

**HOUSE BILL NO. 1167
with Senate Amendments**

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1167

Introduced by

Judiciary Committee

(At the request of the State Gaming Commission)

1 A BILL for an Act to amend and reenact subsection 5 of section 12-60-16.4, sections
2 40-57.3-02, 53-06.1-01, 53-06.1-01.1, 53-06.1-03, 53-06.1-06, 53-06.1-07.2, 53-06.1-07.3,
3 53-06.1-07.4, 53-06.1-08, 53-06.1-09, 53-06.1-10, 53-06.1-10.1, 53-06.1-11, 53-06.1-11.1,
4 53-06.1-12, 53-06.1-12.3, 53-06.1-14, 53-06.1-15.1, and 53-06.1-16 of the North Dakota
5 Century Code, relating to games of chance and moneys in a city visitors' promotion capital
6 construction fund; and to repeal sections 53-06.1-01.2, 53-06.1-02, 53-06.1-03.1, 53-06.1-03.2,
7 53-06.1-03.3, 53-06.1-05.1, 53-06.1-06.1, 53-06.1-07, 53-06.1-07.1, 53-06.1-12.1,
8 53-06.1-12.2, 53-06.1-13, 53-06.1-13.1, 53-06.1-15, 53-06.1-15.2, 53-06.1-15.3, 53-06.1-15.4,
9 53-06.1-16.1, 53-06.1-16.2, and 53-06.1-17 of the North Dakota Century Code, relating to
10 games of chance; and to provide a penalty.

11 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

12 **SECTION 1. AMENDMENT.** Subsection 5 of section 12-60-16.4 of the 1995
13 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14 5. Class A misdemeanor offenses in ~~sections~~ section 53-06.1-16 and ~~53-06.1-16.1~~.

15 **SECTION 2. AMENDMENT.** Section 40-57.3-02 of the 1995 Supplement to the North
16 Dakota Century Code is amended and reenacted as follows:

17 **40-57.3-02. City visitors' promotion fund - City visitors' promotion capital**
18 **construction fund - Visitors' committee - Establishment - Purpose.** The governing body of
19 any city which imposes a city tax pursuant to section 40-57.3-01 or 40-57.3-01.1 shall, as
20 appropriate, establish a city visitors' promotion fund, a city visitors' promotion capital
21 construction fund, and a visitors' committee. The visitors' committee shall serve as an advisory
22 committee to the city governing body in administering the proceeds from the taxes available to
23 the city under this chapter. The moneys in the visitors' promotion fund must be used generally
24 to promote, encourage, and attract visitors to come to the city and use the travel and tourism

1 facilities within the city. The moneys in the visitors' promotion capital construction fund must be
2 used generally for tourism or the purchase, equipping, improving, construction, maintenance,
3 repair, and acquisition of buildings or property consistent with visitor attraction or promotion.

4 The committee shall consist of five members appointed by the governing body of the city.

5 These appointees shall serve without compensation, except for reimbursement for necessary
6 expenses. Committee members shall serve for a term of four years, except that two of those
7 initially appointed must be appointed for an initial term of two years. Vacancies must be filled in
8 the same manner as the initial appointment. The committee shall elect a chairperson and vice
9 chairperson from among its members to serve for a term of two years.

10 **SECTION 3. AMENDMENT.** Section 53-06.1-01 of the 1995 Supplement to the North
11 Dakota Century Code is amended and reenacted as follows:

12 **53-06.1-01. Definitions.** As used in this chapter:

- 13 1. "Adjusted gross proceeds" means, ~~except for poker,~~ gross proceeds less cash
14 prizes, cost of merchandise prizes, sales tax on bingo cards, pull tab excise tax,
15 and federal excise tax and interest imposed under section 4401 of the Internal
16 Revenue Code [26 U.S.C. 4401]. ~~In poker, "adjusted gross proceeds" means time~~
17 ~~buy-ins and tournament fees.~~
- 18 2. "Charitable organization" means an organization incorporated as a nonprofit
19 corporation whose primary purpose is for relief of poor, distressed,
20 underprivileged, diseased, elderly, or abused persons, prevention of cruelty to
21 children or animals, or ~~other~~ similar condition of public concern, which has been
22 actively fulfilling its primary purpose within this state for the two immediately
23 preceding years.
- 24 3. "Civic and service organization" means an organization incorporated as a nonprofit
25 corporation whose primary purpose is to ~~engage in a civic and service activity~~
26 promote the common good and social welfare of a community as a sertoma, lion,
27 rotary, jaycee, kiwanis ~~organization~~, or similar organization, and which has been
28 actively fulfilling its primary purpose within this state for the two immediately
29 preceding years.
- 30 4. ~~"Commission" means the state gaming commission.~~

- 1 5- "Distributor" means a person that sells, markets, or ~~otherwise~~ distributes
2 equipment usable in the ~~lawful~~ conduct of games.
- 3 6- ~~"Educational, charitable, patriotic, fraternal, religious, or other public spirited uses"~~
4 are:
- 5 a- ~~Uses for stimulating and promoting state and community based economic~~
6 ~~development programs within the state which improve the quality of life of~~
7 ~~community residents.~~
- 8 b- ~~Uses for developing, promoting, and supporting tourism within a city, county,~~
9 ~~or the state.~~
- 10 e- ~~Uses benefiting an indefinite number of persons by bringing them under the~~
11 ~~influence of education, cultural programs, or religion which include~~
12 ~~disbursements to provide:~~
- 13 (1) ~~Scholarships for students, if the disbursement is deposited in a~~
14 ~~scholarship fund for defraying the cost of education to students and the~~
15 ~~scholarships are awarded through an open and fair selection process.~~
- 16 (2) ~~Supplementary assistance to a public or private nonprofit educational~~
17 ~~institution registered with or accredited by any state.~~
- 18 (3) ~~Assistance to libraries and museums.~~
- 19 (4) ~~Assistance for the performing arts and humanities.~~
- 20 (5) ~~Preservation of cultural heritage.~~
- 21 (6) ~~Youth community and athletic activities.~~
- 22 (7) ~~Adult amateur athletic activities within the state, such as softball,~~
23 ~~including uniforms and equipment.~~
- 24 (8) ~~Maintenance of places of public worship or support of a body of~~
25 ~~communicants, gathered in common membership for mutual support~~
26 ~~and edification in piety, worship, or religious observances.~~
- 27 (9) ~~Scientific research.~~
- 28 d- ~~Uses benefiting an indefinite number of persons by relieving them of disease,~~
29 ~~suffering, or constraint which include disbursements to provide:~~
- 30 (1) ~~Relief to an individual or family suffering from poverty or homelessness.~~

- (2) ~~Encouragement and enhancement of the active participation of the elderly in our society.~~
 - (3) ~~Services to the abused.~~
 - (4) ~~Services to persons with an addicted behavior toward alcohol, gambling, or drugs.~~
 - (5) ~~Funds to combat juvenile delinquency and rehabilitate ex-offenders.~~
 - (6) ~~Relief for the sick, diseased, and terminally ill and their physical well-being.~~
 - (7) ~~Funds for emergency relief and volunteer services.~~
 - (8) ~~Funds to nonprofit nursing homes and other nonprofit medical facilities.~~
 - (9) ~~Social services and education programs aimed at aiding emotionally and physically distressed, handicapped, elderly, and underprivileged persons.~~
 - (10) ~~Funds for crime prevention, fire protection and prevention, and public safety.~~
 - (11) ~~Funds to relieve, improve, and advance the physical and mental conditions, care and medical treatment, health and economic interests of injured or disabled veterans.~~
- e. ~~Uses that are fraternal related which include disbursements for:~~
- (1) ~~Fraternal uses, consistent with uses enumerated in subdivisions a through m, specified by an organization's constitution, charter, articles of incorporation, or bylaws and not of direct benefit to the eligible organization.~~
 - (2) ~~Fraternal uses or disbursements to perpetuate the memory and history of the dead.~~
- f. ~~Uses increasing comprehension of and devotion to the principles upon which the nation was founded, not of direct benefit to the eligible organization or any member thereof which include disbursements to aid in teaching the principles of liberty, truth, justice, and equality. However, beauty pageants are excluded from receiving net proceeds.~~

- g. ~~The erection or maintenance of public buildings or works, public utilities, or public waterworks.~~
- h. ~~Uses otherwise lessening the burden of government which include disbursements to any entity that is normally funded by the city, county, state, or United States government and disbursements directly to a city, county, state, or the United States government, or any agency, political subdivision, or instrumentality thereof.~~
- i. ~~Uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm and the losses uncompensated by insurance.~~
- j. ~~Uses benefiting a definite number of persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense which is uncompensated by insurance.~~
- k. ~~Uses, for community service projects, by chambers of commerce exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code. A project qualifies as a community service project if it promotes the common good, enhances the social welfare of the community, and benefits an indefinite number of persons. The specific goals of a community service project may be to develop or promote public services in areas such as education, housing, transportation, recreation, crime prevention, fire protection and prevention, safety, and health. Uses that directly benefit a chamber of commerce do not qualify.~~
- l. ~~Uses for or of benefit to efforts in support of the health, comfort, or well being of the community which include disbursements to provide:~~
 - (1) ~~Funds for adult bands, including drum and bugle corps.~~
 - (2) ~~Funds for trade shows and conventions conducted in this state.~~
 - (3) ~~Funds for nonprofit organizations that operate a humane society, zoo, or fish or wildlife propagation and habitat enhancement program.~~
 - (4) ~~Funds for public transportation and recreation.~~
 - (5) ~~Funds for preservation and cleanup of the environment.~~

m. ~~To the extent net proceeds are used toward the primary purpose of a charitable, educational, religious, public safety, or public spirited organization, that has obtained a final determination from the internal revenue service as qualifying for exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code, the organization may establish a special trust fund as a contingency for funding or maintaining the organization's future program services should the organization discontinue conducting games or dissolve.~~

~~Such uses do not include the erection, acquisition, improvement, maintenance, or repair of real, personal, or mixed property owned or leased by an organization unless it is used exclusively for one or more eligible uses. Except for uses related to an eligible organization's primary purpose, eligible uses do not include any activities consisting of attempts to influence legislation or promote or oppose referendums or initiatives. Eligible uses do not include participation in any political campaign on behalf of any active official or person who is or has been a candidate for public office.~~

~~7.~~ 5. "Educational organization" means any nonprofit public or private elementary or secondary school, two-year or four-year college, or university in this state which has been active for the two immediately preceding years.

~~8.~~ 6. "Eligible organization" means veterans, charitable, educational, religious, fraternal, civic and service, public safety, ~~and or~~ public-spirited ~~organizations, which~~ organization domiciled in North Dakota and which may be licensed ~~issued a~~ license by the attorney general or issued a local permit by the governing body of a ~~city or county to conduct games.~~

~~9.~~ 7. "Fraternal organization" means an organization, except a college or high school fraternity, which is incorporated as a nonprofit corporation and which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. The organization must have been actively fulfilling its primary purpose within this state for the two immediately preceding years, and must have obtained an advance ruling or final determination from the internal revenue service as qualifying for exemption from

1 federal income tax under section 501(c)(8) or 501(c)(10) of the Internal Revenue
2 Code. ~~However, if the organization's gross receipts in each tax year are normally~~
3 ~~not more than twenty-five thousand dollars, the organization is not required to have~~
4 ~~obtained an advance ruling or final determination from the internal revenue~~
5 ~~service.~~

6 ~~40.~~ 8. "Games" means games of chance.

7 ~~44.~~ 9. "Gross proceeds" means all ~~moneys collected or~~ cash and checks received from
8 conducting games, sales tax on bingo cards, and ~~from~~ admissions.

9 ~~42.~~ 10. "Licensed organization" means an eligible organization licensed by the attorney
10 general ~~to conduct bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one,~~
11 ~~poker, paddlewheels, and sports pools.~~

12 ~~43.~~ 11. "Local permit" means a permit issued to a nonprofit organization ~~recognized as a~~
13 ~~public spirited organization~~ by a governing body of a city or county ~~that authorizes~~
14 ~~the organization to conduct only bingo, raffles, and sports pools in that city or~~
15 ~~county.~~

16 ~~44.~~ 12. "Manufacturer" means a person who designs, assembles, fabricates, produces, or
17 ~~constructs, or who otherwise prepares~~ a product or a component part of a product
18 ~~of any equipment usable in~~ designed for the lawful conduct of games. For a pull
19 tab and bingo card dispensing device, a manufacturer is the person who owns the
20 rights to the proprietary ~~operating~~ software.

21 ~~45.~~ ~~"Manufacturer's distributor" means a wholesaler of a manufacturer of pull tab~~
22 ~~dispensing devices who sells at wholesale dispensing devices and associated~~
23 ~~equipment directly to a licensed distributor and who does not sell or otherwise~~
24 ~~provide these items to an eligible organization.~~

25 ~~46.~~ "Member" means a person who has qualified for and been admitted to
26 membership in an eligible organization pursuant to its bylaws, articles of
27 incorporation, charter, rules, or other written statement, and who pays regular
28 monthly, annual, or other periodic dues or is a fully paid life member. ~~"Member"~~
29 ~~includes a member of an auxiliary organization, but excludes a social member.~~

30 ~~47.~~ 13. "Net proceeds" means adjusted gross proceeds less allowable expenses and ~~the~~
31 gaming tax.

- 1 ~~18.~~ 14. "Person" means any person, ~~firm~~, partnership, corporation, limited liability
2 company, association, or organization.
- 3 ~~19.~~ 15. "Public safety organization" means an organization incorporated as a nonprofit
4 corporation whose primary purpose is to ~~actively engage in~~ provide firefighting,
5 ambulance service, crime prevention, or similar ~~disaster~~ emergency assistance,
6 which has been actively fulfilling its primary purpose within this state for the two
7 immediately preceding years.
- 8 ~~20.~~ 16. "Public-spirited organization" means an organization incorporated as a nonprofit
9 corporation whose primary purpose is for scientific research, amateur sports
10 competition, safety, arts, agriculture, preservation of cultural heritage, educational
11 activities, educational public service, youth, economic development, tourism,
12 community recreation, or similar organization, ~~and~~ which does not meet the
13 definition of veterans, fraternal, charitable, educational, religious, civic and service,
14 or public safety organization, and which has been actively fulfilling its primary
15 purpose within this state for the two immediately preceding years. However, a
16 nonprofit organization recognized as a public-spirited organization by a governing
17 body of a city or county for obtaining a local permit does not need to meet this
18 definition.
- 19 ~~21.~~ 17. "Religious organization" means a nonprofit organization, church, body of
20 communicants, or group gathered in common membership incorporated as a
21 nonprofit corporation whose primary purpose is for advancement of religion,
22 mutual support and edification in piety, worship, and religious observances which
23 has been actively gathered or united in this state for the two immediately preceding
24 years.
- 25 ~~22.~~ 18. "Veterans organization" means any congressionally chartered organization within
26 this state, or any branch or lodge or chapter of a nonprofit national or state
27 organization ~~within this state, the~~ whose membership ~~of which~~ consists of
28 individuals who were members of the armed services or forces of the United
29 States. ~~The~~ An organization must have been actively fulfilling its primary purpose
30 in this state for the two immediately preceding years and must have obtained an
31 advance ruling or final determination from the internal revenue service as

qualifying for exemption from federal income tax under section 501(c)(19) of the Internal Revenue Code. ~~However, if the organization's gross receipts in each tax year are normally not more than twenty-five thousand dollars, the organization is not required to have obtained an advance ruling or final determination from the internal revenue service.~~

SECTION 4. AMENDMENT. Section 53-06.1-01.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-01.1. Gaming commission ~~Members Appointment Term~~
~~Qualifications Compensation.~~**

1. The state gaming commission consists of the chairman and four other members appointed by the governor, with the consent of the senate. The members serve three-year terms and until a successor is appointed and qualified. If the senate is not in session when the term of a member expires, the governor may make an interim appointment, and the interim appointee holds office until the senate confirms or rejects the appointment. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves only for the unexpired portion of the term. The terms of the commissioners must be staggered so that one term expires each July first.
2. A person is ineligible for appointment to the commission if that person has not been a resident of this state for at least two years before the date of appointment. A person is also ineligible if that person is not of such character and reputation as to promote public confidence in the administration of gaming in this state. A person is also ineligible if that person has been convicted of a felony criminal offense or has pled guilty or been found guilty of any violation of chapter 12.1-06, 12.1-08, 12.1-09, 12.1-10, 12.1-11, 12.1-12, 12.1-22, 12.1-23, 12.1-24, 12.1-28, 53-06.1, or 53-06.2, or has pled guilty or been found guilty of any violation of section 6-08-16 or 6-08-16.2, or has pled guilty or been found guilty of any offense or violation that has a direct bearing on the person's fitness to be involved in gaming, or who has committed an equivalent offense or violation of the laws of another state or of the United States. A person who has a financial interest in gaming cannot be a member or employee of the commission ~~and cannot be~~

~~employed by the commission.~~ For the purpose of this subsection, a financial interest includes the receiving of any direct payment from an eligible organization for property, services, or facilities provided to that organization. ~~Failure to maintain compliance with this subsection is grounds for removal from the commission or from employment with the commission.~~

3. Commission members are entitled to forty dollars per day for compensation for each day spent on commission duties, and mileage and expense reimbursement as allowed to other state employees.

4. The attorney general shall represent the state in all hearings before the commission. The commission may employ private counsel.

5. The commission shall adopt rules in accordance with chapter 28-32, to administer and regulate the gaming industry, including methods of conduct, play, and promotion of games; minimum procedures and standards for recordkeeping and internal control; requiring tax returns and reports from organizations or distributors; methods of competition and doing business by distributors and manufacturers; acquisition and use of gaming equipment; quality standards for the manufacture of pull tabs, paper bingo cards, and pull tab and bingo card dispensing devices; to ensure that net proceeds are disbursed to educational, charitable, patriotic, fraternal, religious, or public-spirited uses; to protect and promote the public interest; to ensure fair and honest games; to ensure that fees and taxes are paid; and to prevent and detect unlawful gambling activity.

SECTION 5. AMENDMENT. Section 53-06.1-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-03. ~~City and county local permits and~~ Local permits, site authorizations—
Licensure by attorney general—Fees—Suspension authorization, and revocation
licenses.**

1. ~~A nonprofit~~ An organization that has its license suspended or revoked, or has relinquished its license and not disbursed its net proceeds is ineligible for a local permit. An organization shall obtain apply for a local permit as follows:

a. A nonprofit organization recognized as a public-spirited organization by the governing body of a city or county may apply for a local permit to conduct only

1 raffles ~~or~~, bingo, or sports pools in which ~~the~~ a primary prize does not exceed
2 one thousand dollars, and the ~~aggregate~~ total prizes of all games do not
3 exceed six thousand dollars ~~annually, and to conduct sports pools for~~
4 ~~professional sports only~~ per year. The determination of what is a
5 "public-spirited organization" is within the sole discretion of the governing
6 body which should in its determination consider the definition of a
7 public-spirited organization under section 53-06.1-01 and eligible uses of net
8 proceeds under section 53-06.1-11.1. A governing body may issue a local
9 permit for ~~these~~ the games to be held at designated times and places. ~~If the~~
10 ~~nonprofit organization is a North Dakota college or university fraternity or~~
11 ~~sorority, the organization shall include a signed acknowledgement by the~~
12 ~~administration of the college or university that the applicant is a recognized~~
13 ~~fraternity or sorority.~~

- 14 b. An eligible organization shall apply to the governing body of the city or county
15 in which the site where the gaming activity to be conducted is located.
16 Application for a local permit must be made on a form prescribed by the
17 attorney general. If the nonprofit organization is a North Dakota college or
18 university fraternity, sorority, or club, the organization shall provide a signed
19 acknowledgment by the administration of the college or university that the
20 applicant is a recognized fraternity, sorority, or club. Approval may be
21 granted at the discretion of the governing body. A governing body may
22 establish a fee not to exceed twenty-five dollars for each local permit. A local
23 permit must be on a fiscal year basis from July first to June thirtieth or on a
24 calendar-year basis.

- 25 ~~e. For purposes of issuing a local permit, the determination of what is a~~
26 ~~"public-spirited organization" is within the sole discretion of the governing~~
27 ~~body of the city or county.~~

- 28 2. An eligible organization shall apply for a license to conduct games only bingo,
29 raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels, poker, or
30 sports pools by:

- 1 a. First securing approval for a site authorization from the governing body of the
2 city or county in which the proposed site is located. Approval, which may be
3 granted at the discretion of the governing body, must be recorded on a site
4 authorization form that is to accompany the license application to the attorney
5 general for final approval. A governing body ~~of a city or county~~ may not
6 require an eligible organization to donate net proceeds ~~directly~~ to the city,
7 county, or related political subdivision or for community programs or services
8 within the city or county as a condition for receiving a site authorization from
9 the city or county. A governing body may limit the number of tables for
10 twenty-one per site and the number of sites upon which a licensed
11 organization may conduct games within the city or county. A governing body
12 may charge a one hundred dollar fee for a site authorization; and
13 b. Annually applying for a license from the attorney general before July first on a
14 form prescribed by the attorney general and including with the application a
15 one hundred fifty dollar license fee. An organization shall sufficiently
16 document that it qualifies as an eligible organization. If a licensed
17 organization amends its primary purpose as stated in its articles of
18 incorporation or changes its basic character in a material manner, the
19 organization shall reapply for licensure.

20 3. ~~The attorney general shall license eligible organizations that conform to the~~
21 ~~requirements of this chapter.~~

22 4. A licensed organization may conduct games only on an authorized site as follows:

- 23 a. Only one licensed organization or organization that has a local permit at a
24 time may conduct games at an authorized site, except that a raffle may be
25 conducted for a special occasion by a second ~~organization that is a~~ licensed
26 organization or organization that has a local permit when one of these
27 conditions is met:
28 (1) When the area for the raffle is physically separated from the area
29 where games are conducted by the regular licensee.

(2) Upon request of the regular licensee and with the approval of the alcoholic beverage establishment, the licensee's license is suspended for that specific time of day by the attorney general.

- b. ~~After June 30, 1995~~ Except for a temporary site authorized for fourteen or fewer consecutive days for not more than two events per quarter, a licensed organization ~~or closely connected licensed organizations as a unit~~ may not have more than twenty-five sites unless granted a waiver by the attorney general. If the attorney general finds that there is no other licensed organization ~~willing to conduct~~ interested in conducting gaming at a site for which a waiver is being sought, the attorney general may approve the waiver. ~~The attorney general may not grant a licensed organization a waiver for no more than five sites.~~ Only one of two or more closely connected organizations may have a license at one time. Closely connected ~~licensed~~ organizations are two or more organizations which have an interdependent relationship, based on the presence and degree of unitary attributes that. These attributes may include common primary purposes, members on boards of directors, officers, management, employees, bookkeepers administrative and operating services, membership, program services, integrations of gaming activities, and shared facilities.
- c. Games of pull tabs, punchboards, twenty-one, paddlewheels, and sports pools may be conducted only during the hours when alcoholic beverages may be dispensed according to applicable regulations of the state, county, or city.
- d. An organization may not permit a person under twenty-one years of age to directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports pools, paddlewheels, or poker. An organization may not permit a person under eighteen years of age to directly or indirectly play bingo unless the person is accompanied by an adult, bingo is conducted by an organization that has a local permit, or the game's prize structure does not exceed that allowed for a local permit.

4. A local permit, site authorization, and license must contain information prescribed by the attorney general or local governing body and must be displayed at a site.

- 1 5. ~~The attorney general may, based on reasonable ground or upon written complaint,~~
2 ~~suspend, deny, or revoke under chapter 28-32, any license granted under this~~
3 ~~chapter for violations by the licensee, or any officer, director, agent, member, or~~
4 ~~employee of the licensee, of this chapter or any gaming rule. Notwithstanding~~
5 ~~section 5-02-02, an eligible organization that possesses a license issued under~~
6 ~~chapter 5-02 may not have that license suspended, revoked, or denied in~~
7 ~~consequence of action taken under this subsection unless that organization~~
8 ~~conducts gaming that violates chapter 12.1-28 or subsection 1 of section~~
9 ~~53-06.1-07.~~ The attorney general shall license an eligible organization that
10 complies with this chapter and may issue a conditional license to an eligible
11 organization whose regularly issued license has expired or been suspended,
12 revoked, or relinquished. The attorney general shall designate the time period for
13 which the conditional license is valid and may impose any conditions.
14 6. ~~The attorney general may impose monetary fines on licensed organizations,~~
15 ~~distributors, manufacturers' distributors, and manufacturers for failure to comply~~
16 ~~with this chapter or any gaming rule. The monetary fine for each violation by an~~
17 ~~organization is a minimum of twenty five dollars and may not exceed two percent~~
18 ~~of the organization's average quarterly gross proceeds, or five thousand dollars,~~
19 ~~whichever is greater. The monetary fine for each violation by a distributor or~~
20 ~~manufacturer's distributor is a minimum of one hundred dollars and may not~~
21 ~~exceed five thousand dollars. The monetary fine for each violation by a~~
22 ~~manufacturer is a minimum of five hundred dollars and may not exceed two~~
23 ~~hundred fifty thousand dollars. This fine may be in addition to or in lieu of a license~~
24 ~~suspension or revocation.~~ A governing body or local law enforcement official may
25 inspect a site's gaming equipment, and examine or cause to be examined the
26 books and records of a licensed organization or organization that has a local
27 permit to the extent that the books and records relate to any transaction involving
28 the direct or indirect conduct of games.

29 **SECTION 6. AMENDMENT.** Section 53-06.1-06 of the 1995 Supplement to the North
30 Dakota Century Code is amended and reenacted as follows:

53-06.1-06. Persons permitted to conduct games - Site— Equipment

~~—Compensation.~~

1. No person, except a member ~~or, an~~ employee of a licensed organization or an organization that has a local permit, or a temporary employee employed through a temporary employment agency, may ~~assist in conducting~~ conduct any game. "Member" includes a member of an auxiliary organization. In conducting pull tabs or bingo through a dispensing device, the attorney general may allow an employee of an alcoholic beverage establishment to provide limited assistance to ~~organizations~~ an organization. ~~However, a volunteer of an eligible organization may sell raffle tickets.~~
2. Except when authorized by the attorney general or allowed by the gaming rules, ~~no game may be conducted with gaming equipment other than equipment owned by, loaned to, or rented at a reasonable rate by an eligible organization from an~~ eligible organization ~~or shall procure gaming equipment only from~~ a licensed distributor. No equipment or prizes may be purchased at an excessive price.
3. An organization shall maintain complete, accurate, and legible accounting records in North Dakota for all gaming activity and establish an adequate system of internal control. The governing board of an eligible organization is primarily responsible and may be held accountable for the proper determination and distribution of net proceeds.
4. ~~The site where any game is being conducted, or where it is intended that the game will be held, must be open to inspection by the attorney general and local law enforcement officials.~~
5. The value of a merchandise prize awarded in a game is its ~~current~~ retail price.
6. ~~Equipment, prizes, and supplies for games may not be purchased or sold at excessive prices.~~
5. A person is restricted from being involved in gaming and the attorney general shall conduct criminal history ~~background checks~~ record check as follows:
 - a. A person who has pled guilty to or been found guilty of a felony offense as defined by the laws of this state, other states, or the federal government, or has pled guilty to or been found guilty of a violation of this chapter, a gaming

1 rule, chapters 12.1-28 or 53-06.2, or offenses of other states or the federal
2 government equivalent to offenses defined in these chapters may not be a
3 licensed distributor, may not be employed by a licensed distributor to sell or
4 distribute gaming equipment, and may not be employed by a licensed
5 organization to conduct games on a site for five years from the date of
6 conviction, release from incarceration, or expiration of parole or probation,
7 whichever is the latest.

- 8 b. A person who has pled guilty to or been found guilty of a misdemeanor
9 offense in violation of section ~~6-08-16.1~~ 6-08-16.2 or chapters 12.1-06,
10 12.1-23, or 12.1-24 or offenses of other states, the federal government, or a
11 municipality equivalent to these offenses may not be a licensed distributor,
12 may not be employed by a licensed distributor to sell or distribute gaming
13 equipment, and may not be employed by a licensed organization to conduct
14 games on a site for two years from the date of conviction, release from
15 incarceration, or expiration of parole or probation, whichever is the latest.
- 16 c. The attorney general shall conduct a criminal history ~~background~~ record
17 check of each potential employee of a licensed organization and charge a fee
18 of twenty dollars per record check in accord with section 12-60-16.9. ~~In~~
19 ~~addition, the~~ The fee may be waived in part or in whole by the attorney
20 general if a federal agency or local law enforcement agency has done a
21 record check. The attorney general may require payment of any additional
22 fee necessary to defray the actual cost of a background check of a person for
23 whom adequate background information sources are not readily available,
24 including a person who has not resided in North Dakota for the previous ~~one~~
25 ~~year~~ five years. The attorney general may require payment of the estimated
26 additional fee in advance as a condition precedent to beginning the
27 background check. The attorney general shall notify the person when a
28 determination is made that an additional fee is necessary and shall notify the
29 person of the best estimate of the amount of the additional fee. In lieu of
30 paying the additional cost, a person may cancel the background check. The
31 estimated cost must be placed in the attorney general's refund fund for use to

defray the actual expenses of the background check. The remainder of the funds must be returned to the person within thirty days of the conclusion of the background check. The attorney general shall notify the organization ~~or~~ and the person, ~~or both~~, of the result of the background check. The attorney general shall hold the information confidential except in the proper administration of this chapter or any gaming rule, or to an authorized law enforcement agency.

~~8. The attorney general may prohibit a person from playing games if the person violates this chapter, chapters 12-1-28 or 53-06.2, or a gaming rule.~~

~~9. The attorney general may require a licensed organization to pay a bingo or raffle prize to a player based on a factual determination or a hearing by the attorney general.~~

~~40. 6.~~ If bingo is the primary game at a site, a licensed organization may not pay bingo prizes in which the ~~aggregate of the total~~ bingo prizes ~~for a quarter~~ exceeds the total bingo gross proceeds for ~~the a~~ quarter ~~at that site~~. However, a bingo prize that equals or exceeds ten thousand dollars is excluded from the ~~computation of the aggregate total~~ of the bingo prizes.

~~41. An organization shall disburse net proceeds within the period prescribed by rule.~~

7. A city or county may require a person conducting games to obtain a local work permit, charge a fee, and conduct a criminal history record check. A fee may not exceed the actual expense of processing an application.

SECTION 7. AMENDMENT. Section 53-06.1-07.2 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-07.2. Poker. A licensed organization may conduct poker on not more than two occasions per year ~~as follows:~~

~~1. The~~ An organization may supply the dealer.

~~2.~~ The maximum single bet is one dollar.

~~3.~~ Not more than three raises, of not more than one dollar each, may be made among all the players in each round of bets. Otherwise the normal rules of poker apply.

1 4. ~~The~~ An organization shall assess each player a fee not to exceed two dollars per
2 one-half hour of playing time, collected in advance. A fee may be charged each
3 player for entry into a tournament for prizes ~~which~~ and this fee may be in lieu place
4 of or in addition to the fee assessable at one-half hour intervals.

5 **SECTION 8. AMENDMENT.** Section 53-06.1-07.3 of the 1995 Supplement to the
6 North Dakota Century Code is amended and reenacted as follows:

7 **53-06.1-07.3. Calcuttas.** ~~A licensed organization may conduct a~~ calcutta may only be
8 conducted for a professional or amateur sporting ~~events~~ event held in this state, but not for
9 elementary, secondary, or postsecondary education sports events. ~~The~~ An organization shall
10 post at the site all rules affecting the conduct and play of calcuttas. ~~The~~ An organization may
11 not have an interest in the outcome of the calcutta. A player must place a wager in the calcutta
12 auction pool at the site. No more than one wager per competitor may be allowed in any
13 calcutta pool. ~~The amounts paid to calcutta pool players in~~ amount of prizes may not exceed
14 ninety percent of the gross proceeds. A competitor in a calcutta ~~pool~~ may not be under
15 eighteen years of age.

16 **SECTION 9. AMENDMENT.** Section 53-06.1-07.4 of the 1995 Supplement to the
17 North Dakota Century Code is amended and reenacted as follows:

18 **53-06.1-07.4. Paddlewheels.** ~~A licensed~~ An organization shall post at the site ~~all rules~~
19 ~~affecting the conduct of~~ relating to paddlewheels ~~and requirements of players.~~ A paddlewheel
20 is a mechanical vertical wheel marked off into equally spaced sections that contain numbers or
21 symbols, and which after being spun, uses a pointer ~~or marker~~ to indicate the winning number
22 or symbol. The maximum price per ~~paddlewheel ticket may not exceed~~ wager is two dollars.
23 No money may be ~~allowed~~ used to bet on the ~~playing~~ table. A table must be used to register a
24 player's ~~wagered paddlewheel ticket~~ wager when a cash prize is a variable multiple of the ~~price~~
25 ~~of the paddlewheel ticket~~ wager. ~~No~~ A player may not place ~~paddlewheel tickets~~ a wager
26 valued at more than twenty dollars on each spin of the paddlewheel. Cash, chips, or
27 merchandise prizes may be awarded. No single cash prize, value of chips, or the current retail
28 price of the merchandise prize to be awarded for a winning ~~paddlewheel ticket~~ wager may
29 exceed one hundred dollars. ~~The monthly rent for each paddlewheel playing table may not~~
30 ~~exceed the amount authorized by law for a twenty-one table.~~

1 **SECTION 10. AMENDMENT.** Section 53-06.1-08 of the 1995 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **53-06.1-08. Punchboards and pull tabs.** Unless all ~~of the~~ top tier winning pull tabs or
4 punchboard punches of a game have been redeemed, or unless otherwise permitted by a
5 gaming rule or the attorney general, a person or organization ~~conducting pull tabs or~~
6 ~~punchboards~~ may not close the game after ~~the game~~ it has been placed in play. The maximum
7 sales price per pull tab and punchboard punch is two dollars. The maximum prize value of ~~the~~
8 a top tier winning pull tab or punchboard punch is five hundred dollars. The game of pull tabs
9 may only be conducted by commingling deals.

10 **SECTION 11. AMENDMENT.** Section 53-06.1-09 of the 1995 Supplement to the North
11 Dakota Century Code is amended and reenacted as follows:

12 **53-06.1-09. Sports pools.** ~~A licensed organization or organization that has a local~~
13 ~~permit may conduct a sports pool~~ must be for a professional sports sport only. The maximum
14 ~~wager on a sports pool~~ is five dollars. The amount of prizes may not exceed ninety percent of
15 the gross proceeds.

16 **SECTION 12. AMENDMENT.** Section 53-06.1-10 of the 1995 Supplement to the North
17 Dakota Century Code is amended and reenacted as follows:

18 **53-06.1-10. Twenty-one.** ~~A licensed organization may conduct and shall control the~~
19 ~~playing of twenty-one on its site.~~ No money may be allowed on the table as a wager. The
20 organization shall provide playing chips of various denominations to players. Chips must be
21 redeemed by the organization for their full value. The maximum limit per wager may be set by
22 the organization at not more than five dollars and wagers in increments of one dollar must be
23 accepted up to the maximum limit. A player may not play more than two hands at the same
24 time. Only the player actually playing a hand may place a wager on any hand. Each player
25 plays the player's hand against the dealer's hand. ~~In order to~~ To remain in the hand being
26 dealt, neither the player nor the dealer may play a hand with a count greater than twenty-one.
27 A count of twenty-one obtained with two cards is ~~termed~~ a natural twenty-one and is an
28 automatic payout except in ~~case of~~ a tie count with the dealer. Players may double down on a
29 natural twenty-one. For a tie count between the player and the dealer, no winner is declared
30 and the player keeps the player's wager. An organization may allow pooling of tips received by
31 dealers at a site. Any requirement to pool tips is within the sole discretion of each organization

1 ~~and may not be imposed or encouraged by the attorney general or commission.~~ An
2 organization ~~conducting twenty-one~~ shall conspicuously post rules relating to the conduct of the
3 ~~game twenty-one.~~ Except for ~~an organization's~~ a site that has twenty-one gross proceeds
4 averaging less than ten thousand dollars per quarter, ~~no~~ an organization may not conduct
5 twenty-one at ~~an authorized~~ the site with wagers exceeding two dollars unless the organization
6 has first installed video surveillance equipment as required by rules and the equipment is
7 approved by the attorney general.

8 **SECTION 13. AMENDMENT.** Section 53-06.1-10.1 of the 1995 Supplement to the
9 North Dakota Century Code is amended and reenacted as follows:

10 **53-06.1-10.1. Raffles. Prizes** A prize for a raffle may include any property which may
11 be legally owned and possessed cash or merchandise, but may not include be real estate or a
12 live animal. ~~Cash prizes may be awarded in a raffle provided the value of no~~ No single cash
13 prize ~~exceeds~~ may exceed one thousand dollars and ~~provided that the~~ total cash prizes do in
14 one day may not exceed three thousand dollars ~~in one day.~~

15 **SECTION 14. AMENDMENT.** Section 53-06.1-11 of the 1995 Supplement to the North
16 Dakota Century Code is amended and reenacted as follows:

17 **53-06.1-11. Gross proceeds - Expenses Allowable expenses - Rent limits.**

- 18 1. All ~~moneys collected or~~ money received from games, ~~except cash prizes of one~~
19 ~~hundred dollars or less paid immediately,~~ must be deposited in a special account
20 ~~of the licensed organization. Cash prizes of an amount to be determined by the~~
21 ~~attorney general and~~ accounted for according to the gambling rules. Gaming
22 activity for a quarter must be reported on a tax return form prescribed by the
23 attorney general. The purchase ~~prices~~ price of a merchandise ~~prizes~~ prize must
24 be ~~withdrawn~~ paid from this a gaming bank account by ~~consecutively numbered~~
25 ~~checks duly signed by a specified officer or officers of the organization and~~
26 ~~payable to a specific person or organization. There must also be written on the~~
27 ~~check the nature of the prize~~ check. No check drawn from a gaming or trust bank
28 account may be ~~drawn~~ payable to "cash" or a fictitious payee. ~~If a~~ A cash prize
29 that exceeds one hundred dollars, the prize may also an amount set by rule must
30 ~~be issued by an accountable~~ accounted for by a receipt or nonnegotiable
31 ~~instrument approved~~ prescribed by the ~~attorney general~~ gaming rules.

- 1 2. ~~No part of net proceeds after they have been devoted to an eligible use recipient~~
2 ~~may be used by the donee to pay any person for services rendered or materials~~
3 ~~purchased in connection with the conduct of games by the donor organization.~~
- 4 3. ~~Subject to the limitations of this subsection,~~ Allowable ~~expenses incurred for~~
5 ~~games may be deducted from adjusted gross proceeds, to the extent that total~~
6 ~~expenses for games do not exceed. The allowable expense limit is fifty percent of~~
7 ~~the first two hundred thousand dollars of adjusted gross proceeds per quarter and~~
8 ~~forty-five percent of the adjusted gross proceeds in excess of two hundred~~
9 ~~thousand dollars per quarter. In addition, an organization may deduct as an~~
10 ~~allowable expense:~~
- 11 a. Two and one-half percent of the gross proceeds of pull tabs.
12 b. Capital expenditures for security or video surveillance equipment used for
13 controlling games if the equipment is required by section 53-06.1-10 or
14 authorized by rule, and it is approved by the attorney general.
- 15 3. Cash shorts incurred in games and interest and penalty are classified as expenses
16 ~~toward the expense limitation. Notwithstanding the limitations of this subsection, in~~
17 ~~addition to expenses allowed to be deducted from adjusted gross proceeds, a~~
18 ~~licensed organization may deduct as an expense capital expenditures for security~~
19 ~~or video surveillance equipment used for controlling games if the equipment is~~
20 ~~required by section 53-06.1-10 or gaming rules and the equipment is approved by~~
21 ~~the attorney general. This subsection does not authorize violations of the rent~~
22 ~~limitations.~~
- 23 4. ~~In addition to the expense limitation provided in subsection 3, an organization that~~
24 ~~conducts the game of pull tabs at an authorized site may deduct as an expense~~
25 ~~two and one-half percent of the gross proceeds for this game of chance. For a site~~
26 ~~where bingo is conducted:~~
- 27 a. Except under subdivision c, if bingo is the primary game, the monthly rent
28 must be reasonable.
- 29 b. If bingo is not the primary game, but is conducted with twenty-one,
30 paddlewheels, or pull tabs, no additional rent is allowed.

c. If bingo is conducted through a dispensing device and no other game is conducted, the monthly rent may not exceed two hundred twenty-five dollars.

5. For a site where bingo is not the primary game:

a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed two hundred dollars multiplied by the necessary number of tables. If pull tabs is also conducted, the monthly rent for pull tabs may not exceed an additional one hundred twenty-five dollars.

b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted, the monthly rent may not exceed two hundred twenty-five dollars.

SECTION 15. AMENDMENT. Section 53-06.1-11.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-11.1. ~~Eligible organizations not to~~ Restricted use any of money in certain political activities - ~~Penalty~~ Eligible uses of net proceeds.

1. ~~An eligible~~ A licensed organization that derives any revenue from games it conducts or an organization that has a local permit may not use money from any source for ~~the placing on the ballot of any~~ an initiated or referred measure on a ballot or for any activities consisting of attempts to participate in any a political campaign ~~on behalf of~~ to promote or in opposition to any active official or oppose a person ~~who is or has been a candidate~~ for public office. Except for a use related to an organization's primary purpose, a licensed organization or organization that has a local permit may not use net proceeds to influence legislation or promote or oppose referendums or initiatives. Any funds expended by an ~~eligible~~ organization to promote or oppose an initiated or referred measure that ~~has been placed~~ is on the ballot or for any ~~activities that qualify as~~ activities of a lobbyist under section 54-05.1-02, that are not compensation or expenses paid to a lobbyist, and that are not ~~otherwise~~ required to be reported under section 54-05.1-03 must be reported to the attorney general as prescribed by the attorney general. ~~An eligible organization that violates~~ A violation of this section is subject subjects an organization to a suspension of its license to conduct games or local permit for up to one year.

2. A licensed organization shall disburse net proceeds within the period prescribed by rule and for only these educational, charitable, patriotic, fraternal, religious, or public-spirited uses:

- a. Uses for stimulating and promoting state and community-based economic development programs within the state which improve the quality of life of community residents.
- b. Uses for developing, promoting, and supporting tourism within a city, county, or the state.
- c. Uses benefiting an indefinite number of persons by bringing them under the influence of education, cultural programs, or religion which include disbursements to provide:
 - (1) Scholarships for students, if the disbursement is deposited in a scholarship fund for defraying the cost of education to students and the scholarships are awarded through an open and fair selection process.
 - (2) Supplementary assistance to a public or private nonprofit educational institution registered with or accredited by any state.
 - (3) Assistance to libraries and museums.
 - (4) Assistance for the performing arts and humanities.
 - (5) Preservation of cultural heritage.
 - (6) Youth community and athletic activities.
 - (7) Adult amateur athletic activities within the state, such as softball, including uniforms and equipment.
 - (8) Maintenance of places of public worship or support of a body of communicants, gathered in common membership for mutual support and edification in piety, worship, or religious observances.
 - (9) Scientific research.
- d. Uses benefiting an indefinite number of persons by relieving them of disease, suffering, or constraint which include disbursements to provide:
 - (1) Relief to an individual or family suffering from poverty or homelessness.
 - (2) Encouragement and enhancement of the active participation of the elderly in our society.

(3) Services to the abused.

(4) Services to persons with an addicted behavior toward alcohol,
gambling, or drugs.

(5) Funds to combat juvenile delinquency and rehabilitate ex-offenders.

(6) Relief for the sick, diseased, and terminally ill and their physical
well-being.

(7) Funds for emergency relief and volunteer services.

(8) Funds to nonprofit nursing homes and nonprofit medical facilities.

(9) Social services and education programs aimed at aiding emotionally
and physically distressed, handicapped, elderly, and underprivileged
persons.

(10) Funds for crime prevention, fire protection and prevention, and public
safety.

(11) Funds to relieve, improve, and advance the physical and mental
conditions, care and medical treatment, and health and welfare of
injured or disabled veterans.

e. Uses that perpetuate the memory and history of the dead.

f. Uses increasing comprehension of and devotion to the principles upon which
the nation was founded, not of direct benefit to the eligible organization or any
member thereof which include disbursements to aid in teaching the principles
of liberty, truth, justice, and equality. However, beauty pageants do not
qualify.

g. The erection or maintenance of public buildings, utilities, or waterworks.

h. Uses lessening the burden of government which include disbursements to an
entity that is normally funded by a city, county, state, or United States
government and disbursements directly to a government entity or its agency.

i. Uses benefiting a definite number of persons who are the victims of loss of
home or household possessions through explosion, fire, flood, or storm and
the loss is not covered by insurance.

- 1 j. Uses benefiting a definite number of persons suffering from a seriously
2 disabling disease or injury causing severe loss of income or incurring
3 extraordinary medical expense which is not covered by insurance.
- 4 k. Uses, for community service projects, by chambers of commerce exempt
5 from federal income tax under section 501(c)(6) of the Internal Revenue
6 Code. A project qualifies if it develops or promotes public services, including
7 education, housing, transportation, recreation, crime prevention, fire
8 protection and prevention, safety, tourism, and health. Uses that directly
9 benefit a chamber of commerce do not qualify.
- 10 l. Uses for or of benefit to efforts in support of the health, comfort, or well-being
11 of the community which include disbursements to provide:
- 12 (1) Funds for adult bands, including drum and bugle corps.
13 (2) Funds for trade shows and conventions conducted in this state.
14 (3) Funds for nonprofit organizations that operate a humane society, zoo,
15 or fish or wildlife propagation and habitat enhancement program.
16 (4) Funds for public transportation, community celebration, and recreation.
17 (5) Funds for preservation and cleanup of the environment.
- 18 m. To the extent net proceeds are used toward the primary purpose of a
19 charitable, educational, religious, public safety, or public-spirited organization,
20 that has obtained a final determination from the internal revenue service as
21 qualifying for exemption from federal income tax under section 501(c)(3) of
22 the Internal Revenue Code, the organization may establish a special trust
23 fund as a contingency for funding or maintaining the organization's future
24 program services should the organization discontinue conducting games or
25 dissolve.
- 26 3. The uses in subsection 2 do not include the erection, acquisition, improvement,
27 maintenance, or repair of real or personal property owned or leased by an
28 organization unless it is used exclusively for an eligible use. No part of net
29 proceeds after they have been disbursed to an eligible use recipient may be used
30 by the donee to pay any person for services rendered or materials purchased in
31 connection with the conduct of games by the donor organization.

SECTION 16. AMENDMENT. Section 53-06.1-12 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12. Gaming ~~tax~~ and excise taxes - Deposits.

1. A gaming tax as provided in this section upon is imposed on the total adjusted gross proceeds received earned by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis upon on the tax return forms as prescribed by the attorney general. The amount of this This tax must be paid from adjusted gross proceeds and may is not be charged against part of the percentage limitation of allowable expenses. The tax is hereby imposed upon every licensed organization, to be levied, collected, and paid quarterly, computed at the following rates are:

- ~~1-~~ a. On adjusted gross proceeds not in excess of exceeding two hundred thousand dollars per quarter, a tax of five percent.
- ~~2-~~ b. On adjusted gross proceeds in excess of exceeding two hundred thousand dollars per quarter but not in excess of exceeding four hundred thousand dollars per quarter, a tax of ten percent.
- ~~3-~~ c. On adjusted gross proceeds in excess of exceeding four hundred thousand dollars per quarter but not in excess of exceeding six hundred thousand dollars per quarter, a tax of fifteen percent.
- ~~4-~~ d. On adjusted gross proceeds in excess of exceeding six hundred thousand dollars per quarter, a tax of twenty percent.
2. In addition to any other tax provided by law and in place of sales or use taxes, there is imposed an excise tax of four and one-half percent on the gross proceeds from the sale at retail of pull tabs to a final user. This includes pull tabs provided to a player in exchange for redeemed winning pull tabs. The tax must be paid to the attorney general when tax returns are filed.
3. The state treasurer shall deposit gaming and excise taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.

SECTION 17. AMENDMENT. Section 53-06.1-12.3 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1 **53-06.1-12.3. Interest and penalty.** ~~Notwithstanding any other provision of this~~
2 ~~chapter, the~~ The attorney general shall assess a licensed organization interest and penalty as
3 follows:

4 1. Assessment of interest.

5 a. ~~An~~ If an organization ~~that requests and is granted an extension of time for~~
6 ~~filing a~~ does not pay tax return due by the original date of a tax return, or if
7 additional tax is due based on an audit or math verification of the return and it
8 is not paid by the original due date of the return, the organization shall pay,
9 ~~with the tax,~~ interest on the tax at the rate of twelve percent per annum
10 computed from the original due date of the ~~tax~~ return through the date the tax
11 is paid.

12 b. ~~If additional tax is due based on an audit or a mathematical verification of a~~
13 ~~tax return, an organization shall pay interest at the rate of one percent of the~~
14 ~~additional tax for each month or fraction of a month during which the tax~~
15 ~~remains unpaid, computed from the due date of the tax return to the date~~
16 ~~paid.~~

17 2. Assessment of penalty.

18 a. ~~If an organization, without intent to evade any tax imposed by this chapter,~~
19 ~~fails to~~ does not pay the tax due on a tax return, ~~filed on or before~~ by the due
20 ~~date~~ original or extended due date of the return, or if additional tax is due
21 based on an audit or math verification of the return and it is not paid by the
22 original or extended due date of the return, the organization shall pay a
23 penalty of five percent of the tax ~~due~~, or twenty-five dollars, whichever is
24 greater.

25 b. ~~If an organization, without intent to evade any tax imposed by this chapter,~~
26 ~~fails to~~ does not file a tax return ~~on or before~~ by the due date original or
27 extended due date of the return, the organization shall pay a penalty of five
28 percent of the tax ~~due~~, or twenty-five dollars, whichever is greater, ~~if the~~
29 ~~failure is for not more than one each month, counting each~~ or fraction of a
30 ~~month as an entire month, with an additional five percent for each additional~~

- 1 ~~month or fraction thereof during which the failure continues~~ return is not filed,
2 not exceeding a total of twenty-five percent in the aggregate.
- 3 e. ~~If additional tax is due based on an audit or mathematical verification of a tax~~
4 ~~return, an organization shall pay a penalty as prescribed in subdivision a or b.~~
- 5 3. If an organization fails to pay any tax, interest, or penalty ~~imposed by this chapter,~~
6 the attorney general ~~shall~~ may bring court action to collect ~~the tax, interest, and~~
7 ~~penalty it.~~
- 8 4. The attorney general may for good cause ~~shown~~ waive all or ~~any~~ part of any
9 interest or penalty ~~that was assessed pursuant to this section~~ and may waive any
10 minimal tax.
- 11 5. 4. If an organization ~~that~~ has failed to file a tax return ~~and,~~ has been notified by the
12 attorney general of the delinquency, and refuses or neglects within thirty days after
13 the notice to file a proper return, the attorney general shall determine the adjusted
14 gross proceeds ~~of the organization~~ and gaming excise taxes due according to the
15 best information available; and ~~shall~~ assess the ~~tax~~ taxes at not more than double
16 the amount ~~so determined.~~ ~~The appropriate interest~~ Interest and penalty also
17 apply must be assessed.
- 18 6. ~~Interest and penalty are classified as expenses toward the expense limitation of~~
19 ~~subsection 3 of section 53-06.1-11.~~

20 **SECTION 18. AMENDMENT.** Section 53-06.1-14 of the 1995 Supplement to the North
21 Dakota Century Code is amended and reenacted as follows:

22 **53-06.1-14. Distributors and manufacturers ~~Licensure.~~**

- 23 1. A manufacturer of pull tabs, ~~manufacturer of bingo cards, manufacturer of and or~~
24 pull tab dispensing devices, ~~manufacturer's distributor of pull tab dispensing~~
25 ~~devices;~~ and a distributor shall apply annually for a license upon a form prescribed
26 by the attorney general before the first day of April in each year ~~and shall submit~~
27 ~~the appropriate license fee. Each applicant shall provide such necessary and~~
28 ~~reasonable information as the attorney general may require.~~ The license fee for a
29 distributor is one thousand five hundred dollars. ~~The license fee for a~~
30 ~~manufacturer's distributor is five hundred dollars.~~ The license fee for a

1 manufacturer of ~~pull tab dispensing devices, manufacturer of pull tabs, bingo~~
2 ~~cards, or both a manufacturer of pull tabs and bingo cards,~~ is two thousand dollars.

- 3 2. A distributor may not sell, market, or ~~otherwise distribute raffle tickets or gaming~~
4 ~~equipment for games except to either a licensed distributors distributor, licensed~~
5 ~~manufacturers' distributors, licensed organizations organization, organizations~~
6 ~~organization~~ that ~~have~~ has a local permit, or other ~~persons~~ person authorized by
7 the attorney general. A manufacturer of pull tab dispensing devices, pull tabs, or
8 bingo cards may ~~not~~ only sell, market, or ~~otherwise distribute pull tab dispensing~~
9 ~~devices, pull tabs, or bingo cards, other than to a licensed distributor. A distributor~~
10 ~~of pull tabs or bingo cards must~~ may purchase or ~~otherwise receive~~ acquire pull
11 tabs or bingo cards only from a licensed manufacturer or licensed distributor. A
12 ~~manufacturer of pull tab dispensing devices may not sell, market, or otherwise~~
13 ~~distribute pull tab dispensing devices other than to a licensed distributor or a~~
14 ~~licensed manufacturer's distributor. A licensed distributor and licensed~~
15 ~~manufacturer's distributor of pull tab dispensing devices may purchase or~~
16 ~~otherwise receive~~ acquire a new pull tab dispensing devices device only from a
17 licensed manufacturer, ~~licensed manufacturer's distributor, or licensed distributor.~~
18 No gaming equipment or prizes may be sold at an excessive price.

- 19 3. ~~An eligible organization shall acquire all raffle tickets or gaming equipment from a~~
20 ~~licensed distributor, unless the raffle tickets or gaming equipment is printed,~~
21 ~~manufactured, or constructed by the organization or unless the raffle tickets are~~
22 ~~obtained from a resident printer who has printed the raffle tickets at the request of~~
23 ~~the organization. No~~ A licensed distributor shall affix a North Dakota gaming
24 stamp to each deal of pull tabs and bingo cards, punchboard, sports pool board,
25 calcutta board, deal of bingo cards used in a dispensing device, or and series of
26 paddlewheel ticket cards may be sold without a North Dakota gaming stamp being
27 affixed to them. A licensed distributor and shall purchase North Dakota gaming
28 the stamps from the attorney general and the cost for each stamp may not exceed
29 twenty-five cents each.

- 30 4. A licensed organization ~~or,~~ organization that has a local permit, licensed
31 manufacturer, or North Dakota wholesaler of liquor or alcoholic beverages may not

1 be a distributor. ~~A North Dakota wholesaler of liquor or alcoholic beverages may~~
2 ~~not be a distributor.~~ A licensed manufacturer may not be a distributor or have any
3 financial interest in a distributor. A distributor may not have any financial interest in
4 a licensed manufacturer.

5 5. ~~The attorney general may, based on reasonable grounds or on written complaint,~~
6 ~~suspend or revoke an organization's local permit or an organization's, distributor's,~~
7 ~~manufacturer's distributor, or manufacturer's license for violation, by the~~
8 ~~organization, distributor, manufacturer's distributor, or manufacturer or any officer,~~
9 ~~director, agent, member, or employee of the organization, distributor,~~
10 ~~manufacturer's distributor, or manufacturer, of this chapter or any gaming rule.~~

11 6. In addition to the basic license fee, the attorney general may require payment of
12 any additional fee necessary to defray the actual cost of a background
13 investigation check of an applicant by following the procedures prescribed by
14 subdivision c of subsection 5 of section 53-06.1-06. ~~The attorney general may~~
15 ~~require payment of the estimated additional fee in advance. The attorney general~~
16 ~~shall notify an applicant when it is determined that an additional fee is necessary~~
17 ~~and the best estimate of the additional fee. An applicant may withdraw the~~
18 ~~application rather than pay the additional fee. The estimated fee must be placed~~
19 ~~into the attorney general's refund fund for use to defray the actual expenses. The~~
20 ~~remainder of the funds must be returned to the applicant within thirty days of~~
21 ~~concluding the investigation.~~

22 **SECTION 19. AMENDMENT.** Section 53-06.1-15.1 of the 1995 Supplement to the
23 North Dakota Century Code is amended and reenacted as follows:

24 **53-06.1-15.1. Powers and duties Authority of the attorney general.** The attorney
25 general may:

- 26 1. ~~Inspect and examine all premises~~ sites in which gaming is conducted or inspect all
27 premises where gaming equipment is manufactured, ~~sold,~~ or distributed. The
28 attorney general may require a licensed manufacturer to reimburse the attorney
29 general for the reasonable actual cost of transportation, lodging, meals, and
30 incidental expenses incurred in inspecting the manufacturer's facility.

- 1 2. Inspect all gaming equipment and supplies ~~in, upon, on a site or about the~~
2 premises.
- 3 3. Seize and remove from ~~such a site or~~ premises and impound any gaming
4 equipment, supplies, games, or books and records for the purpose of examination
5 and inspection. When books or records are seized, the attorney general shall
6 provide copies of those records or books within seventy-two hours of a specific
7 request by the organization for a copy of the books or records seized.
- 8 4. Demand access to and inspect, examine, photocopy, and audit all books and
9 records of applicants, organizations, lessors, manufacturers, ~~manufacturer's~~
10 ~~distributors~~, and distributors, including any affiliated companies on their premises
11 concerning any income or expense resulting from any gaming activity, determine
12 compliance with this chapter or ~~any gaming rule rules~~, and require verification of
13 income, expense, or ~~devotion~~ use of net proceeds, and all other matters affecting
14 this chapter.
- 15 5. ~~Enter into a reciprocal agreement with the commissioner of the internal revenue~~
16 ~~service of the United States for exchange of information for state tax administration~~
17 ~~purposes.~~ The attorney general may permit the commissioner or proper
18 representative of the internal revenue service of the United States to inspect a tax
19 return or furnish a copy of the tax return, or information concerning any item
20 contained in the return, or disclosed by any audit or investigation report of the
21 gaming activity of any organization or player, or recordkeeping information.
22 However, information cannot be disclosed to the extent that the attorney general
23 determines that the disclosure would identify a confidential informant or seriously
24 impair any civil or criminal investigation. Except when directed by judicial order, or
25 for pursuing civil or criminal charges regarding a violation of this chapter or a
26 gaming rule, or as is provided by law, the attorney general may not divulge nor
27 make known, to any person, any income or expense item contained in any tax
28 return or disclosed by an audit or investigative report of any taxpayer, provided to
29 the attorney general by the internal revenue service.
- 30 6. Require a representative of a licensed organization or distributor to participate in
31 training or for good cause prohibit the person from being involved in gaming as an

employee or volunteer. The attorney general may for good cause prohibit a person from providing personal or business services to an organization or distributor.

7. Prohibit a person from playing games if the person violates this chapter, chapter 12.1-28, or 53-06.2, or a gaming rule.

8. Require a licensed organization to pay a bingo or raffle prize to a player based on a factual determination or a hearing by the attorney general.

9. Based on reasonable ground or written complaint, suspend, deny, or revoke an organization's local permit or an organization's, distributor's, or manufacturer's license for violation, by the organization, distributor, or manufacturer or any officer, director, agent, member, or employee of the organization, distributor, or manufacturer, of this chapter or any gaming rule.

10. Impose a monetary fine on a licensed organization, distributor, or manufacturer for failure to comply with this chapter or any gaming rule. The monetary fine for each violation by an organization is a minimum of twenty-five dollars and may not exceed two percent of the organization's average quarterly gross proceeds, or five thousand dollars, whichever is greater. The monetary fine for each violation by a distributor is a minimum of one hundred dollars and may not exceed five thousand dollars. The monetary fine for each violation by a manufacturer is a minimum of five hundred dollars and may not exceed two hundred fifty thousand dollars. This fine may be in addition to or in place of a license suspension or revocation.

11. At any time within three years after any amount of fees or tax required to be paid pursuant to this chapter becomes due, bring a civil action to collect the amount due. However, if for any reason there is a change in adjusted gross income or tax liability by an amount which is in excess of twenty-five percent of the amount of adjusted gross income or tax liability originally reported on the tax return, any additional tax determined to be due may be assessed within six years after the due date of the tax return, or six years after the tax return was filed, whichever period expires later. An action may be brought although the person owing the fees or tax is not presently licensed.

12. Institute an action in any district court for declaratory or injunctive relief against a person, whether or not the person is a gaming licensee as the attorney general deems necessary to prevent noncompliance with this chapter or gaming rules.

SECTION 20. AMENDMENT. Section 53-06.1-16 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-16. Violation of chapter law or rule - Misdemeanor—Forfeiture of licensure—Ineligibility Fraudulent scheme or technique to cheat or skim unlawful - Penalty.

1. Except as otherwise provided by this chapter, a person who knowingly makes a false statement on a request for record check form or in any application for a local permit, or license, or authorizing resolution or in any accompanying statement annexed thereto, knowingly signs a false record or report, or who fails to keep maintain sufficient books and records or adequate internal control to substantiate gross proceeds, prizes, cash profits, expenses, or devotion disbursement of net proceeds, or who falsifies any books or records relating to any transaction connected with involving the holding, operating, and conducting direct or indirect conduct of games, or who violates this chapter, any gaming rule, or of any term of a local permit or license is guilty of a class A misdemeanor. If convicted, the person forfeits any gaming license or local permit issued to it pursuant to this chapter and is ineligible to reapply for a gaming license or local permit for a period of time determined by the attorney general. Notwithstanding section 5-02-02, an eligible organization that possesses a license issued under chapter 5-02 may not have that license suspended, revoked, or denied in consequence of action taken under this section.

2. It is unlawful for a person playing or conducting a game:

- a. To use bogus or counterfeit chips or pull tabs, or to substitute or use any game, cards, pull tabs, or game piece that have been marked or tampered with.
- b. To employ or have on one's person any cheating device to facilitate cheating in any game, or to attempt to commit or commit a theft, or to assist in committing any other fraudulent scheme.

1 c. To willfully use any fraudulent scheme or technique, including when a person
2 directly or indirectly solicits, provides, or receives inside information of the
3 status of a game of pull tabs for the benefit of any person.

4 d. To alter or counterfeit a site authorization, license, or North Dakota gaming
5 stamp.

6 e. To knowingly cause, aid, abet, or conspire with another person or to cause
7 any person to violate this chapter or a gaming rule.

8 A person violating this subsection is guilty of a class A misdemeanor unless the total amount
9 gained through the use of these items, schemes, or techniques resulted in a person obtaining
10 over five hundred dollars, then the offense is a class C felony. However, if a person uses a
11 fraudulent scheme regarding soliciting, providing, or receiving inside information involving the
12 game of pull tabs or uses a fraudulent scheme or technique to cheat or skim involving pull tabs,
13 twenty-one, or bingo, regardless of the amount gained, the offense is a class C felony.

14 **SECTION 21. REPEAL.** Section 53-06.1-15.3 of the North Dakota Century Code and
15 sections 53-06.1-01.2, 53-06.1-02, 53-06.1-03.1, 53-06.1-03.2, 53-06.1-03.3, 53-06.1-05.1,
16 53-06.1-06.1, 53-06.1-07, 53-06.1-07.1, 53-06.1-12.1, 53-06.1-12.2, 53-06.1-13, 53-06.1-13.1,
17 53-06.1-15, 53-06.1-15.2, 53-06.1-15.4, 53-06.1-16.1, 53-06.1-16.2, and 53-06.1-17 of the
18 1995 Supplement to the North Dakota Century Code are repealed.