~ service provider for failure to submit a report of its operations as required by law or administrative rule or for failure to pay funds due ~~the state North Dakota~~ as required by law or administrative rule. The ~~racing~~ commission may also take such other actions as may be authorized by law.

~~14.~~ 13. The commission may ~~appoint stewards~~ approve auditors as reasonably necessary for the protection of the public interest. The commission shall be reimbursed on a monthly basis for the salaries, benefit, and travel expenses by the ~~simulcast~~ service provider for the auditors ~~and stewards~~ assigned to them. Duties of ~~a steward or an~~ auditor shall include the following when instructed by the commission:

- a. An independent weekly record and report of each race program presented by a ~~simulcast~~ service provider. The report must be based on a review of each race contained in a program.
- b. Reconciliation of all operating exceptions by the ~~simulcast~~ service provider and the sites it services that are not within the definitions of this chapter or are departures from normal operating practice. Such reconciliation shall include identification, investigation, reporting,

and recommendation for adjustment or disposition directly to the commission.

- c. Independent review and reporting directly to the director of the ~~commission~~ racing of all actions taken by the ~~simulcast~~ service provider or the totalizator company operating under contract with the ~~simulcast~~ service provider.
- d. The ~~steward~~ or auditor shall have authority as presiding official at any time the ~~steward~~ or auditor is on the premises of a ~~simulcast~~ service provider. In the absence of the ~~steward~~ or auditor, the representative ~~or of~~ a ~~simulcast~~ service provider shall be the designee of the commission as presiding official.

~~15-~~ 14. A ~~simulcast~~ service provider and a totalizator company operating under contract with a ~~simulcast~~ service provider shall serve as the designees of the commission to supervise simulcast and account wagering operations pertaining to pari-mutuel wagering as is reasonably necessary to ensure the public interest.

~~16-~~ 15. All reports must be signed by the presiding official and filed with the commission. The presiding official shall take immediate emergency actions as necessary to assure the continued operation and integrity of the simulcast or account wagering system. All such actions shall be reported to the commission. The presiding official shall, when such acts are not, in the official's judgment an emergency, report to the commission prior to acting.

~~17-~~ 16. A ~~licensed-simulcast~~ service provider shall adopt and adhere to emergency operating procedures as follows. Totalizator system operations will be maintained by a service provider hub. Wagering data will be transferred from the ~~simulcast~~ wagering site to the hub via data transmission lines or electronic transmission. Wagering will be conducted in ontrack pools. The hub will transfer all wagering data from ~~simulcast~~ the wagering site to the ontrack totalizator system. The locking procedure for the purpose of locking all teller windows at post time will be initiated by an ontrack official; the lock will be electronically conducted through the totalizator system to lock all tellers windows at the ~~simulcast~~ wagering site. Back-up locking procedures will be maintained by the presiding official, the hub pari-mutuel operator and the hub totalizator system operator. In the event of a lock procedure failure, in which one or more windows fail to lock at the designated time, wagers shall be refunded. In the event of a locking procedure failure, a report will be submitted to the commission. Included will be computer reports reflecting all wagering activity.

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

- (1) Notify the host track of the loss of signal.
 - (2) Maintain telephone contact with host track pari-mutuel department. The simulcast service provider licensee may continue to accept wagering on the balance of the program.
 - (3) In the event the hub totalizator system fails to transfer the data to the ontrack totalizator system, the totalizator hub pari-mutuel operator must notify ontrack totalizator system representative of the problem and request additional time prior to the start of the race to allow for a transmission of the data.
 - (4) A simulcast service provider licensee's hub provider's pari-mutuel operator manager shall prepare a report indicating that the transfer of data could not be completed electronically. The report shall also include all the following:
 - (a) A copy of the totalizator report prior to the failure of the transfer of data.
 - (b) A copy of the totalizator report.
 - (c) A brief statement as to where the failure occurred, when the ontrack officials were notified.
- b. The ontrack pari-mutuel manager must be notified of the system failure.
 - c. In the event that the ontrack totalizator system experiences a complete failure, the hub pari-mutuel operator manager may pay ontrack prices or refund amounts wagered.
 - d. In the event any emergency arises in connection with the operation of the pari-mutuel system not provided for by these rules, then the hub pari-mutuel operator manager shall make an immediate decision and render a full report to the ~~North Dakota~~ racing commission.
 - e. The hub pari-mutuel operator manager is responsible during the simulcast racing operating hours for the reporting of any problems or delays to the wagering site. The wagering site is responsible for reporting any problems or delays to the public.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14

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

1. Before the commission may grant a license to a simulcast site operators, it shall review and approve a plan of operation submitted by an applicant including, but not limited to, the following information:
 - a. A feasibility study denoting the revenue earnings expected from the simulcast facility and the costs expected to operate such facility. The feasibility study must include:
 - (1) The number of races to be simulcast.
 - (2) The types of wagering to be offered.
 - (3) The level of attendance expected and the area from which such attendance will be drawn.
 - (4) The level of anticipated wagering activity.
 - (5) The source and amount of revenue expected from other than pari-mutuel wagering.
 - (6) The cost of operating the simulcast facility and the identification of costs to be amortized and the method of amortization of such costs.
 - b. The security measures to be employed to protect the facility, to control crowds, to safeguard the transmission of the simulcast signal and to control the transmission of wagering data to effectuate common wagering pools.
 - c. The description of the management groups responsible for the operation of the simulcast facility.
 - d. The system of accounts to maintain a separate record of revenues collected by the simulcast facility, the distribution of such revenues, and the accounting of costs relative to the simulcast operation.
 - e. The location of each simulcast site and a copy of the lease or site agreement.
 - f. All written agreements or letters of consent between parties to the operation of the simulcast system, including a licensed service provider.
 - g. Proof of eligibility under North Dakota Century Code section 53-06.2-06.

- h. Applicant's financial information demonstrating adequate capitalization to carry on the duties of a ~~simulcast~~ site operator.
 - i. Support or nonsupport of the local jurisdictional government.
 - j. Proof of adequate experience and knowledge necessary to conduct simulcasting and pari-mutuel wagering operations.
2. The license fee shall be as prescribed by the commission. ~~Simulcast~~ site operators may apply for a license and may operate one or more sites at the fees prescribed by the commission. Licenses will be for a term of one calendar year.
 3. Licenses to ~~simulcast~~ site operators may be granted as follows:
 - a. Organizations eligible under North Dakota Century Code section 53-06.2-06.
 - b. Indian tribal entities within the state which may be licensed pursuant to the provision of an existing racing addendum to a tribal gaming compact with the state.
 - c. No ~~simulcast~~ service providers may be licensed as site operators.
 4. Each applicant for a license under this chapter shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.
 5. No simulcasting or pari-mutuel wagering may be conducted at a ~~simulcast~~ site not approved by the commission.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-06. Duties of ~~simulcast~~ site operators.

1. A ~~simulcast~~ site operator shall conduct the pari-mutuel wagering at a ~~simulcast~~ site approved by the commission.
2. A ~~simulcast~~ site operator shall provide access to the commission or its designated representative to the ~~simulcast~~ site and to all records of the site operator and any other information as required by the commission or its designated representative.

3. ~~If a licensee or an applicant for a live horse race meet license requests a shutdown of a simulcast site, the commission may require such simulcast site to shut down during the hours that the live race meet is run.~~
4. A simulcast site operator is responsible for cash shortages which occur at a simulcast site.
5. 4. The provisions of North Dakota Century Code section 53-06.2-11 are applicable to simulcasting and ~~offtrack~~ pari-mutuel account wagering. A simulcast site operator shall establish a system of monitoring and supervising accounts to facilitate and to make record of compliance with this section. Such supervision of accounts must provide for timely payoffs to winning patrons either through immediate cash payments or by vouchers payable upon demand as soon as necessary funds transfer can be made through the clearing process of the banking system by the service provider. Such accounts must also provide for timely transfer ~~to the simulcast site operator's service provider~~ of all funds owing to the state North Dakota. These shall include pari-mutuel taxes, breakage, unclaimed tickets, purse fund contributions, breeders' fund contributions, and promotion fund contributions. The simulcast site operator's service agreement with its service provider must include provision for such timely transfer of these funds.
6. 5. A simulcast site operator may only take a signal or conduct account wagering from a service provider licensed by the commission.
7. 6. All wagers are made on the official results of the sending track.
8. 7. Only a licensed employee of a simulcast site operator may conduct simulcast or pari-mutuel wagering on behalf of a simulcast site operator, except ~~where valid pari-mutuel tickets are issued by a pari-mutuel ticket machine which is an automated ticket machine. A simulcast site operator may use such automated ticket machines~~ a service provider may conduct pari-mutuel wagering on behalf of a site operator through a self-service device, electronically, telephonically, or through the internet only with the prior approval of the commission. ~~When automated teller machines are used by a simulcast site operator, the operator may contract with persons other than employees whose activities on behalf of the simulcast site operators must be limited to the following:~~
 - a. ~~To collect and account for cash receipts extracted from a voucher-issuing machine.~~
 - b. ~~To pay out cash for winning ticket vouchers issued by an automated teller machine.~~

- e. ~~To maintain a record of such cash-handling activities using a record keeping system devised by the site operators and approved by the commission.~~

~~Such contractors must be licensed by the commission.~~

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-14

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

1. No person may be a simulcast employee unless that person is the holder of a valid license issued by the North Dakota racing commission.
2. The employment of an unlicensed person by a ~~simulcast~~ site operator or ~~simulcast~~ service provider is prohibited. Upon discharge of a licensed simulcast employee, the site operator or service provider shall report that fact to the commission, including the name and occupation of the discharged licensee and the reason for discharge.
3. The commission will not issue a license to a simulcast employee unless the application includes the prior endorsement of the employer.
4. The initial license fee and the renewal fee shall be prescribed by the commission. For each change of employment, name change, or replacement of a lost or destroyed license, a fee may be assessed as prescribed by the commission. The term of licenses shall be one calendar year.
5. Maintenance and administrative representatives of ~~simulcast~~ service providers and their vendors or suppliers must have current North Dakota racing commission licenses available for presentation prior to requesting admittance to restricted areas of ~~simulcast~~ sites. If such representatives are not licensed by the ~~North Dakota racing~~ commission, they must be accompanied by a licensed representative or have the prior identification and endorsement of a licensed representative.
6. Each simulcast employee shall wear a valid license at all times while working in a simulcast site. The license must be worn on the upper one-third of the employee's body. All information on the license or permit must be easily visible. No license may be transferred to any other person.
7. No employee or agent of a ~~simulcast~~ service provider may be employed by a ~~simulcast~~ site operator. No employee of a ~~simulcast~~ site operator may be employed by a service provider.

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

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

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

1. Reasons for denial, suspension, and revocation. The commission may deny, suspend, or revoke licenses for just cause. Actions constituting just cause include:
 - a. Any action or attempted action by a person contrary to any law.
 - b. Corrupt practices, which include:
 - (1) Prearranging or attempting to prearrange the order of finish of a race.
 - (2) Failing to properly pay winnings to a bettor or to properly return change to a bettor purchasing a ticket.
 - (3) Falsifying or manipulating the odds on any entrant in a race.
 - c. Any violation of the rules of racing ~~or~~ simulcasting, or account wagering adopted by the commission.
 - d. Willful falsification or misstatement of facts in an application for ~~simulcasting privileges or~~ a license.
 - e. Material false statement to a racing ~~or simulcast~~ official or to the commission.
 - f. Willful disobedience of a commission order or of a lawful order of an agent of the commission.
 - g. Continued failure or inability to meet financial obligations ~~connected with the operation of any part of a simulcast system or simulcast site.~~
 - h. Failure or inability to properly maintain a simulcast system, ~~simulcast site, or combined pari-mutuel pool,~~ or account wagering system.
 - i. Failure to fulfill contractual obligations ~~to other facets of the simulcast system.~~

- j. The suspension or revocation of racing or pari-mutuel wagering activity of the applicant or licensee by an out-of-state regulatory agency recognized by the commission.
 - k. Failure to meet the considerations of subsection 3 of section 69.5-01-11-02.
2. The procedures to be followed in denial, suspension, or revocation of ~~simulcast~~ licenses must be as prescribed by North Dakota Century Code section 53-06.2-15.

History: Effective March 1, 1990; amended effective January 1, 2008; July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-11. Account wagering. Repealed effective July 1, 2011. ~~The requirements for account wagering are as follows:~~

- ~~1. The simulcast site operator may offer a system of account wagering to its patrons whereby wagers are debited and payouts credited to a sum of money, deposited in an account by the patron, that is held by the association. The simulcast site operator shall notify the patron, at the time of opening the account, of any rules the association has made concerning deposits, withdrawals, average daily balance, user fees, interest payments, and any other aspect of the operation of the account. The simulcast site operator shall notify the patron whenever the rules governing the account are changed, such notification occurring thirty days before the new rules are applied to the account and including the opportunity for the patron to close or cash-in the account. The patron shall be deemed to have accepted the rules of account operation upon opening or not closing the account. The simulcast site operator shall request authorization from the commission before a system of account wagering is offered.~~
- ~~2. To establish an account with the association an application form must be signed or otherwise authorized in a manner approved by the commission and include all the following information about the applicant:~~
 - ~~a. Full legal name.~~
 - ~~b. Principal residence physical address.~~
 - ~~c. Principal residence mailing address, if different than physical address.~~
 - ~~d. Telephone number.~~

- e. ~~Social security number.~~
 - f. ~~Proper identification or certification demonstrating that the applicant for the amount is at least eighteen years of age, if a resident of North Dakota, or twenty-one years of age, if not a North Dakota resident.~~
 - g. ~~Any other information required by the commission.~~
3. ~~The information each applicant submits may be subject to electronic verification of the name, principal residence address, date of birth and social security number, individual reference service company, or other technology approved by the commission. If there is a discrepancy, then the applicant for an account will be contacted by the advance deposit wagering facility and given instructions as to how to resolve the matter.~~
 4. ~~The principal residence address provided in writing by the accountholder at the time of application is deemed to be the proper address for all mailing, including checks, statements of account, account withdrawals, notices, or other correspondence unless the accountholder has provided the association with a change of principal residence address. The mailing of checks or other correspondence to the address given by the accountholder shall be the sole risk of the accountholder.~~
 5. ~~The accountholder shall maintain the minimum account balance established in the association operating plan. No wager may be made or accepted that would lower the account balance below the minimum balance.~~
 6. ~~The simulcast site operator may offer to open for its patrons:~~
 - a. ~~Accounts that are operational for any performance offered by the association, whereby wagers are placed by the accountholder at a self-service terminal or by telephone or any other electronic means.~~
 - b. ~~The simulcast site operator may reserve the right at any time to refuse to open an account, to accept a wager, or to accept a deposit.~~
 - c. ~~The simulcast site operator shall provide, for each accountholder, a confidential account number and password to be used by the patron to confirm validity of every account transaction.~~
 7. ~~Deposits may be made in cash, check, or electronic transfer. Holding periods will be determined by the association and the accountholder shall be informed of this. A receipt for the deposit may be issued to the accountholder by the association but does not need to reflect the current account balance.~~

8. ~~The simulcast site operator may only debit an account as follows:~~
- ~~a. Upon receipt by the association of information needed to place a wager, the association shall only debit the account in the amount of the wager at the time the wager is placed.~~
 - ~~b. For fees for service or other transaction-related charges by the site operator.~~
 - ~~c. Authorized withdrawal from an account when one of the following exists:~~
 - ~~(1) The accountholder of an account appears personally at the simulcast site operator licensee's location and provides all the following:~~
 - ~~(a) Proper identification.~~
 - ~~(b) The correct secure personal identification code.~~
 - ~~(c) A properly completed and signed withdrawal slip.~~
 - ~~(2) The accountholder sends to the simulcast site operator, a properly completed and signed withdrawal slip or e-mail signature the association shall, within five business days of its receipt, send a check by certified mail with return receipt requested to the accountholder if there are sufficient funds in the account to cover the withdrawal. The check shall be payable to the accountholder and in the amount of the requested withdrawal. If funds are not sufficient to cover the withdrawal, the accountholder will be notified in writing and those funds in the account will be withdrawn and sent to the accountholder within the five-day time period. Electronic funds transfers may be used for withdrawals in lieu of a check at the discretion of the accountholder and the simulcast site operator in accordance with financial institution funds availability schedules.~~
9. ~~Each accountholder shall be deemed to be aware of the status of that account at all times. Wagers will not be accepted which would cause the balance of the account to drop below the minimum account balance as set by the simulcast site operator. Any account not updated when a transaction is completed shall be inoperable until the transaction is posted and the account balance updated.~~
10. ~~When an accountholder is entitled to a payout or refund, said monies will be credited to the respective account, thus increasing the balance. It is the responsibility of the accountholder to verify proper credits and, if in doubt, notify the association within the agreed-upon timeframe~~

~~for consideration. Unresolved disputes may be forwarded to the commission. No claim will be considered by the commission, unless submitted in writing by the simulcast site operator, or the accountholder, and accompanied by supporting evidence.~~

- ~~11. The simulcast site operator shall maintain complete records of every deposit, withdrawal, wager, and winning payout for each account. These records shall be made available to the commission upon request.~~
 - ~~a. Any account wagering system shall provide for the accountholder's review and finalization of a wager before it is accepted by the association. Neither the accountholder nor the simulcast site operator shall change a wager after the accountholder has reviewed and finalized the wager.~~
 - ~~b. For wagers made by voice telephone, the simulcast site operator shall make a voice recording of the entire transaction and shall not accept any such wager if the voice recording system is inoperable. The voice recording of the transaction shall be deemed to be the actual wager regardless of what was recorded by the pari-mutuel system.~~
- ~~12. The simulcast site operator may close any account when the holder thereof attempts to operate with an insufficient balance or when the account is dormant for a period determined by the commission. In either case, the simulcast site operator shall refund the remaining balance of the account to the accountholder within thirty days.~~

History: ~~Effective August 1, 2007.~~

General Authority: ~~NDCC 53-06.2-05~~

Law Implemented: ~~NDCC 53-06.2-10.1~~

69.5-01-11-11.1. Account wagering. The requirements for account wagering are as follows:

1. A site operator may offer a system of account wagering to its players in which wagers are debited and payouts credited to a sum of money deposited in an account by the player, that may be held by a service provider. The service provider shall notify the player, at the time of opening the account, of any rules the site operator or service provider has made concerning reporting, monitoring, changes of awards, account activity (deposits or withdrawals), user fees, or any other aspect of the operation of the account. The service provider shall notify the player and the site operator whenever the rules governing the account are changed. The notification must occur prior to or at the time when the new rules are applied to the account. Notification shall be posted on the website utilized for account wagering or by mailing to the player at the player's last-known address. The player shall be

deemed to have accepted the rules of account operation upon opening or not closing the account. The site operator and service provider shall present the method of account wagering to the commission for review and approval.

2. To establish an account with the service provider, the player must be approved through a process developed by the service provider and shared with the site operator and commission.
3. The information each player submits must be subject to electronic verification. The verification must identify clients and obtain information with respect to name, principal residence address, date of birth, and verification of information through testing criteria established by electronic verification pertinent to doing financial business with them. The service provider must verify that the customer is not on the specially designated nationals list, maintained by the United States department of the treasury, or the designated foreign terrorist organizations list, maintained by the United States department of state. If there is a discrepancy between the application submitted and the information provided by the electronic verification described above, or, if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. The information secured by the service provider must be documented and available to the site operator and commission upon request. If a player wagers more than ten percent of the monthly amount wagered with the service provider, the service provider shall perform additional identity verification, which must be proportionate to the possible risks and the resources available. The service provider may close or refuse to open an account for what it deems good and sufficient reason and shall order an account closed if it is determined that information that was used to open an account was false or that the account has been used in violation of law or rules.
4. The player shall maintain an account balance established by the service provider and identified in the contract with the site operator.
5. The service provider may offer to players:
 - a. Accounts that are operational for any performance offered by the service provider, whereby wagers are placed by the player at a self-service terminal or by any electronic means.
 - b. The service provider may reserve the right at any time to refuse to open an account, to accept a wager, or to accept a deposit.
 - c. The service provider shall provide, for each player, a confidential account number or user name and password or personal identification number to be used by the player to access the

player's account or, at the service provider's option, confirm validity of every account transaction.

6. Deposits may be made in the manner provided by the site operator or service provider. Holding periods will be determined by the service provider, and the player will be informed of this period. A receipt for the deposit may be issued electronically to the player by the service provider.
7. The service provider may only debit an account as follows:
 - a. Upon receipt by the service provider of information needed to place a wager. The service provider shall only debit the account in the amount of the wager at the time the wager is placed.
 - b. For fees for service or other transaction-related charges by the service provider.
 - c. Authorized withdrawal from an account when the player sends to the service provider a properly identifiable request for a withdrawal. The service provider will honor the request contingent on funds being available in the account and subject to funds being collected from the host track and approved by the commission. If the funds are not sufficient to cover the withdrawal, the player will be notified, and the funds that are available may be made available for withdrawal. These transactions will be completed in accordance with financial institutions funds availability schedules.
8. Each player shall be deemed to be aware of the status of that account at all times. Wagers will not be accepted which would cause the balance of the account to drop below the minimum account balance set by the service provider.
9. When a player is entitled to a payout or refund, said moneys will be credited to the respective account, thus increasing the balance. It is the responsibility of the player to verify proper credits, and, if in doubt, notify the service provider within the timeframe identified by the service provider.
10. The service provider shall maintain complete records of every deposit, withdrawal, wager, and winning payment for each player account. These records shall be made available to the commission and site operator upon request.
 - a. Any account wagering system shall provide for the player's review and finalization of a wager before it is accepted by the service provider. Neither the player nor the service provider shall change a wager after the player has reviewed and finalized the wager.

- b. For wagers made telephonically or electronically the service provider shall make a voice or electronic recording of the entire transaction and shall not accept any such wager if the voice or electronic recording system is not operable. The voice and electronic recording of the transaction shall be deemed to be the actual wager regardless of what was recorded by the pari-mutuel system.
- 11. The service provider may close any account when the player attempts to operate with an insufficient balance or when the account is dormant for a period determined by the commission or the site operator. In either case the service provider shall refund the remaining balance of the account to the player within thirty days.
- 12. The service provider shall establish with the site operator the minimum amount due to the site operator as negotiated by each entity. This information should be filed with the commission.
 - a. The service provider shall provide real-time monitoring of all accounts to the site operator and the commission.
 - b. Service providers shall notify site operators of proposed rebate programs thirty days before implementation and receive authorization from site operators before implementation.
 - c. Service providers shall provide reports of account wagering activity to the site operator for their review.

History: Effective July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-10.1, 53-06.2-14

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

- 1. Pari-mutuel wagering utilizes a totalizator to pool wagers. The totalizator system may be located at a site, or may, subject to compliance with applicable law and rules, reside at another location other than within the state of North Dakota.
- 2. Wagering, subject to commission approval and compliance with applicable law and rules, may be accepted by separate totalizator systems in this or other jurisdictions and combined via communication between totalizator systems.
- 3. The commission may, without specific reference in these rules, utilize a designee for the purposes of certification, verification, inspection, testing, and investigation. A commission designee may be another commission or equivalent regulatory authority, a multijurisdictional

group of regulatory authorities, association of regulatory authorities, or auditing, consulting, security, investigation, legal services, or other qualified entities or persons.

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

History: Effective July 1, 2011.

General Authority: NDCC 53-06.2-05

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

69.5-01-11-12. Totalizator system standards. Repealed effective July 1, 2011.

1. ~~Facility requirements. For onsite totalizator rooms an authorized pari-mutuel wagering entity shall provide a totalizator room to house the main computing and communications equipment and the operator's terminal at the authorized pari-mutuel wagering entity's facility. The room must include all of the following:~~
 - a. ~~Air-conditioning with humidity control to maintain a stable environment that meets the specifications of the computer equipment manufacturer.~~
 - b. ~~A master power switch that allows all or part of the equipment housed in the room to be turned off in an emergency.~~
 - c. ~~A smoke and fire alarm system that sounds locally and is tied into the authorized pari-mutuel wagering entity's master alarm system.~~
 - d. ~~Fire extinguishers to deal with minor electrical fires.~~
 - e. ~~An internal communication system connecting the totalizator operator with all of the following:~~
 - (1) ~~The stewards or racing judges (for racetracks only).~~
 - (2) ~~The mutuel manager.~~
 - (3) ~~Each betting line.~~
 - (4) ~~The commission's office onsite if any.~~
 - f. ~~A private outside line for communication with supervisors, programmers, or totalizator personnel at other sites.~~

- ~~g. Fire-resistant, locking storage cabinets to hold removable data storage devices and documents necessary for operating the system.~~
- 2. ~~For totalizator room at a central processing location, the authorized pari-mutuel wagering entity may contract with a totalizator service that uses a central processing location off the authorized pari-mutuel wagering entity's grounds. The authorized pari-mutuel wagering entity shall do all the following:~~
 - ~~a. Provide an onsite totalizator room that satisfies the requirements in subsection 1.~~
 - ~~b. Ensure the totalizator central processing location satisfies the requirements of an onsite totalizator room as set forth in subsection 1.~~
 - ~~c. Ensure the totalizator central processing location has a communications system connecting the central processing location operator with all the following:~~
 - ~~(1) The totalizator operator at the authorized pari-mutuel wagering entity's facility.~~
 - ~~(2) A private outside line for the communication with supervisors, programmers, or totalizator personnel at other sites.~~
- 3. ~~The commission may require that the computer system be supported by an uninterruptible power supply, to allow for system shutdown if a power failure occurs, meeting all the following requirements:~~
 - ~~a. In a system shutdown, all wagering data in the computer at the time of the failure must remain intact and all race and end-of-day reports must be produced.~~
 - ~~b. The uninterruptible power supply must be able to supply even power to the totalizator system, for a minimum of fifteen minutes, when a power surge or drop occurs.~~
 - ~~c. An alarm associated with the uninterruptible power supply must be readily recognizable by the totalizator operator from inside the totalizator room.~~
- 4. ~~The commission may require the totalizator system to transmit data in real time to an independent real-time monitoring system approved by the commission. This system is to provide information in a read-only format.~~

- a. ~~At a minimum the system shall verify all transactions performed by the totalizator.~~
 - b. ~~Access to the independent monitoring system shall be provided to the commission and the authorized pari-mutuel wagering entity for monitoring activity.~~
 - c. ~~In the case where the system detects a discrepancy in the totalizator operation or with the independent monitoring system, or both, the system shall automatically notify the authorized pari-mutuel wagering entity's mutuel manager or duly appointed representative. The mutuel manager is to determine the cause of the error and to require any necessary repairs or adjustments to be made pursuant to the rules.~~
 - d. ~~Notification of discrepancies identified pursuant to subdivision c shall be made to the commission's director no later than twenty-four hours after each occurrence.~~
5. ~~For each race day offered, the totalizator system must be capable of producing all the following reports and have them available for review by the mutuel manager, the commission, or both:~~
- a. ~~The balance report showing for every wagering device operated on that day, including all the following:~~
 - (1) ~~The teller's name or identification number, if applicable.~~
 - (2) ~~The total value and number of tickets sold, canceled, and cashed, separating the outs from the current day's tickets.~~
 - (3) ~~The total amount of money drawn from the money room, including the beginning draws.~~
 - (4) ~~The total amount of money returned to the money room.~~
 - (5) ~~A listing of adjustments made to each wagering device balance after each wagering device has been individually balanced.~~
 - b. ~~The wagering summary report showing all the following:~~
 - (1) ~~By wagering site, the amount wagered, refunded, and added for every pool and for each race.~~
 - (2) ~~The time of day each race's pools closed.~~
 - (3) ~~The commissions deducted, breakage calculated, and amount paid out for every pool in each race.~~

- ~~(4) The total value of outstanding tickets before the pools were opened for the performance, the value of tickets cashed during the performance, the value of tickets to be added to the outstanding ticket total, and the new outstanding ticket total.~~
 - ~~(5) The total value of outstanding vouchers before the pools were opened for the performance, the value of vouchers cashed during the performance, the value of vouchers to be added to the outstanding voucher total, and the new outstanding voucher total.~~
 - ~~c. The system balance report comparing the pool and paid-out totals obtained by processing the transaction files with the pool and paid-out totals obtained from the actual calculations.~~
 - ~~d. The money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions.~~
 - ~~e. The internal revenue service report showing the winner's social security number, the ticket number, amount won, and taxes withheld for each transaction requiring a form W2-G.~~
- ~~6. Other standard and special reports.~~
 - ~~a. A totalizator company shall produce any of the following standard reports requested by the commission within seventy-two hours, unless otherwise directed, after receiving the request:~~
 - ~~(1) An odds progression report showing each successive line of odds for the win pool and the time it was displayed to the public.~~
 - ~~(2) A ticket and transaction history report showing the appropriate portion of the ticket history log for the requested ticket identification numbers.~~
 - ~~(3) A terminal history report showing the portion of the terminal log requested.~~
 - ~~(4) An outstanding ticket report showing all the following information for uncashed winning tickets retained in the totalizator system:~~
 - ~~(a) The ticket identification number.~~
 - ~~(b) The wagers on the ticket.~~

- ~~(c) The date and performance for which the ticket is outstanding.~~
- ~~(d) The value of the winning wagers.~~
- ~~(e) The wagering device location and number.~~
- ~~(5) An outstanding tickets cashed report, for a performance, race, or pool, showing each outstanding ticket cashed that day, in the form of the outstanding ticket report, including the identity of the wagering device that cashed the ticket and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read.~~
- ~~(6) A manually cashed tickets report, for a performance, race, or pool, showing every ticket cashed that day in the form of the ticket history report, the identity of the wagering device that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read as well as a subtotal for each wagering device.~~
- ~~(7) A canceled tickets report, for a performance or race, showing each ticket canceled that day in the form of the ticket history report, the identity of the wagering device that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read as well as a subtotal for each wagering device.~~
- ~~(8) A network balance report summarizing the activity and liabilities for each site within a tote-to-tote network.~~
- ~~(9) A teller inquiry report showing the time of each cash balance inquiry made by each teller.~~
- ~~(10) A wagering report required for multi-leg pools four legs or more, showing the amount bet on every combination of the pool and total amount bet.~~
- ~~(11) An account history report showing all activity for each account.~~
- ~~(12) Inter-track wagering report for a card showing the separate or consolidated report for wagers made at participating tracks, including all money wagered on each runner or combination of runners in each pool for each race. Separate or consolidated reports for the host track and each satellite track and the combined totals are required and any additional reports, as determined by the commission.~~

- (13) ~~Ticket history report and terminal history report, in the case of a wagering device to totalizator network failure, for specific locations and time periods in order to determine what wagers have been recorded in the totalizator from the remote site, including any advance bets.~~
- (14) ~~Pool transmission report listing time of each pool transmission.~~
- b. ~~The totalizator system must be able to produce a special report that filters data by all the following:~~
 - (1) ~~Performance.~~
 - (2) ~~Race.~~
 - (3) ~~Pool.~~
 - (4) ~~Betting interest.~~
 - (5) ~~Wagering device.~~
 - (6) ~~Sites.~~
- 7. ~~The totalizator operator shall produce a daily log to the commission on request. The totalizator system must produce at a minimum all the following logs in a format prescribed by the commission:~~
 - a. ~~Teller machine history log showing all of the following for every wagering device operated during a performance:~~
 - (1) ~~Each time the wagering device was opened and closed.~~
 - (2) ~~For each wagering transaction, the wagers made, tickets issued, and total value of the transaction.~~
 - (3) ~~For each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, and the value of the wagers paid out.~~
 - (4) ~~For each cashing transaction, an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read.~~
 - (5) ~~The amount of each cash draw and return.~~
 - (6) ~~Any special function, including teller balance, accessed through the wagering device.~~

- ~~(7) The times of day each of the transactions listed in this subdivision were made.~~
 - ~~b. A ticket history log showing all of the following for every ticket issued:~~
 - ~~(1) The identification number of each cashed and canceled ticket.~~
 - ~~(2) The wagering device location and number.~~
 - ~~(3) The wagers and their values.~~
 - ~~(4) The cashing and canceling machine location and number.~~
 - ~~(5) The amount paid out.~~
 - ~~(6) The time of day each transaction occurred.~~
 - ~~(7) An indication as to whether each transaction was manual or automatic.~~
 - ~~c. A user terminal log showing the time of day of each entry for:~~
 - ~~(1) Each terminal other than a wagering device operating during a day:~~
 - ~~(a) Each logon and logoff and the operator's identification code.~~
 - ~~(b) Each command or transaction entered.~~
 - ~~(c) Each stop betting, order of finish, official, and sales open command and the device that issued it.~~
 - ~~(d) Each occurrence of loss and restoration of communication between computers or sites.~~
 - ~~(e) Each occurrence of discrepancy between computers or sites when comparing data bases.~~
 - ~~(2) Each wagering device operated during a performance:~~
 - ~~(a) Each logon and logoff and the teller's identification code, if applicable.~~
 - ~~(b) Each instance of loss and restoration of communication and the wagering device.~~

- d. A system error log showing the date and time of each error.
- e. System journal log, including date and time of each entry, including remote access, showing for every day the system is operated for wagering, maintenance, or other purpose:
 - (1) System shutdown commands, the device from which they were issued, and the user identification of the individual issuing the commands.
 - (2) The individual user identification used and the originating device for every attempt, successful or unsuccessful, to access the operating system.
 - (3) The individual user identification used and the originating device for every attempt, successful or unsuccessful, to access the application programs.
 - (4) All commands that affect the operating environments issued from the operating system command line.
 - (5) All commands issued from within the application program in an attempt to access the operating system.
 - (6) A listing of every operational or operating terminal during computer operation.
- f. An account history log showing all of the following for every account:
 - (1) The identification number of the account.
 - (2) Each time the account was accessed, the location and time of each access point.
 - (3) For each wagering transaction, the amount, time, betting interest selected and type of wagers made, the wagering device used to make the wager, and total value of the transaction.
 - (4) For each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, the location and time, and the value of the wagers paid out.
 - (5) For each withdrawal and deposit the amount, the location, and time.

8. ~~In addition to the computer-generated reports and logs, the totalizator personnel must maintain at a minimum all the following logs for review by the commission or duly appointed representative:~~
- ~~a. The totalizator operator must maintain a system incident log and make it available on request for review by the commission. The system incident log must include a description of each incident involving the totalizator system, including system failures, their causes, and corrective actions taken.~~
 - ~~b. Totalizator room access log of all authorized persons entering and leaving the totalizator central computer room. This includes entries of date, time, and user identification of each person entering and leaving the room.~~
 - ~~c. Totalizator maintenance log of all maintenance work completed on wagering devices and the main totalizator computers or printers showing all the following:~~
 - ~~(1) The name of the person performing the work.~~
 - ~~(2) The date and time of day when the maintenance was performed.~~
 - ~~(3) The type of maintenance jobs performed.~~

~~History: Effective August 1, 2007.~~

~~General Authority: NDCC 53-06.2-05~~

~~Law Implemented: NDCC 53-06.2-10.1~~

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

1. Facility requirements.

- a. Onsite totalizator room. An authorized pari-mutuel wagering entity may provide a totalizator room to house the main computing and communications equipment and the operator's terminal at the authorized pari-mutuel wagering entity facility. The room must include all of the following:
 - (1) Air-conditioning with humidity control to maintain a stable environment that meets the specifications of the computer equipment manufacturer.
 - (2) A master power switch that allows all or part of the equipment housed in the room to be turned off in an emergency.

- (3) A smoke and fire alarm system that sounds locally and is tied into the authorized pari-mutuel wagering entity master alarm system.
- (4) Fire extinguishers to address minor electrical fires.
- (5) An internal communications system connecting the totalizator operator with all of the following:
 - (a) For racetracks only, the stewards and racing judges.
 - (b) The pari-mutuel manager.
 - (c) Each betting line.
 - (d) The commission office onsite, if any.
- (6) A private outside line for communication with supervisors, programmers, or totalizator personnel at other sites.
- (7) Fire resistant, locking storage cabinets to hold removable data storage devices and documents necessary for operating the system.

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

- (1) That the totalizator central processing location satisfies the requirements of subdivision a of subsection 1.
- (2) That the totalizator central processing location has a communications system connecting the central processing location operator with all of the following:
 - (a) The totalizator operator at the authorized pari-mutuel wagering entity.
 - (b) A private outside line for communication with supervisors, programmers, or totalizator personnel at other locations.

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

room housing the computer processing unit that processes wagers made at the authorized pari-mutuel wagering entity's facility. The security plan must include all of the following:

- a. A security system covering the totalizator room and any other related service room, electrical room, or equipment room that consists of locking closed doors and detecting unauthorized entry.
- b. A system of controlled entry to the totalizator room and other related rooms using all of the following:
 - (1) Locking devices on all doors or entry points.
 - (2) Control over distribution of keys or codes necessary to unlock the doors.
 - (3) A sign-in log for visitors escorted by authorized personnel.
 - (4) A system that identifies and records each person entering and leaving the room.

3. Hardware requirements.

- a. Cash/sell system. A totalizator company shall use a cash/sell totalizator system. The system must comply with these rules regardless of the location of the central processing unit for the system.
 - (1) A totalizator system must be a multi-computer or multi-processor system with independence in the transaction processing and system control functions distributed among the computers as specified in the contract with the authorized pari-mutuel wagering entity. At least one computer shall be independent, sharing no loads or processing functions with the master computer. The computers must be configured so that, if one computer actively tracking events fails, another computer will take over all functions of the failed computer on a timely basis.
 - (2) The schematic chart, required pursuant to subdivision b of subsection 3, must be submitted to the commission at least two weeks before the scheduled date for system installation and testing.
- b. Schematic chart. The totalizator company must provide to the commission an overview of the equipment in the totalizator system. The overview must be a detailed schematic chart showing each piece of hardware and the network interconnections. The chart must indicate, where appropriate, the part of the database

each terminal can access as well as the amount and degree of access each terminal has to the application and operating system programs. User assignments must be determined by access, and the schematic chart must also reflect the usual and potential user types assigned to each terminal. If the totalizator company changes any component in the hardware or the network layout, the company must revise the schematic chart and submit it to the commission within seven days.

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

- (1) A log printer for each computer if the system is unable to reproduce the logs upon request.
- (2) A master control terminal that allows the operator to execute routine maintenance and operational functions based on individual operator identification and authentication.
- (3) User terminals that allow restricted system access for the stewards or racing judges to allow the order of finish to be input.
- (4) Wagering information screen displays.
- (5) Data storage devices to record necessary system data.
- (6) Backup devices capable of recording complete system information on removable media for storage and restoration.

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

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

- (1) Update the odds on each betting interest in the win pool at intervals of not more than sixty seconds, or at more frequent intervals expressly directed by the commission.
 - (2) Allow the stewards or racing judges or designee of the stewards or racing judges to post the times, running order, order of finish, the official sign, inquiry sign, objection sign, or dead heat sign.
- f. Uninterruptible power supply. The computer system must be supported by an uninterruptible power supply to allow for system shutdown if a power failure occurs. In a system shutdown, all wagering data in the computer at the time of the failure must remain intact and all race and end-of-day reports must be produced. The uninterruptible power supply must be able to supply even power to the totalizator system, for a minimum of fifteen minutes, when a power surge or drop occurs. An alarm associated with the uninterruptible power supply must be readily recognizable by the totalizator operator from inside the totalizator room.
- g. Wagering devices. Wagering devices (cash/sell terminals) in a network are not required to be intelligent but must have identities. A program related to the production or verification of the wager identification number printed on a mutuel ticket or assigned by the main computer may not reside in a wagering device. A wagering device may not access the wagering database except to conduct the wagering or cashing functions necessary for a teller to serve the public. Wagering shall not occur in the totalizator room.
- h. Maintenance. A totalizator company shall provide preventative maintenance to a totalizator system to ensure the system hardware will provide a high degree of reliability. Maintenance must include physical cleaning of system components and peripherals and testing the uninterruptible power supply for better life and power stability.
- i. Common pooling.
 - (1) A totalizator company shall use a totalizator system that operates in either a tote-to-tote network or a wagering device to tote network. The totalizator system must, without regard to the location of the central processing unit, use all of the following:
 - (a) The current version of inter-tote systems protocol recognized by the standard prescribed by the commission.

- (b) The standard track codes recognized by the association of racing commissioners international.
- (2) A totalizator company may common pool if all equipment used is of an approved type and in an approved location.
- (3) The pari-mutuel pool host must provide a totalizator system that meets all of the following requirements:
 - (a) It directs each totalizator system involved with the common pool regarding the pools offered, live and scratched betting interest, common pool totals, network and guest authorized pari-mutuel wagering entity specific odds and probable payouts, start and stop wagering commands, official orders of finish, and deduction and payout calculations.
 - (b) It produces reports showing the amount wagered on each betting interest and pool from each site, in accordance with the current inter-tote systems protocol or other inter-tote communication standard prescribed by the commission.
- (4) An authorized pari-mutuel wagering entity and the totalizator company must file with the commission, at the time of license application, a disaster recovery plan that will ensure that the authorized pari-mutuel wagering entity may continue to conduct pari-mutuel wagering within a reasonable period of time.
- (5) The totalizator company utilizing inter-tote systems protocol shall follow a method of progressive scanning for those wagers including pick (n) with four or more legs and superfecta or other method approved by the commission.

j. Emergency procedures.

- (1) The totalizator system must be supported by an uninterruptible power supply as described in subdivision f .
- (2) A totalizator company must have emergency procedures to address a totalizator system failure. The procedures will apply whether the system is operating as a stand-alone wagering site for separate pool wagering or as a satellite in a common pool network.
- (3) If a hardware problem, excluding routine repair of wagering terminals, occurs, the totalizator company may make an emergency fix to the totalizator system. No later than

twenty-four hours after the fix has been made to the totalizator system, the totalizator company shall file a written report with the commission stating the situation that caused the need for the fix and the corrective changes made.

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

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

- (1) The system shall verify all transactions performed by the totalizator.
- (2) Access to the independent monitoring system shall be provided to the commission and the authorized pari-mutuel wagering entity for monitoring activity.
- (3) If the system detects a discrepancy in the totalizator operation or with the independent monitoring system, the system shall automatically notify the authorized pari-mutuel wagering entity's pari-mutuel manager or duly appointed representative. The pari-mutuel manager shall determine the cause of the error and require any necessary repairs or adjustments to be made pursuant to the rules.
- (4) Notification of discrepancies shall be made to the commission no later than twenty-four hours after each occurrence.

4. Software requirements.

a. General requirements.

- (1) The totalizator system program must be able to do all of the following:
 - (a) Sell, calculate, cash, and refund according to the pool profile, current rules, and number of races.
 - (b) Produce the required reports and logs and other reports and logs the commission may prescribe.
 - (c) Network with the remote wagering sites.
 - (d) Offer simultaneous wagering cards.

- (e) Allow access to program functions and identification of each user based on the user identifications and passwords provided from the operating system or program login, in the case of administrative terminals, or by physical connection to the computer system, in the case of wagering devices.
- (f) Automatically maintain all carryover data required for the next performance on a rotating basis, including system date and time, without operator intervention.
- (g) Be subject to modification only by authorized individuals holding specific user identifications that allow gateways to the operating system.
- (h) Document changes to programs, including who made the change and when the change was made. This log is to be made available to the commission upon request.
- (i) Provide software or hardware restrictions that eliminate the capability of printing duplicate tickets.
- (j) Provide software or hardware restrictions that prevent invalid claims on unclaimed funds.
- (k) Be able to detect abnormal system operation and the cause, such as a validation problem, communication difficulty, and computer downtime, and immediately notify the totalizator operator.
- (l) Generate, within the approved timeframe, data usable across two major revisions, and within all minor revisions, or retrieve archived data reports as requested by the commission.
- (m) Contain a utility program that backs up the totalizator system and schedules these backups at regular intervals.
- (n) Provide a utility or application that writes requested pari-mutuel wagering data on media readable by the commission. The totalizator company must also provide documentation about the structure of the data.
- (o) Have the ability to close remote sites before the post time if the commission requires.

- (2) The operating system must be separated from the application program. The operating system must maintain auditable records of transactions.
 - (3) The totalizator company must upon request make available to the commission an inventory of all totalizator system programs included in the system.
 - (4) A totalizator system must be able to produce a copy of all historical data necessary to recreate the wagering activity of any race performance within a three year period that the commission requests.
- b. Documentation. Software documentation, using computer software industry accepted methods, must be available to the commission upon request and must provide all of the following:
- (1) Documentation of modules or sections within the source code, detailing the function of the module or section, the definition of all variables used within the module or section, the source of all variables passed to the module, and the method of passing variables, for example, passed by reference or by value.
 - (2) Complete documentation of all program functions as seen by the end user of the program.
 - (3) Complete inventory of all programs contained on the system, their purpose, the date and time of their last modification, and the size, in bytes, of each file.
 - (4) Clarification of differences between major and minor revisions of the totalizator software. This clarification must include a complete history of all revisions, the intended reasons for and differences between major and minor revisions, the date of implementation, and a listing of the current revision number.
 - (5) Any change in software requiring the assignment of either a new major or minor revision number.
- c. Backup. Before beginning operations, the totalizator company shall submit a backup procedure plan to the commission for approval and should include all of the following:
- (1) Full system backups made at weekly intervals. Full system backups must include all data files contained on the totalizator system.

- (2) Incremental system backups made at daily intervals. Incremental system backups must include all data files that were changed since either the last full system or incremental backup.
- (3) Backups stored at an offsite storage area in a disaster-resistant environment.

d. Change to totalizator software.

- (1) All changes to the software on the central site computers, peripherals, or firmware changes downloaded to terminals may be subject to the approval of the commission.
- (2) The totalizator company is responsible to notify the commission at least thirty days prior to any major revisions.
- (3) A major revision to the software may not be initialized or operated during wagering until tested and approved by the commission. The daily computer log must show all of the following:
 - (a) When a change was loaded into the totalizator system.
 - (b) The time the work commenced and the time the work was completed.
 - (c) When the old software was removed from the system.
- (4) If a software problem occurs, the programmers may make an emergency fix to the totalizator software. No later than twenty-four hours after the fix has been made to the software, the totalizator company shall file a written report with the commission that stating the situation that caused the need for the fix, the corrective changes the programmers made, and the new revision number.

History: Effective July 1, 2011.

General Authority: NDCC 53-06.2-05

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

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

1. General management requirements.

a. Programming.

- (1) A totalizator company shall develop and maintain written procedure manuals that outline structured programming methods used by the programmers. The manuals must give the programmers sufficient information to understand the programming methodologies, base operating systems, and maintenance procedures.
- (2) The totalizator company shall develop and maintain a written systems development life cycle that requires signoffs at pertinent checkpoints. It must address all the following or the equivalent as acceptable to the commission:
 - (a) A procedure for accepting written requests for systems design or major program changes from users and a method for handling and recording these requests.
 - (b) The feasibility study stage.
 - (c) The general systems design stage.
 - (d) Detailed systems specification.
 - (e) Program testing.
 - (f) System testing.
 - (g) Conversion.
 - (h) Systems acceptance by the totalizator company.
- (3) A totalizator company must develop and follow procedures to manage all program changes without regard to the complexity of the modification. The procedures must do all of the following:
 - (a) Establish controls to prevent unauthorized and potentially inaccurate program changes from being incorporated into the production environment.
 - (b) Regulate both scheduled and emergency changes to ensure the integrity of the computer system.
 - (c) Permit revisions of computer programs submitted on a sequentially numbered basis.
 - (d) Require program changes to be developed, tested, and compiled only in a test environment that is not connected to an online totalizator network.

- (e) Require all program changes to be thoroughly tested, reviewed, and approved pursuant to procedures adopted by the totalizator company before being placed into operation.
- (f) Maintain a written or electronic log, to be made available to the commission upon request, when programmers have physical access to the totalizator room or electronic access to the operation environment.
- (4) Before a totalizator company may place a major programming revision into production or transfer any data affected by the revision from the test environment to the production environment, the totalizator company must follow the procedures required by subdivision d of subsection 4 of section 69.5-01-11-13.
- b. Totalizator operations. A totalizator company shall maintain a written operations manual for the totalizator system. The manual must clarify the authority, duties, responsibilities, and lines of communication. The manual must contain sufficient detail to ensure totalizator personnel understand their job duties. The operations manual must include complete documentation for operation of the totalizator system and its software, including all of the following:
 - (1) The duties described in subsection 2.
 - (2) Clearly defined restrictions for totalizator room access.
 - (3) General block diagrams of program options (menu tree) available to totalizator operations.
 - (4) A glossary of terms used in reports, including formulas for calculating the displayed results.
 - (5) The relationship, if any, between information contained in reports.
 - (6) Startup and shutdown procedures.
 - (7) General operating procedures.
 - (8) Restart and recovery procedures.
 - (9) Emergency procedures, including a list of individuals to notify if a system requires an emergency revision.

2. Personnel requirements.

a. General requirements.

- (1) A totalizator company must provide necessary personnel to perform the duties described in the rules. The totalizator company shall employ a sufficient number of personnel to ensure an adequate segregation of duties to avoid collusion. The totalizator company may use job titles different from those in the rules.
- (2) All totalizator personnel assigned to work on totalizator operations in North Dakota must be licensed by the commission.
- (3) The totalizator company shall have procedures and documentation that show the verification of totalizator position applicants' experience and education as indicated on their job applications. The totalizator company must prescribe and maintain job descriptions containing the experience, education, and organization training requirements for all of the following totalizator positions, if necessary:
 - (a) Network manager.
 - (b) Programmer or software engineer.
 - (c) Systems analyst.
 - (d) Totalizator operator.
 - (e) Technicians.
- (4) The totalizator company must certify in writing annually that its personnel are properly trained to program, manage, operate, and maintain the totalizator system. The totalizator company must provide ongoing training to its personnel and document the training.
- (5) The totalizator company is responsible for the actions of its personnel relating to the operations and use of the totalizator system. The totalizator company shall designate an individual to act as a point of contact for communications between the commission and the totalizator company.
- (6) A totalizator company employee may not hold a position of programmer and totalizator operator simultaneously unless approved by the commission.

- (7) A totalizator company employee is prohibited from wagering at any time at any location where the company provides service.
- (8) The totalizator company shall have a policy of mandatory time away from the job for each totalizator personnel within each calendar year.

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

- (1) Coordinate the totalizator company's totalizator systems operating in North Dakota or at a specific site in North Dakota.
- (2) Ensure each totalizator operator follows proper procedures when operating the totalizator system.
- (3) Determine the onsite and offsite storage locations for the backup media.
- (4) Provide information and prepare any report requested by the authorized pari-mutuel wagering entity, the commission, or the tax commissioner, if appropriate.
- (5) Ensure a current list of personnel is maintained, all totalizator operators are qualified, and the appropriate pari-mutuel information is maintained within the operating system and application programs.

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

- (1) Maintain the communication links and ensure data is transmitted accurately.
- (2) Consult with the pari-mutuel manager and the commission or duly appointed representative, if available, when a problem occurs in determining a pool or calculation, and suggest alternatives for continued operation, including possible temporary restrictions on or suspension of the communication links.
- (3) Perform necessary daily performance testing, system initialization, monitoring of wagering operations, and system shutdown.
- (4) Execute established procedures to shut down system software and hardware in emergency situations including

loss of communication between computers or peripheral devices, power surges or failures, operating with a partial system, and restarting the system during a performance.

- (5) Perform necessary system maintenance.
- (6) Perform daily backups required by subdivision c of subsection 4 of section 69.5-01-11-13.
- (7) Ensure information is entered in the tote maintenance log detailing all repairs or modifications to the totalizator system.
- (8) Provide to the commission an initial incident report within twenty-four hours of the incident, with a final report submitted as necessary, detailing each unusual occurrence during totalizator system operations, including a description of the probable cause of the occurrence and the corrective action taken.
- (9) Maintain a copy of the incident report or enter information about each unusual occurrence in the system incident log.
- (10) Consult with the commission or duly appointed representative regarding any other operational issues encountered.

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

- (1) Service and maintain the totalizator.
- (2) Perform maintenance on wagering devices and the tote board.
- (3) Record in the totalizator maintenance log all maintenance and repair activities performed.

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

4. **Data transmission protocols.** An authorized pari-mutuel wagering entity using a wagering device-to-tote network may use whatever communications protocol it wishes. A remote site is considered part of a tote-to-tote network and is subject to the requirements of subsection 3 of section 69.5-01-11-13. If the failure to compile pools or payout winning prices is isolated to a remote site, the stopping of

wagering or the manual cashing and accounting of tickets need only occur at the affected site. The relevant information must be transmitted between the central processing location and the remote site through the established communication links or facsimile machine and must be verified.

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General Authority: NDCC 53-06.2-05

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

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

1. General requirements.

- a. A totalizator system must be able to produce reports and logs necessary to audit pari-mutuel activity and to recreate any given day of wagering in its entirety in a format prescribed by the commission.**
- b. A totalizator company shall retain the information needed to produce these reports and logs on storage devices for at least three years after the end of the calendar year during which the reports and logs were created, unless otherwise released by the commission.**
- c. A totalizator company shall provide a report or log requested by the commission within forty-eight hours, unless required otherwise, after the totalizator company receives the request. A printed report must have consecutively numbered pages. Each page of the report must be headed with all of the following:**

 - (1) The name of the race track.**
 - (2) The date and time, in hours, minutes, and seconds, the report was produced.**
 - (3) The performance number, if applicable.**
 - (4) The wagering sites to which the report refers.**
 - (5) The version of software in use.**

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

- a. System initialization report showing all of the following:**

- (1) The date and time the system was initialized.
- (2) The identity of the totalizator operator initializing the system.
- (3) The software version in use.

b. Configuration parameter report showing all of the following:

- (1) The pools that may be offered as well as those that are currently operational in the totalizator system.
- (2) The display cycle frequency, pools, any minimum pool required, minimum wagers, and means of display of any approximate odds or will-pays produced.
- (3) The minimum and maximum value of wagers for every pool that a wagering device may accept.
- (4) Which wagering devices are activated, including a listing of all terminals operational that session or day.
- (5) Which remote sites may input into the totalizator system.
- (6) The split percentages and payout parameters for each multi-leg pool offered.
- (7) Verification of all operational locking devices.
- (8) The amount of delay between locking switch activation and actual stop betting or canceling.
- (9) The canceling parameters for regular and supervisory wagering devices.
- (10) Configurations placed on each wagering device.
- (11) The method of breakage and rounding used in calculating the payout.
- (12) Takeout percentages for each host site and for the live races, including takeout percentages for each association, state, and other statutory takeouts used in price calculations, including net pool pricing calculations.
- (13) Federal tax withholding rates and parameters.
- (14) Required currency conversion tables.

- c. Race information report showing, for each race to be offered, all of the following:
 - (1) The pools to be opened, indicating totals starting at zero and totals starting with money from advance wagering.
 - (2) Pool summaries of all advance wagering.
 - (3) Money added due to overages.
 - (4) Underpayments or money added due to carryovers, miss pools, or any other reasons.
 - (5) The betting interest for each race, showing entries and scratches.
 - d. Odd report showing the opening line of odds for the win pool.
 - e. Wagering device report listing the teller's identity assigned to each wagering device for that session or day, if applicable.
3. **Race-by-race reports.** For each race offered, the totalizator system must be capable of printing all of the following reports and have them available to review by the pari-mutuel manager and as requested by the commission:
- a. Scratch report showing the time each late scratch was entered into the totalizator system and the amount of money to be refunded in each pool.
 - b. Betting report produced immediately on activation of the stop betting command and final merge of wagering information from all sites showing all of the following:
 - (1) The amount wagered and to be refunded for each betting interest or combination in each pool offered and the net amount for each pool to be used for calculating the payout.
 - (2) The final dollar odds for the win pool.
 - (3) Time of stop betting and time of each pool transmission.
 - c. Calculating price report, produced before each race is declared official, showing all of the following for each pool:
 - (1) The winning betting interests or combinations.
 - (2) The winning moneys in total and for imported hubs.

- (3) The minimum payout prices.
- (4) The breakage.
- (5) The amount payable to the public.
- (6) The total amount wagered.
- (7) The total amount refunded.
- (8) The amount added to the pool.
- (9) The actual pool total.
- (10) The takeout in total dollars.
- d. Probable payout report showing the payouts for multiple and exotic pools, subject to scratches, cancellations, and dead heats.
- e. Scan report for multi-leg pools of four or more legs, showing all of the following:
 - (1) The total wagered in the pool.
 - (2) The amounts of any carryover.
 - (3) The winners of completed legs.
 - (4) The amount of possible winning, based on paying the winner of completed legs combined with every betting interest entered in subsequent legs.
 - (5) Late scratches in each leg.
- f. Race summary report, produced before and after the race results are official, showing, as the sum for all pools paid out in that race, all of the following:
 - (1) The amount wagered.
 - (2) The amount refunded.
 - (3) The net amount to be used for calculating the payout.
 - (4) Any money added to the pool.
 - (5) The actual pool total.
 - (6) The total commission.

- (7) The breakage.
- (8) The amount paid to the public.
- (9) The carryover balances.
- (10) The liabilities (due to/due from).
- (11) The daily summary report showing the cumulative totals, for each pool and for all pools combined, of the items listed under the race summary report.

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

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

- (1) The teller's name or identification number, if applicable.
- (2) The total value and number of tickets sold, canceled, and cashed, separating the outs from the current day's tickets.
- (3) The total amount of money drawn from the money room, including the beginning draws.
- (4) The total amount of money returned to the money room.
- (5) A listing of adjustments made to each wagering device balance after each wagering device has been individually balanced.

b. Wagering summary report showing all of the following:

- (1) By wagering site, the amount wagered, refunded, and added for every pool and for each race.
- (2) The time of day each race's pools closed.
- (3) The commissions deducted, breakage calculated, and amount paid out for every pool in each race.
- (4) The total value of outstanding tickets before the pools were opened for the performance, the value of tickets cashed during the performance, the value of tickets to be added to the outstanding ticket total, and the new outstanding ticket total.

- (5) The total value of outstanding vouchers before the pools were opened for the performance, the value of vouchers cashed during the performance, the value of vouchers to be added to the outstanding voucher total, and the new outstanding voucher total.
- c. System balance report comparing the pool and paid-out totals obtained by processing the transaction files with the pool and paid-out totals obtained from the actual calculations.
- d. Money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions.
- e. Internal revenue service report showing the winner's social security number, the ticket number, amount won, and taxes withheld for each transaction requiring a form W2-G.

5. Other standard and special reports.

- a. A totalizator company shall produce any of the following standard reports requested by the commission no later than seventy-two hours, unless otherwise directed, after receiving the request:
 - (1) Odds progression report showing each successive line of odds for the win pool and the time it was displayed to the public.
 - (2) Ticket and transaction history report showing the appropriate portion of the ticket history log for the requested ticket identification numbers.
 - (3) Terminal history report showing the portion of the terminal log requested.
 - (4) Outstanding ticket report showing all the following information for uncashed winning tickets retained in the totalizator system:
 - (a) The ticket identification number.
 - (b) The wagers on the ticket.
 - (c) The date and performance for which the ticket is outstanding.
 - (d) The value of the winning wagers.
 - (e) The wagering device location and number.

- (5) Outstanding tickets cashed report for a performance, race, or pool, showing each outstanding ticket cashed that day, in the form of the outstanding ticket report, including the identity of the wagering device that cashed the ticket and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read.
- (6) Manually cashed tickets report for a performance, race, or pool, showing every ticket cashed that day in the form of the ticket history report, the identity of the wagering device that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read as well as a subtotal for each wagering device.
- (7) Canceled tickets report for a performance or race, showing each ticket canceled that day in the form of the ticket history report, the identity of the wagering device that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read as well as a subtotal for each wagering device.
- (8) Network balance report summarizing the activity and liabilities for each site within a tote-to-tote network.
- (9) Teller inquiry report showing the time of each cash balance inquiry made by each teller.
- (10) Wagering report required for multi-leg pools, four legs or more, showing the amount bet on every combination of the pool and total amount bet.
- (11) Account history report showing all activity for each account.
- (12) Inter-track wagering report for a card showing the separate or consolidated report for wagers made at participating tracks, including all money wagered on each runner or combination of runners in each pool for each race. Separate or consolidated reports for the host track and each satellite track and the combined totals are required and any additional reports, as determined by the commission.
- (13) Ticket history report and terminal history report in the case of a wagering device to totalizator network failure for specific locations and time periods in order to determine what wagers have been recorded in the totalizator from the remote site, including any advance bets.
- (14) Pool transmission report listing time of each pool transmission.

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

- (1) Performance.
- (2) Race.
- (3) Pool.
- (4) Betting interest.
- (5) Wagering device.
- (6) Sites.
- (7) Any combination of paragraphs 1 through 6.

6. **Logs.**

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

- (1) Teller or machine history log showing for every wagering device operated during a performance all of the following:
 - (a) Each time the wagering device was opened and closed.
 - (b) For each wagering transaction, the wagers made, tickets issued, and total value of the transaction.
 - (c) For each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, and the value of the wagers paid out.
 - (d) For each cashing transaction, an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read.
 - (e) The amount of each cash draw and return.
 - (f) Any special function, including teller balance, accessed through the wagering device.
 - (g) The times of day each of the transactions listed were made.
- (2) Ticket history log showing all of the following for every ticket issued:

- (a) The identification number of each cashed or canceled ticket.
 - (b) The wagering device location and number.
 - (c) The wagers and their values.
 - (d) The cashing or canceling machine location and number.
 - (e) The amount paid out.
 - (f) The time of day each transaction occurred.
 - (g) An indication as to whether each transaction was manual or automatic.
- (3) User terminal log showing the time of day of each entry for all of the following:
- (a) Each terminal other than a wagering device operating during a day, including all of the following:
 - [1] Each logon or logoff and the operator's identification code.
 - [2] Each command or transaction entered.
 - [3] Each stop-betting, order of finish, official, and sales open command and the device that issued it.
 - [4] Each occurrence of loss or restoration of communication between computers or sites.
 - [5] Each occurrence of discrepancy between computers or sites when comparing databases.
 - (b) Each wagering device operated during a performance, including all of the following:
 - [1] Each logon or logoff and the teller's identification code, if applicable.
 - [2] Each instance of loss or restoration of communication and the wagering device.
- (4) System error log showing the date and time of each error.

- (5) System journal log, including date and time of each entry, including remote access, showing all of the following for every day the system is operated for wagering, maintenance, or other purpose:
- (a) System shutdown commands, the device from which they were issued, and the user identification of the individual issuing the commands.
 - (b) The individual user identification used and the originating device for every attempt, successful or unsuccessful, to access the operating system.
 - (c) The individual user identification used and the originating device for every attempt, successful or unsuccessful, to access the application programs.
 - (d) All commands that affect the operating environments issued from the operating system command line.
 - (e) All commands issued from within the application program in an attempt to access the operating system.
 - (f) A listing of every operational or operating terminal during computer operation.
- (6) Account history log showing all of the following for every account:
- (a) The identification number of the account.
 - (b) Each time the account was accessed, the location and time of each access point.
 - (c) For each wagering transaction, the amount, time, betting interest selected, type of wagers made, the wagering device used to make the wager, and total value of the transaction.
 - (d) For each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, and the location, time, and value of the wagers paid out.
 - (e) For each withdrawal and deposit the amount, location, and time.

- b. Offline log. In addition to the computer-generated reports and logs, the totalizator personnel must maintain all of the following logs for review by the commission or duly appointed representative:
- (1) System incident log showing a description of each incident involving the totalizator system, including system failures, their causes, and corrective actions taken.
 - (2) Totalizator room access log of all authorized persons entering and leaving the totalizator central computer room. This includes entries of date, time, and user identification of each person entering and leaving the room.
 - (3) Totalizator maintenance log of all maintenance work completed on wagering devices and the main totalizator computers or printers showing all of the following:
 - (a) The name of the person performing the work.
 - (b) The date and time of day when the maintenance was performed.
 - (c) The type of maintenance job performed.

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General Authority: NDCC 53-06.2-05

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

TITLE 75
DEPARTMENT OF HUMAN SERVICES

JULY 2011

**CHAPTER 75-02-04.1
CHILD SUPPORT GUIDELINES**

Section	
75-02-04.1-01	Definitions
75-02-04.1-02	Determination of Support Amount - General Instructions
75-02-04.1-03	Determination of Child Support Obligation - Split Custody or Primary Residential Responsibility
75-02-04.1-04	Minimum Support Level
75-02-04.1-05	Determination of Net Income From Self-Employment
75-02-04.1-06	Determining the Cost of Supporting a Child Living With the Obligor
75-02-04.1-06.1	Determination of Support Amount in Multiple-Family Cases
75-02-04.1-07	Imputing Income Based on Earning Capacity
75-02-04.1-08	Income of Spouse
75-02-04.1-08.1	Adjustment for Extended Parenting Time
75-02-04.1-08.2	Equal Residential Responsibility - Determination of Child Support Obligation
75-02-04.1-09	Criteria for Rebuttal of Guideline Amount
75-02-04.1-10	Child Support Amount
75-02-04.1-11	Parental Responsibility for Children in Foster Care or Guardianship Care
75-02-04.1-12	Uncontested Proceedings
75-02-04.1-13	Application

75-02-04.1-01. Definitions.

1. "Child" means any child, by birth or adoption, to whom a parent owes a duty of support.
2. "Child living with the obligor" means the obligor's child who lives with the obligor most of the year.
3. "Children's benefits" means a payment, to or on behalf of a child of the person whose income is being determined, made by a government, insurance company, trust, pension fund, or similar entity, derivative of

the parent's benefits or a result of the relationship of parent and child between such person and such child. Children's benefits do not mean benefits received from public assistance programs that are means tested or provided in the form of subsidy payments made to adoptive parents.

4. ~~"Custodial parent" means a parent who acts as the primary caregiver on a regular basis for a proportion of time greater than the obligor, regardless of custody descriptions such as "shared" or "joint" custody given in relevant judgments, decrees, or orders.~~

5. a. "Gross income" means income from any source, in any form, but does not mean:

(1) Benefits received from public assistance programs that are means tested such as the temporary assistance for needy families, supplemental security income, and food stamps supplemental nutrition assistance programs, or that are provided in the form of subsidy payments made to adoptive parents;

(2) Employee benefits over which the employee does not have significant influence or control over the nature or amount unless:

(a) That benefit may be liquidated; and

(b) Liquidation of that benefit does not result in the employee incurring an income tax penalty;

(3) Child support payments; or

(4) Atypical overtime wages or nonrecurring bonuses over which the employee does not have significant influence or control.

b. Examples of gross income include salaries, wages, overtime wages, commissions, bonuses, employee benefits, currently deferred income, dividends, severance pay, pensions, interest, trust income, annuities income, gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, distributions of retirement benefits, receipt of previously deferred income to the extent not previously considered in determining a child support obligation for the child whose support is under consideration, veterans' benefits (including gratuitous benefits), gifts and prizes to the extent they annually exceed one thousand dollars in value, spousal support payments received, refundable tax credits, value of in-kind income received on a regular basis, children's benefits, income imputed based upon

paragraph 3, provided such child is a qualifying child for purposes of the child tax credit;

- b. A hypothetical state income tax obligation equal to fourteen percent of the amount determined under subdivision a without reduction for child tax credits;
- c. A hypothetical obligation for Federal Insurance Contributions Act (FICA), Railroad Retirement Tax Act (RRTA) tier I and tier II, medicare, and self-employment tax obligations based on that part of the obligor's gross income that is subject to FICA, RRTA, medicare, or self-employment tax under the Internal Revenue Code;
- d. A portion of premium payments, made by the person whose income is being determined, for health insurance policies or health service contracts, intended to afford coverage for the child or children for whom support is being sought, determined by:
 - (1) If the cost of single coverage for the obligor and the number of persons associated with the premium payment are known:
 - (a) Reducing the premium payment by the cost for single coverage for the obligor;
 - (b) Dividing the difference by the total number of persons, exclusive of the obligor, associated with the premium payment; and
 - (c) Multiplying the result times the number of insured children for whom support is being sought; or
 - (2) If the cost of single coverage for the obligor is not known:
 - (a) Dividing the payment by the total number of persons covered; and
 - (b) Multiplying the result times the number of insured children for whom support is being sought;
- e. Payments made on actual medical expenses of the child or children for whom support is sought to the extent it is reasonably likely similar expenses will continue;
- f. Union dues and occupational license fees if required as a condition of employment;

earning capacity, military subsistence payments, and net income from self-employment.

- c. For purposes of this subsection, income tax due or paid is not an income tax penalty.
6. 5. "In-kind income" means the receipt from employment or income-producing activity of any valuable right, property or property interest, other than money or money's worth, including forgiveness of debt (other than through bankruptcy), use of property, including living quarters at no charge or less than the customary charge, and the use of consumable property or services at no charge or less than the customary charge.
7. 6. "Net income" means total gross annual income less:
- a. A hypothetical federal income tax obligation based on the obligor's gross income, reduced by that part of the obligor's gross income that is not subject to federal income tax and reduced by deductions allowed in arriving at adjusted gross income under the Internal Revenue Code, and applying:
 - (1) The standard deduction for the tax filing status of single;
 - (2) One exemption for the obligor;
 - (3)
 - (a) One additional exemption for each child, as defined in this section, that the obligor is allowed to claim pursuant to a court order unless the obligor and obligee alternate claiming the exemption for the child pursuant to the court order, in which case, an amount equal to one-half of the exemption; or
 - (b) ~~If there is no court order allocating the exemption, or if it is unknown whether there is such a court order, then one additional exemption for~~ For each child, as defined in this section, for whom there is no court order allocating the exemption or for whom it is unknown whether there is such an order, an amount equal to one-half of the exemption if that child is actually claimed on a disclosed tax return or one additional exemption for each child, as defined in this section, an amount equal to one-half of the exemption if a tax return is not disclosed; and
 - (4) Tax tables for a single individual for the most recent year published by the internal revenue service, reduced by one child tax credit for each child's exemption considered under

- g. Employee retirement contributions, deducted from the employee's compensation and not otherwise deducted under this subsection, to the extent required as a condition of employment;
 - h. Employee expenses for special equipment or clothing required as a condition of employment or for lodging expenses incurred when engaged in travel required as a condition of employment (limited to ~~fifty~~ sixty-three dollars per night ~~or actual documented costs, whichever is greater~~); and
 - i. Employer reimbursed out-of-pocket expenses of employment, if included in gross income, but excluded from adjusted gross income on the obligor's federal income tax return.
8. 7. "Obligee" includes, for purposes of this chapter, an obligee as defined in North Dakota Century Code section 14-09-09.10 and a person who is alleged to be owed a duty of support on behalf of a child.
9. 8. "Obligor" includes, for purposes of this chapter, an obligor as defined in North Dakota Century Code section 14-09-09.10 and a person who is alleged to owe a duty of support.
9. "Parent with primary residential responsibility" means a parent who acts as the primary caregiver on a regular basis for a proportion of time greater than the obligor, regardless of descriptions such as "shared" or "joint" parental rights and responsibilities given in relevant judgments, decrees, or orders.
10. "Self-employment" means employment that results in an obligor earning income from any business organization or entity which the obligor is, to a significant extent, able to directly or indirectly control. For purposes of this chapter, it also includes any activity that generates income from rental property, royalties, business gains, partnerships, trusts, corporations, and any other organization or entity regardless of form and regardless of whether such activity would be considered self-employment activity under the Internal Revenue Code.
11. "Split custody parental rights and responsibilities" means a situation where the parents have more than one child in common, and where each parent has custody of primary residential responsibility for at least one child.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003; October 1, 2008; April 1, 2010; July 1, 2011.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-02. Determination of support amount - General instructions.

1. Except as provided in section 75-02-04.1-08.2, calculations of child support obligations provided for under this chapter consider and assume that one parent acts as a primary caregiver and the other parent contributes a payment of child support to the child's care. Calculation of a child support obligation under section 75-02-04.1-08.2 does not preclude a court from apportioning specific expenses related to the care of the child, such as child care expenses and school activity fees, between the parents. An apportionment under this subsection is in addition to the child support amount determined by application of this chapter.
2. Calculations assume that the care given to the child during temporary periods when the child resides with the obligor or the obligor's relatives do not substitute for the child support obligation.
3. Net income received by an obligor from all sources must be considered in the determination of available money for child support.
4. The result of all calculations which determine a monetary amount ending in fifty cents or more must be rounded up to the nearest whole dollar, and must otherwise be rounded down to the nearest whole dollar.
5. In applying the child support guidelines, an obligor's monthly net income amount ending in fifty dollars or more must be rounded up to the nearest one hundred dollars, and must otherwise be rounded down to the nearest one hundred dollars.
6. The annual total of all income considered in determining a child support obligation must be determined and then divided by twelve in order to determine the obligor's monthly net income.
7. Income must be sufficiently documented through the use of tax returns, current wage statements, and other information to fully apprise the court of all gross income. Where gross income is subject to fluctuation, regardless of whether the obligor is employed or self-employed, information reflecting and covering a period of time sufficient to reveal the likely extent of fluctuations must be provided.
8. Calculations made under this chapter are ordinarily based upon recent past circumstances because past circumstances are typically a reliable indicator of future circumstances, particularly circumstances concerning income. If circumstances that materially affect the child support obligation have changed in the recent past or are very likely to change in the near future, consideration may be given to the new or likely future circumstances.
9. Determination of a child support obligation is appropriate in any matter where the child and both of the child's parents do not reside together.

10. Each child support order must include a statement of the net income of the obligor used to determine the child support obligation, and how that net income was determined. If a child support order includes an adjustment for extended parenting time under section 75-02-04.1-08.1, the order must specify the number of parenting nights.
11. A payment of children's benefits made to or on behalf of a child who is not living with the obligor must be credited as a payment toward the obligor's child support obligation in the month (or other period) the payment is intended to cover, but may not be credited as a payment toward the child support obligation for any other month or period. The court may order the obligee to reimburse the obligor for any overpayment that results from the credit provided in this subsection.
12. No amount may be deducted to determine net income unless that amount is included in gross income.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003; October 1, 2008; July 1, 2011.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-03. Determination of child support obligation - Split custody or primary residential responsibility. A child support obligation must be determined and specifically ordered for the child or children in for whom each parent's custody parent has primary residential responsibility pursuant to a court order or, if there is no court order, for whom each parent has primary physical custody. The lesser obligation is then subtracted from the greater. The difference is the child support amount owed by the parent with the greater obligation. The offset of child support obligations in this section is for payment purposes only and must be discontinued for any month in which the rights to support of a child for whom the obligation was determined are assigned to a government agency as a condition of receiving public assistance.

History: Effective February 1, 1991; amended effective August 1, 2003; October 1, 2008; July 1, 2011.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-05. Determination of net income from self-employment.

1. Net income from self-employment means total income, for internal revenue service purposes, of the obligor:
 - a. Reduced by that amount, if any, of:
 - (1) That total income that is not the obligor's income or that is otherwise included in gross income; and

- (2) With respect to a partnership or a small business corporation for which an election under 26 U.S.C. section 1362(a) is in effect and over which the obligor is not able to exercise direct or indirect control to a significant extent, that income of the partnership or small business corporation which is not available, and has not yet been distributed, to the obligor; and
- b. Increased by that amount, if any, for:
 - (1) Business expenses attributable to the obligor or a member of the obligor's household for employee's or proprietor's benefits, pensions, and profit-sharing plans;
 - (2) Payments made from the obligor's self-employment activity to a member of the obligor's household, other than the obligor, to the extent the payment exceeds the fair market value of the service furnished by the household member; and
 - (3) With respect to a corporation that pays its own tax over which the obligor is able to exercise direct or indirect control to a significant extent, the taxable income of the corporation, less the corporation's federal income tax, multiplied by seventy percent of the obligor's ownership interest in the corporation.
2. "Member of the obligor's household" includes any individual who shares the obligor's home a substantial part of the time, without regard to whether that individual maintains another home.
3. If the tax returns are not available or do not reasonably reflect the income from self-employment, profit and loss statements which more accurately reflect the current status must be used.
4. Self-employment activities may experience significant changes in production and income over time. To the extent that information is reasonably available, the average of the most recent five years of each self-employment activity, if undertaken on a substantially similar scale, must be used to determine self-employment income. When self-employment activity has not been operated on a substantially similar scale for five years, a shorter period may be used.
5. When averaging self-employment income pursuant to subsection 4, no amount may be included in income for one year that was previously included in income for any other year during the period being averaged.
6. When less than three years were averaged under subsection 4, a loss resulting from the averaging may be used to reduce income that is not related to self-employment only if the loss is not related to a hobby activity and monthly gross income, reduced by one-twelfth of the

average annual self-employment loss, equals or exceeds the greatest of:

- a. A monthly amount equal to one hundred sixty-seven times the hourly federal minimum wage;
 - b. An amount equal to six-tenths of ~~prevailing gross statewide average earnings of for~~ persons with similar work history and occupational qualifications ~~who work in any place within one hundred miles [160.93 kilometers] of the obligor's actual place of residence;~~ or
 - c. An amount equal to eighty percent of the obligor's greatest average gross monthly earnings, calculated without using self-employment losses, in any twelve consecutive months beginning on or after twenty-four months before commencement of the proceeding before the court.
7. When three or more years were averaged under subsection 4, a loss resulting from the averaging may be used to reduce income that is not related to self-employment only if the loss is not related to a hobby activity, losses were calculated for no more than forty percent of the years averaged, and monthly gross income, reduced by one-twelfth of the average annual self-employment loss, equals or exceeds the greatest of:
- a. A monthly amount equal to one hundred sixty-seven times the hourly federal minimum wage;
 - b. An amount equal to six-tenths of ~~prevailing gross statewide average earnings of for~~ persons with similar work history and occupational qualifications ~~who work in any place within one hundred miles [160.93 kilometers] of the obligor's actual place of residence;~~ or
 - c. An amount equal to ninety percent of the obligor's greatest average gross monthly earnings, calculated without using self-employment losses, in any twelve consecutive months beginning on or after twenty-four months before commencement of the proceeding before the court.
8. For purposes of subsections 6 and 7, an activity is presumed to be a hobby activity if the result from averaging is a loss. The presumption may be rebutted if the obligor shows that the activity is not done primarily for enjoyment purposes, is a vocation and not an avocation and, in the context of the child support obligation, there is a reasonable expectation that the children will receive long-term benefits.

9. Net income from self-employment is an example of gross income and is subject to the deductions from gross income set forth in subsection 7 6 of section 75-02-04.1-01, to the extent not already deducted when calculating net income from self-employment.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003; October 1, 2008; July 1, 2011.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-06.1. Determination of support amount in multiple-family cases.

1. This section must be used to determine the child support amount presumed to be the correct amount of child support in all cases involving an obligor who:
 - a. Owes duties of support payable to two or more obligees; or
 - b. Owes a duty of support to at least one obligee and also owes a duty of support to a child living with the obligor who is not also the child of that obligee.
2. If a court consolidates proceedings involving an obligor and two or more obligees, the court must determine all obligations that may be determined in the consolidated proceeding without regard to whom the initial moving party may be.
3. A hypothetical amount that reflects the cost of supporting children living with the obligor, as determined under section 75-02-04.1-06, and a hypothetical amount due to each obligee under this chapter must first be determined for the children living with the obligor and each obligee, whether or not the obligee is a party to the proceeding, assuming for purposes of that determination:
 - a. The obligor has no support obligations except to the obligee in question;
 - b. The guidelines amount is not rebutted; and
 - c. The obligor does not have extended ~~visitation~~ parenting time.
4. A hypothetical amount due to each obligee under this chapter must next be determined for each obligee who is a party to the proceeding, assuming for purposes of that determination:
 - a. The obligor's net income is reduced by:

- (1) The amount of child support due to all other obligees, as determined under subsection 3; and
 - (2) The cost of supporting a child living with the obligor, who is not also the child of that obligee, as determined under section 75-02-04.1-06;
- b. The guidelines amount is not rebutted;
 - c. Any support amount otherwise determined to be less than one dollar is determined to be one dollar; and
 - d. The obligor does not have extended visitation parenting time.
5. a. Except as provided in subdivision b, for each obligee before the court, the support obligation presumed to be the correct amount of child support is equal to one-half of the total of the two amounts determined, with respect to that obligee, under subsections 3 and 4.
 - b. Any necessary determination under this section must be made before an adjustment for extended visitation parenting time appropriate under section 75-02-04.1-08.1. The "amount otherwise due under this chapter", for purposes of section 75-02-04.1-08.1, is equal to one-half of the total of the two amounts determined, with respect to that obligation, under subsections 3 and 4.
6. The fact, if it is a fact, that the obligor is required to pay, or pays, a different amount than the hypothetical amounts determined under subsections 3 and 4 is not a basis for deviation from the procedure described in this section.
 7. When determining a support amount under paragraph 1 of subdivision a of subsection 4, consider only children to whom an obligor owes a current monthly support obligation pursuant to a support order and other children under the age of eighteen to whom an obligor owes a duty of support.

History: Effective January 1, 1995; amended effective August 1, 1999; August 1, 2003; July 1, 2011.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-07. Imputing income based on earning capacity.

1. For purposes of this section:
 - a. "Earnings" includes in-kind income and amounts received in lieu of actual earnings, such as social security benefits, workers'

compensation wage replacement benefits, unemployment insurance benefits, veterans' benefits, and earned income tax credits; and

- b. An obligor is "underemployed" if the obligor's gross income from earnings is significantly less than the statewide average earnings for persons with similar work history and occupational qualifications.
2. An obligor is presumed to be underemployed if the obligor's gross income from earnings is less than:
 - a. Six-tenths of the statewide average earnings for persons with similar work history and occupational qualifications; or
 - b. A monthly amount equal to one hundred sixty-seven times the federal hourly minimum wage.
3. Except as provided in subsections 4, 5, 6, 7, 8, and ~~10~~ 11, gross income based on earning capacity equal to the greatest of subdivisions a through c, less actual gross earnings, must be imputed to an obligor who is unemployed or underemployed.
 - a. A monthly amount equal to one hundred sixty-seven times the hourly federal minimum wage.
 - b. An amount equal to six-tenths of the statewide average earnings for persons with similar work history and occupational qualifications.
 - c. An amount equal to ninety percent of the obligor's greatest average gross monthly earnings, in any twelve consecutive months beginning on or after twenty-four months before commencement of the proceeding before the court, for which reliable evidence is provided.
4. Monthly gross income based on earning capacity may be imputed in an amount less than would be imputed under subsection 3 if the obligor shows:
 - a. The reasonable cost of child care equals or exceeds seventy percent of the income which would otherwise be imputed where the care is for the obligor's child:
 - (1) ~~Who is in the physical custody of~~ For whom the obligor has primary residential responsibility;
 - (2) Who is under the age of fourteen; and

- (3) For whom there is no other adult caretaker in the parent's home available to meet the child's needs during absence due to employment.
 - b. The obligor suffers from a disability sufficient in severity to reasonably preclude the obligor from gainful employment that produces average monthly gross earnings equal to one hundred sixty-seven times the hourly federal minimum wage and subdivision b of subsection 7 does not apply.
 - c. The unusual emotional or physical needs of a minor child of the obligor require the obligor's presence in the home for a proportion of the time so great as to preclude the obligor from gainful employment that produces average monthly gross earnings equal to one hundred sixty-seven times the hourly federal minimum wage.
5. Gross income based on earning capacity may not be imputed if the obligor shows that the obligor has average monthly gross earnings equal to or greater than one hundred sixty-seven times the hourly federal minimum wage and is not underemployed.
6. If an unemployed or underemployed obligor shows that employment opportunities, which would provide earnings at least equal to the lesser of the amounts determined under subdivision b or c of subsection 3, are unavailable within one hundred miles [160.93 kilometers] of the obligor's actual place of residence, income must be imputed based on earning capacity equal to the amount determined under subdivision a of subsection 3, less actual gross earnings.
7. a. Monthly gross income based on earning capacity may not be imputed under subsection 3 in an amount greater than one-half of one hundred sixty-seven times the federal hourly minimum wage, less actual gross earnings, if the obligor is under eighteen years of age or is under nineteen years of age and enrolled in and attending high school.
- b. Monthly gross income based on earning capacity may not be imputed under subsection 3 if the obligor is receiving:
- (1) Supplemental security income payments;
 - (2) Social security disability benefits;
 - (3) Workers' compensation wage replacement benefits; or
 - (4) Total and permanent disability benefits paid by the railroad retirement board.

8. a. If an obligor is incarcerated, monthly gross income based on earning capacity may not be imputed under subsection 3:
- (1) In an amount greater than one hundred sixty-seven times the federal hourly minimum wage, less actual gross earnings, if the obligor has been incarcerated for less than one year;
 - (2) In an amount greater than eighty percent of one hundred sixty-seven times the federal hourly minimum wage, less actual gross earnings, if the obligor has been incarcerated for at least one year but less than two years;
 - (3) In an amount greater than sixty percent of one hundred sixty-seven times the federal hourly minimum wage, less actual gross earnings, if the obligor has been incarcerated for at least two years but less than three years;
 - (4) In an amount greater than forty percent of one hundred sixty-seven times the federal hourly minimum wage, less actual gross earnings, if the obligor has been incarcerated for at least three years but less than four years;
 - (5) In an amount greater than twenty percent of one hundred sixty-seven times the federal hourly minimum wage, less actual gross earnings, if the obligor has been incarcerated for at least four years but less than five years; or
 - (6) In any amount if the obligor has been incarcerated for at least five years.
- b. For purposes of this subsection, "incarcerated" means physically confined to a prison, jail, or other correctional facility.
- c. In determining the length of time an obligor has been incarcerated for purposes of applying subdivision a, only continuous periods of actual confinement may be considered except that any periods representing work release may not be considered.
9. 10. If the obligor fails, upon reasonable request made in any proceeding to establish a child support obligation, to furnish reliable information concerning the obligor's gross income from earnings, income based on earning capacity equal to the greatest of subdivisions a through c of subsection 3 must be imputed.
- 9- 10. If the obligor fails, upon reasonable request made in any proceeding to review a child support obligation, to furnish reliable information concerning the obligor's gross income from earnings, and if that information cannot be reasonably obtained from sources other than the obligor, income must be imputed based on the greatest of:

- a. Subdivisions a through c of subsection 3; or
 - b. The obligor's net income, at the time the child support order was entered or last modified, increased at the rate of ten percent per year.
- 40- 11. Notwithstanding subsections 4, 5, 6, and 7, if an obligor makes a voluntary change in employment resulting in reduction of income, monthly gross income equal to one hundred percent of the obligor's greatest average monthly earnings, in any twelve consecutive months beginning on or after twenty-four months before commencement of the proceeding before the court, for which reliable evidence is provided, less actual monthly gross earnings, may be imputed without a showing that the obligor is unemployed or underemployed. For purposes of this subsection, a voluntary change in employment is a change made for the purpose of reducing the obligor's child support obligation and may include becoming unemployed, taking into consideration the obligor's work history, education, health, age, stated reason for change in employment, likely employment status if the family before the court were intact, and any other relevant factors. The burden of proof is on the obligor to show that the change in employment was not made for the purpose of reducing the obligor's child support obligation.
- 41- 12. Imputed income based on earning capacity is an example of gross income and is subject to the deductions from gross income set forth in subsection 7 6 of section 75-02-04.1-01.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003; October 1, 2008; July 1, 2011.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-08.1. Adjustment for extended visitation parenting time.

- 1. For purposes of this section, "extended visitation parenting time" means visitation parenting time between an obligor and a child living with an obligee scheduled by court order to exceed sixty of ninety consecutive nights or an annual total of one hundred sixty-four nights.
- 2. Notwithstanding any other provision of this chapter, if a court order provides for extended visitation parenting time between an obligor and a child living with an obligee, the support obligation presumed to be the correct child support amount due on behalf of all children of the obligor living with the obligee must be determined under this subsection.
 - a. Determine the amount otherwise due under this chapter from the obligor for those children.

- b. Divide the amount determined under subdivision a by the number of those children.
- c. For each child, multiply the number of that child's ~~visitation~~ parenting time nights times .32 and subtract the resulting amount from three hundred sixty-five.
- d. Divide the result determined under subdivision c by three hundred sixty-five.
- e. Multiply the amount determined under subdivision b times each decimal fraction determined under subdivision d.
- f. Total all amounts determined under subdivision e.

History: Effective August 1, 1999; amended effective July 1, 2011.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(12); 42 USC 667

75-02-04.1-08.2. Equal physical custody residential responsibility - Determination of child support obligation. A child support obligation must be determined as described in this section in all cases in which a court orders each parent to have equal ~~physical custody of~~ residential responsibility for their child or children. ~~Equal physical custody residential responsibility means each parent has physical custody of residential responsibility for the child, or if there are multiple children, all of the children, exactly fifty percent of the time for an equal amount of time as determined by the court.~~ A child support obligation for each parent must be calculated under this chapter, and specifically ordered, assuming the other parent ~~is the custodial parent of~~ has primary residential responsibility for the child or children subject to the equal ~~physical custody~~ residential responsibility order. The lesser obligation is then subtracted from the greater. The difference is the child support amount owed by the parent with the greater obligation. Each parent is an obligee to the extent of the other parent's calculated obligation. Each parent is an obligor to the extent of that parent's calculated obligation. The offset of child support obligations in this section is for payment purposes only and must be discontinued for any month in which the rights to support of a child for whom the obligation was determined are assigned to a government agency as a condition of receiving public assistance.

History: Effective August 1, 2003; amended effective October 1, 2008; July 1, 2011.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-09. Criteria for rebuttal of guideline amount.

1. The child support amount provided for under this chapter, except for subsection 2, is presumed to be the correct amount of child support.

No rebuttal of the guidelines may be based upon evidence of factors described or applied in this chapter, except in subsection 2, or upon:

- a. The subsistence needs, work expenses, and daily living expenses of the obligor; or
 - b. Except as provided for in subdivision m of subsection 2, the income of the obligee, which is reflected in a substantial monetary and nonmonetary contribution to the child's basic care and needs by virtue of being a ~~custodial~~ parent with primary residential responsibility.
2. The presumption that the amount of child support that would result from the application of this chapter, except for this subsection, is the correct amount of child support is rebutted only if a preponderance of the evidence establishes that a deviation from the guidelines is in the best interest of the supported children and:
- a. The increased need if support for more than six children is sought in the matter before the court;
 - b. The increased ability of an obligor, with a monthly net income which exceeds twelve thousand five hundred dollars, to provide child support;
 - c. The increased need if educational costs have been voluntarily incurred, at private schools, with the prior written concurrence of the obligor;
 - d. The increased needs of children with disabling conditions or chronic illness;
 - e. The increased needs of children age twelve and older;
 - f. The increased needs of children related to the cost of child care, purchased by the obligee, for reasonable purposes related to employment, job search, education, or training;
 - g. The increased ability of an obligor, whose net income has been substantially reduced as a result of depreciation and to whom income has been imputed under section 75-02-04.1-07, to provide child support;
 - h. The increased ability of an obligor, who is able to secure additional income from assets, to provide child support;

- h. i. The increased ability of an obligor, who has engaged in an asset transaction for the purpose of reducing the obligor's income available for payment of child support, to provide child support;
 - i. j. The reduced ability of the an obligor who is responsible for all parenting-time expenses to provide support due to travel expenses incurred predominantly for the purpose of visiting a child who is the subject of the order taking into consideration the amount of court-ordered ~~visitation~~ parenting time and, when such history is available, actual expenses and practices of the parties;
 - j. k. The reduced ability of the obligor to pay child support due to a situation, over which the obligor has little or no control, which requires the obligor to incur a continued or fixed expense for other than subsistence needs, work expenses, or daily living expenses, and which is not otherwise described in this subsection;
 - k. l. The reduced ability of the obligor to provide support due to the obligor's health care needs, to the extent that the costs of meeting those health care needs:
 - (1) Exceed ten percent of the obligor's gross income;
 - (2) Have been incurred and are reasonably certain to continue to be incurred by the obligor;
 - (3) Are not subject to payment or reimbursement from any source except the obligor's income; and
 - (4) Are necessary to prevent or delay the death of the obligor or to avoid a significant loss of income to the obligor; or
 - l. m. The reduced needs of the child to support from the obligor in situations where the net income of the obligee is at least three times higher than the net income of the obligor.
3. Assets may not be considered under subdivisions ~~g~~ h and ~~h~~ i of subsection 2, to the extent they:
 - a. Are exempt under North Dakota Century Code section 47-18-01;
 - b. Consist of necessary household goods and furnishings; or
 - c. Include one motor vehicle in which the obligor owns an equity not in excess of twenty thousand dollars.
 4. For purposes of subdivision ~~h~~ j of subsection 2, a transaction is presumed to have been made for the purpose of reducing the obligor's income available for the payment of child support if:

- a. The transaction occurred after the birth of a child entitled to support;
 - b. The transaction occurred no more than twenty-four months before the commencement of the proceeding that initially established the support order; and
 - c. The obligor's income is less than it likely would have been if the transaction had not taken place.
5. For purposes of subdivision j k of subsection 2, a situation over which the obligor has little or no control does not exist if the situation arises out of spousal support payments, discretionary purchases, or illegal activity.
 6. For purposes of subdivisions a through f of subsection 2, any adjustment shall be made to the child support amount resulting from application of this chapter.
 7. For purposes of subdivisions g through k l of subsection 2, any adjustment shall be made to the obligor's net income.
 8. For purposes of subdivision l m of subsection 2, any adjustment shall be made to the child support amount resulting from application of this chapter after taking into consideration the proportion by which the obligee's net income exceeds the obligor's net income.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003; July 1, 2008; April 1, 2010; July 1, 2011.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-10. Child support amount. The amount of child support payable by the obligor is determined by the application of the following schedule to the obligor's monthly net income and the number of children for whom support is being sought in the matter before the court.

Obligor's Monthly Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six or More Children
100 or less	14	17	20	22	24	26
200	28	34	40	44	48	52
300	42	51	60	66	72	78
400	56	68	80	88	96	104
500	75 <u>82</u>	90 <u>100</u>	105 <u>117</u>	120 <u>130</u>	130 <u>143</u>	140 <u>155</u>

600	102 <u>108</u>	126 <u>131</u>	144 <u>155</u>	162 <u>172</u>	174 <u>189</u>	192 <u>207</u>
700	133 <u>134</u>	161 <u>163</u>	189 <u>192</u>	210 <u>214</u>	231 <u>236</u>	252 <u>258</u>
800	168 <u>160</u>	200 <u>195</u>	232 <u>229</u>	264 <u>256</u>	288 <u>283</u>	320 <u>309</u>
900	207 <u>186</u>	252 <u>226</u>	288 <u>267</u>	324 <u>298</u>	360 <u>329</u>	387 <u>361</u>
1000	250 <u>212</u>	300 <u>258</u>	350 <u>304</u>	390 <u>340</u>	430 <u>376</u>	470 <u>412</u>
1100	266 <u>238</u>	328 <u>290</u>	384 <u>341</u>	428 <u>382</u>	470 <u>423</u>	511 <u>463</u>
1200	282 <u>264</u>	356 <u>321</u>	418 <u>379</u>	465 <u>424</u>	510 <u>469</u>	553 <u>515</u>
1300	298 <u>290</u>	385 <u>353</u>	452 <u>416</u>	503 <u>466</u>	550 <u>516</u>	594 <u>566</u>
1400	314 <u>316</u>	412 <u>385</u>	486 <u>453</u>	540 <u>508</u>	590 <u>563</u>	635 <u>617</u>
1500	330 <u>342</u>	441 <u>416</u>	520 <u>491</u>	578 <u>550</u>	630 <u>609</u>	677 <u>669</u>
1600	346 <u>368</u>	469 <u>448</u>	554 <u>528</u>	616 <u>592</u>	669 <u>656</u>	718 <u>720</u>
1700	362 <u>384</u>	497 <u>476</u>	588 <u>562</u>	653 <u>630</u>	709 <u>696</u>	759 <u>761</u>
1800	378 <u>400</u>	526 <u>505</u>	622 <u>596</u>	691 <u>668</u>	749 <u>736</u>	800 <u>803</u>
1900	394 <u>416</u>	554 <u>533</u>	656 <u>631</u>	728 <u>706</u>	789 <u>776</u>	842 <u>844</u>
2000	411 <u>431</u>	582 <u>562</u>	690 <u>665</u>	766 <u>744</u>	829 <u>816</u>	883 <u>885</u>
2100	427 <u>447</u>	610 <u>590</u>	724 <u>699</u>	804 <u>781</u>	869 <u>856</u>	924 <u>926</u>
2200	443 <u>463</u>	638 <u>619</u>	758 <u>733</u>	841 <u>819</u>	909 <u>896</u>	966 <u>968</u>
2300	459 <u>479</u>	667 <u>647</u>	792 <u>767</u>	879 <u>857</u>	949 <u>936</u>	1007 <u>1009</u>
2400	475 <u>495</u>	695 <u>676</u>	826 <u>802</u>	916 <u>895</u>	989 <u>976</u>	1048 <u>1050</u>
2500	492 <u>511</u>	723 <u>704</u>	860 <u>836</u>	954 <u>933</u>	1029 <u>1017</u>	1090 <u>1091</u>
2600	508 <u>527</u>	751 <u>733</u>	893 <u>870</u>	992 <u>971</u>	1068 <u>1057</u>	1131 <u>1133</u>

2700	524 <u>542</u>	779 <u>761</u>	927 <u>904</u>	1029 <u>1009</u>	1108 <u>1097</u>	1172 <u>1174</u>
2800	540 <u>558</u>	808 <u>789</u>	961 <u>939</u>	1067 <u>1047</u>	1148 <u>1137</u>	1213 <u>1215</u>
2900	556 <u>574</u>	836 <u>818</u>	995 <u>973</u>	1104 <u>1084</u>	1188 <u>1177</u>	1255 <u>1257</u>
3000	572 <u>590</u>	864 <u>846</u>	1029 <u>1007</u>	1142 <u>1122</u>	1228 <u>1217</u>	1296 <u>1298</u>
3100	588 <u>606</u>	892 <u>875</u>	1063 <u>1041</u>	1180 <u>1160</u>	1268 <u>1257</u>	1337 <u>1339</u>
3200	604 <u>622</u>	920 <u>903</u>	1097 <u>1075</u>	1217 <u>1198</u>	1308 <u>1297</u>	1379 <u>1380</u>
3300	620 <u>637</u>	949 <u>932</u>	1131 <u>1110</u>	1255 <u>1236</u>	1348 <u>1337</u>	1420 <u>1422</u>
3400	636 <u>653</u>	977 <u>960</u>	1165 <u>1144</u>	1292 <u>1274</u>	1388 <u>1377</u>	1461 <u>1463</u>
3500	653 <u>669</u>	1005 <u>989</u>	1199 <u>1178</u>	1330 <u>1312</u>	1428 <u>1417</u>	1503 <u>1504</u>
3600	669 <u>685</u>	1033 <u>1017</u>	1232 <u>1212</u>	1368 <u>1350</u>	1467 <u>1457</u>	1544 <u>1545</u>
3700	685 <u>701</u>	1061 <u>1045</u>	1266 <u>1246</u>	1405 <u>1387</u>	1507 <u>1497</u>	1585 <u>1587</u>
3800	701 <u>717</u>	1090 <u>1074</u>	1300 <u>1281</u>	1443 <u>1425</u>	1547 <u>1537</u>	1626 <u>1628</u>
3900	717 <u>733</u>	1118 <u>1102</u>	1334 <u>1315</u>	1480 <u>1463</u>	1587 <u>1577</u>	1668 <u>1669</u>
4000	733 <u>748</u>	1146 <u>1131</u>	1368 <u>1349</u>	1518 <u>1501</u>	1627 <u>1617</u>	1709 <u>1710</u>
4100	749 <u>764</u>	1174 <u>1159</u>	1402 <u>1383</u>	1556 <u>1539</u>	1667 <u>1658</u>	1750 <u>1752</u>
4200	765 <u>780</u>	1202 <u>1188</u>	1436 <u>1417</u>	1593 <u>1577</u>	1707 <u>1698</u>	1792 <u>1793</u>
4300	781 <u>796</u>	1231 <u>1216</u>	1470 <u>1452</u>	1631 <u>1615</u>	1747 <u>1738</u>	1833 <u>1834</u>
4400	797 <u>812</u>	1259 <u>1245</u>	1504 <u>1486</u>	1668 <u>1653</u>	1787 <u>1778</u>	1874 <u>1876</u>
4500	814 <u>828</u>	1287 <u>1273</u>	1538 <u>1520</u>	1706 <u>1691</u>	1827 <u>1818</u>	1916 <u>1917</u>
4600	830 <u>844</u>	1315 <u>1302</u>	1571 <u>1554</u>	1744 <u>1728</u>	1866 <u>1858</u>	1957 <u>1958</u>
4700	846 <u>859</u>	1343 <u>1330</u>	1605 <u>1589</u>	1781 <u>1766</u>	1906 <u>1898</u>	1998 <u>1999</u>

4800	862 <u>875</u>	1372 <u>1358</u>	1639 <u>1623</u>	1819 <u>1804</u>	1946 <u>1938</u>	2039 <u>2041</u>
4900	878 <u>891</u>	1400 <u>1387</u>	1673 <u>1657</u>	1856 <u>1842</u>	1986 <u>1978</u>	2081 <u>2082</u>
5000	894 <u>907</u>	1428 <u>1415</u>	1707 <u>1691</u>	1894 <u>1880</u>	2026 <u>2018</u>	2122 <u>2123</u>
5100	910 <u>923</u>	1456 <u>1444</u>	1741 <u>1725</u>	1932 <u>1918</u>	2066 <u>2058</u>	2163 <u>2164</u>
5200	926 <u>939</u>	1484 <u>1472</u>	1775 <u>1760</u>	1969 <u>1956</u>	2106 <u>2098</u>	2205 <u>2206</u>
5300	942 <u>954</u>	1513 <u>1501</u>	1809 <u>1794</u>	2007 <u>1994</u>	2146 <u>2138</u>	2246 <u>2247</u>
5400	958 <u>970</u>	1541 <u>1529</u>	1843 <u>1828</u>	2044 <u>2031</u>	2186 <u>2178</u>	2287 <u>2288</u>
5500	975 <u>986</u>	1569 <u>1558</u>	1877 <u>1862</u>	2082 <u>2069</u>	2226 <u>2218</u>	2329 <u>2330</u>
5600	991 <u>1002</u>	1597 <u>1586</u>	1910 <u>1896</u>	2120 <u>2107</u>	2265 <u>2258</u>	2370 <u>2371</u>
5700	1007 <u>1018</u>	1625 <u>1614</u>	1944 <u>1931</u>	2157 <u>2145</u>	2305 <u>2298</u>	2411 <u>2412</u>
5800	1023 <u>1034</u>	1654 <u>1643</u>	1978 <u>1965</u>	2195 <u>2183</u>	2345 <u>2339</u>	2453
5900	1039 <u>1050</u>	1682 <u>1671</u>	2012 <u>1999</u>	2232 <u>2221</u>	2385 <u>2379</u>	2494 <u>2495</u>
6000	1055 <u>1065</u>	1710 <u>1700</u>	2046 <u>2033</u>	2270 <u>2259</u>	2425 <u>2419</u>	2535 <u>2536</u>
6100	1071 <u>1081</u>	1738 <u>1728</u>	2080 <u>2067</u>	2308 <u>2297</u>	2465 <u>2459</u>	2576 <u>2577</u>
6200	1087 <u>1097</u>	1766 <u>1757</u>	2114 <u>2102</u>	2345 <u>2334</u>	2505 <u>2499</u>	2618
6300	1103 <u>1113</u>	1795 <u>1785</u>	2148 <u>2136</u>	2383 <u>2372</u>	2545 <u>2539</u>	2659 <u>2660</u>
6400	1119 <u>1129</u>	1823 <u>1814</u>	2182 <u>2170</u>	2420 <u>2410</u>	2585 <u>2579</u>	2700 <u>2701</u>
6500	1136 <u>1145</u>	1851 <u>1842</u>	2216 <u>2204</u>	2458 <u>2448</u>	2625 <u>2619</u>	2742
6600	1152 <u>1161</u>	1879 <u>1871</u>	2249 <u>2239</u>	2496 <u>2486</u>	2664 <u>2659</u>	2783 <u>2784</u>
6700	1168 <u>1176</u>	1907 <u>1899</u>	2283 <u>2273</u>	2533 <u>2524</u>	2704 <u>2699</u>	2824 <u>2825</u>
6800	1184 <u>1192</u>	1936 <u>1927</u>	2317 <u>2307</u>	2571 <u>2562</u>	2744 <u>2739</u>	2865 <u>2866</u>

6900	1200 <u>1208</u>	1964 <u>1956</u>	2351 <u>2341</u>	2608 <u>2600</u>	2784 <u>2779</u>	2907
7000	1216 <u>1224</u>	1992 <u>1984</u>	2385 <u>2375</u>	2646 <u>2638</u>	2824 <u>2819</u>	2948 <u>2949</u>
7100	1232 <u>1240</u>	2020 <u>2013</u>	2419 <u>2410</u>	2684 <u>2675</u>	2864 <u>2859</u>	2989 <u>2990</u>
7200	1248 <u>1256</u>	2048 <u>2041</u>	2453 <u>2444</u>	2721 <u>2713</u>	2904 <u>2899</u>	3031
7300	1264 <u>1271</u>	2077 <u>2070</u>	2487 <u>2478</u>	2759 <u>2751</u>	2944 <u>2939</u>	3072
7400	1280 <u>1287</u>	2105 <u>2098</u>	2521 <u>2512</u>	2796 <u>2789</u>	2984 <u>2979</u>	3113 <u>3114</u>
7500	1297 <u>1303</u>	2133 <u>2127</u>	2555 <u>2546</u>	2834 <u>2827</u>	3024 <u>3020</u>	3155
7600	1313 <u>1319</u>	2161 <u>2155</u>	2588 <u>2581</u>	2872 <u>2865</u>	3063 <u>3060</u>	3196
7700	1329 <u>1335</u>	2189 <u>2183</u>	2622 <u>2615</u>	2909 <u>2903</u>	3103 <u>3100</u>	3237
7800	1345 <u>1351</u>	2218 <u>2212</u>	2656 <u>2649</u>	2947 <u>2941</u>	3143 <u>3140</u>	3278 <u>3279</u>
7900	1361 <u>1367</u>	2246 <u>2240</u>	2690 <u>2683</u>	2984 <u>2978</u>	3183 <u>3180</u>	3320
8000	1377 <u>1382</u>	2274 <u>2269</u>	2724 <u>2717</u>	3022 <u>3016</u>	3223 <u>3220</u>	3361
8100	1393 <u>1398</u>	2302 <u>2297</u>	2758 <u>2752</u>	3060 <u>3054</u>	3263 <u>3260</u>	3402 <u>3403</u>
8200	1409 <u>1414</u>	2330 <u>2326</u>	2792 <u>2786</u>	3097 <u>3092</u>	3303 <u>3300</u>	3444
8300	1425 <u>1430</u>	2359 <u>2354</u>	2826 <u>2820</u>	3135 <u>3130</u>	3343 <u>3340</u>	3485
8400	1441 <u>1446</u>	2387 <u>2383</u>	2860 <u>2854</u>	3172 <u>3168</u>	3383 <u>3380</u>	3526
8500	1458 <u>1462</u>	2415 <u>2411</u>	2894 <u>2888</u>	3210 <u>3206</u>	3423 <u>3420</u>	3568
8600	1474 <u>1478</u>	2443 <u>2440</u>	2927 <u>2923</u>	3248 <u>3244</u>	3462 <u>3460</u>	3609
8700	1490 <u>1493</u>	2471 <u>2468</u>	2961 <u>2957</u>	3285 <u>3281</u>	3502 <u>3500</u>	3650
8800	1506 <u>1509</u>	2500 <u>2496</u>	2995 <u>2991</u>	3323 <u>3319</u>	3542 <u>3540</u>	3691
8900	1522 <u>1525</u>	2528 <u>2525</u>	3029 <u>3025</u>	3360 <u>3357</u>	3582 <u>3580</u>	3733

9000	1538 <u>1541</u>	2556 <u>2553</u>	3063 <u>3060</u>	3398 <u>3395</u>	3622 <u>3620</u>	3774
9100	1554 <u>1557</u>	2584 <u>2582</u>	3097 <u>3094</u>	3436 <u>3433</u>	3662 <u>3661</u>	3815
9200	1570 <u>1573</u>	2612 <u>2610</u>	3131 <u>3128</u>	3473 <u>3471</u>	3702 <u>3701</u>	3857
9300	1586 <u>1588</u>	2641 <u>2639</u>	3165 <u>3162</u>	3511 <u>3509</u>	3742 <u>3741</u>	3898
9400	1602 <u>1604</u>	2669 <u>2667</u>	3199 <u>3196</u>	3548 <u>3547</u>	3782 <u>3781</u>	3939
9500	1619 <u>1620</u>	2697 <u>2696</u>	3233 <u>3231</u>	3586 <u>3585</u>	3822 <u>3821</u>	3981 <u>3980</u>
9600	1635 <u>1636</u>	2725 <u>2724</u>	3266 <u>3265</u>	3624 <u>3622</u>	3861	4022
9700	1651 <u>1652</u>	2753 <u>2752</u>	3300 <u>3299</u>	3661 <u>3660</u>	3901	4063
9800	1667 <u>1668</u>	2782 <u>2781</u>	3334 <u>3333</u>	3699 <u>3698</u>	3941	4104
9900	1683 <u>1684</u>	2809	3368 <u>3367</u>	3736	3981	4146 <u>4145</u>
10000	1699	2838	3402	3774	4021	4187
10100	1715	2866	3436	3812	4061	4228
10200	1731	2894	3470	3849	4101	4270
10300	1747	2923	3504	3887	4141	4311
10400	1763	2951	3538	3924	4181	4352
10500	1780	2979	3572	3962	4221	4394
10600	1796	3007	3605	4000	4260	4435
10700	1812	3035	3639	4037	4300	4476
10800	1828	3064	3673	4075	4340	4517
10900	1844	3092	3707	4112	4380	4559
11000	1860	3120	3741	4150	4420	4600
11100	1876	3148	3775	4188	4460	4641
11200	1892	3176	3809	4225	4500	4683
11300	1908	3205	3843	4263	4540	4724
11400	1924	3233	3877	4300	4580	4765
11500	1941	3261	3911	4338	4620	4807
11600	1957	3289	3945	4376	4659	4848
11700	1973	3317	3978	4413	4699	4889
11800	1989	3346	4012	4451	4739	4930

11900	2005	3374	4046	4488	4779	4972
12000	2021	3402	4080	4526	4819	5013
12100	2037	3430	4114	4564	4859	5054
12200	2053	3458	4148	4601	4899	5096
12300	2069	3487	4182	4639	4939	5137
12400	2085	3515	4216	4676	4979	5178
12500	2102	3543	4250	4714	5019	5220
or more						

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 2003; July 1, 2011.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-11. Parental responsibility for children in foster care or guardianship care. It is important that parents maintain a tie to and responsibility for their child when that child is in foster care. Financial responsibility for the support of that child is one component of the maintenance of the relationship of parent and child. Parents of a child subject to a guardianship order under North Dakota Century Code chapter 27-20 or 30.1-27 remain financially responsible for the support of that child.

1. In order to determine monthly net income, it is first necessary to identify the parent or parents who have financial responsibility for any child entering foster care or guardianship care, and to determine the net income of those financially responsible parents. If the parents of a child in foster care or guardianship care reside together, and neither parent has a duty to support any child who ~~does not either reside with the parents or receive foster care or guardianship care~~ is not also a child of the other parent, the income of the parents must be combined and treated as the income of the obligor. In all other cases, each parent is treated as an obligor, and each parent's support obligation must be separately determined.
2. Unless subsection 3 applies to the obligor, the net income and the total number of children are applied to section 75-02-04.1-10 to determine the child support amount. That child support amount is then divided by the total number of children to determine the child support obligation for each child in foster care or guardianship care. For purposes of this subsection, the "total number of children" means:
 - a. If a child entering foster care or guardianship care resides in the obligor's home, the total number of children residing in the obligor's home to whom the obligor owes a duty of support, including the child or children entering foster care or guardianship care, plus any other full siblings of the child or children entering foster care or

guardianship care to whom the obligor owes a duty of support who are not residing in the obligor's home; or

- b. If no child entering foster care or guardianship care resides in the obligor's home, the child or children entering foster care or guardianship care plus the full siblings of the child or children entering foster care or guardianship care to whom the obligor owes a duty of support.
3. If an obligor owes a duty of support to any child other than the child or children described in subdivision a or b of subsection 2, as applicable to that obligor, the support obligation must be determined through application of section 75-02-04.1-06.1 such that:
 - a. The total number of children, as described in subdivision a or b of subsection 2, as applicable to that obligor, are treated as one obligee; and
 - b. The amount resulting from the application of section 75-02-04.1-06.1 for the children described in subdivision a or b of subsection 2, as applicable to that obligor, is divided by the total number of such children to determine the child support obligation for each child in foster care or guardianship care.
4. For purposes of subsection 2, a full sibling of the child or children entering foster care or guardianship care is a brother or sister who has both parents in common with the child or children entering foster care or guardianship care.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003; July 1, 2011.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667