

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 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, 53-06.1-07.4,  
3 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, 53-06.1-12,  
4 53-06.1-12.3, 53-06.1-14, 53-06.1-15.1, and 53-06.1-16 of the North Dakota Century Code,  
5 relating to games of chance; and to repeal sections 53-06.1-01.2, 53-06.1-02, 53-06.1-03.1,  
6 53-06.1-03.2, 53-06.1-03.3, 53-06.1-05.1, 53-06.1-06.1, 53-06.1-07, 53-06.1-07.1,  
7 53-06.1-12.1, 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,  
8 53-06.1-15.4, 53-06.1-16.1, 53-06.1-16.2, and 53-06.1-17 of the North Dakota Century Code,  
9 relating to games of chance; and to provide a penalty.

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

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

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

14 **SECTION 2. AMENDMENT.** Section 53-06.1-01 of the 1995 Supplement to the North  
15 Dakota Century Code is amended and reenacted as follows:

16 **53-06.1-01. Definitions.** As used in this chapter:

- 17 1. "Adjusted gross proceeds" means, ~~except for poker,~~ gross proceeds less cash  
18 prizes, cost of merchandise prizes, sales tax on bingo cards, pull tab excise tax,  
19 and federal excise tax and interest imposed under section 4401 of the Internal  
20 Revenue Code [26 U.S.C. 4401]. ~~In poker, "adjusted gross proceeds" means time~~  
21 ~~buy ins and tournament fees.~~
- 22 2. "Charitable organization" means an organization incorporated as a nonprofit  
23 corporation whose primary purpose is for relief of poor, distressed, underprivileged,  
24 diseased, elderly, or abused persons, prevention of cruelty to children or animals,

or ~~other~~ similar condition of public concern, which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.

3. "Civic and service organization" means an organization incorporated as a nonprofit corporation whose primary purpose is to ~~engage in a civic and service activity~~ promote the common good and social welfare of a community as a sertoma, lion, rotary, jaycee, kiwanis ~~organization~~, or similar organization, and which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.

4. ~~"Commission" means the state gaming commission.~~

5. "Distributor" means a person that sells, markets, or ~~otherwise~~ distributes equipment usable in the ~~lawful~~ conduct of games.

6. ~~"Educational, charitable, patriotic, fraternal, religious, or other public spirited uses"~~ are:

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.~~

- 1                   (7)   ~~Adult amateur athletic activities within the state, such as softball,~~

2                                   ~~including uniforms and equipment.~~
- 3                   (8)   ~~Maintenance of places of public worship or support of a body of~~

4                                   ~~communicants, gathered in common membership for mutual support~~

5                                   ~~and edification in piety, worship, or religious observances.~~
- 6                   (9)   ~~Scientific research.~~
- 7           d.   ~~Uses benefiting an indefinite number of persons by relieving them of disease,~~

8                                   ~~suffering, or constraint which include disbursements to provide:~~

- 9                               (1)   ~~Relief to an individual or family suffering from poverty or homelessness.~~
- 10                              (2)   ~~Encouragement and enhancement of the active participation of the~~

11                                   ~~elderly in our society.~~
- 12                              (3)   ~~Services to the abused.~~
- 13                              (4)   ~~Services to persons with an addicted behavior toward alcohol,~~

14                                   ~~gambling, or drugs.~~
- 15                              (5)   ~~Funds to combat juvenile delinquency and rehabilitate ex-offenders.~~
- 16                              (6)   ~~Relief for the sick, diseased, and terminally ill and their physical~~

17                                   ~~well-being.~~
- 18                              (7)   ~~Funds for emergency relief and volunteer services.~~
- 19                              (8)   ~~Funds to nonprofit nursing homes and other nonprofit medical facilities.~~
- 20                              (9)   ~~Social services and education programs aimed at aiding emotionally~~

21                                   ~~and physically distressed, handicapped, elderly, and underprivileged~~

22                                   ~~persons.~~
- 23                              (10)   ~~Funds for crime prevention, fire protection and prevention, and public~~

24                                   ~~safety.~~
- 25                              (11)   ~~Funds to relieve, improve, and advance the physical and mental~~

26                                   ~~conditions, care and medical treatment, health and economic interests~~

27                                   ~~of injured or disabled veterans.~~
- 28           e.   ~~Uses that are fraternal related which include disbursements for:~~

- 29                              (1)   ~~Fraternal uses, consistent with uses enumerated in subdivisions a~~

30                                   ~~through m, specified by an organization's constitution, charter, articles~~

- 1                               of incorporation, or bylaws and not of direct benefit to the eligible  
2                               organization.
- 3                   (2)   ~~Fraternal uses or disbursements to perpetuate the memory and history~~  
4                               ~~of the dead.~~
- 5               f.   ~~Uses increasing comprehension of and devotion to the principles upon which~~  
6                               ~~the nation was founded, not of direct benefit to the eligible organization or any~~  
7                               ~~member thereof which include disbursements to aid in teaching the principles~~  
8                               ~~of liberty, truth, justice, and equality. However, beauty pageants are excluded~~  
9                               ~~from receiving net proceeds.~~
- 10             g.   ~~The erection or maintenance of public buildings or works, public utilities, or~~  
11                               ~~public waterworks.~~
- 12             h.   ~~Uses otherwise lessening the burden of government which include~~  
13                               ~~disbursements to any entity that is normally funded by the city, county, state,~~  
14                               ~~or United States government and disbursements directly to a city, county,~~  
15                               ~~state, or the United States government, or any agency, political subdivision, or~~  
16                               ~~instrumentality thereof.~~
- 17             i.   ~~Uses benefiting a definite number of persons who are the victims of loss of~~  
18                               ~~home or household possessions through explosion, fire, flood, or storm and~~  
19                               ~~the losses uncompensated by insurance.~~
- 20             j.   ~~Uses benefiting a definite number of persons suffering from a seriously~~  
21                               ~~disabling disease or injury causing severe loss of income or incurring~~  
22                               ~~extraordinary medical expense which is uncompensated by insurance.~~
- 23             k.   ~~Uses, for community service projects, by chambers of commerce exempt from~~  
24                               ~~federal income tax under section 501(c)(6) of the Internal Revenue Code. A~~  
25                               ~~project qualifies as a community service project if it promotes the common~~  
26                               ~~good, enhances the social welfare of the community, and benefits an~~  
27                               ~~indefinite number of persons. The specific goals of a community service~~  
28                               ~~project may be to develop or promote public services in areas such as~~  
29                               ~~education, housing, transportation, recreation, crime prevention, fire~~  
30                               ~~protection and prevention, safety, and health. Uses that directly benefit a~~  
31                               ~~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

1            license by the attorney general ~~or issued a local permit by the governing body of a~~  
2            ~~city or county to conduct games.~~

3        9- 7. "Fraternal organization" means an organization, except a college or high school  
4            fraternity, which is incorporated as a nonprofit corporation and which is a branch,  
5            lodge, or chapter of a national or state organization and exists for the common  
6            business, brotherhood, or other interests of its members. The organization must  
7            have been actively fulfilling its primary purpose within this state for the two  
8            immediately preceding years, and must have obtained an advance ruling or final  
9            determination from the internal revenue service as qualifying for exemption from  
10           federal income tax under section 501(c)(8) or 501(c)(10) of the Internal Revenue  
11           Code. ~~However, if the organization's gross receipts in each tax year are normally~~  
12           ~~not more than twenty five thousand dollars, the organization is not required to have~~  
13           ~~obtained an advance ruling or final determination from the internal revenue service.~~

14       40- 8. "Games" means games of chance.

15       44- 9. "Gross proceeds" means all ~~moneys collected or~~ cash and checks received from  
16           conducting games, sales tax on bingo cards, and ~~from~~ admissions.

17       42- 10. "Licensed organization" means an eligible organization licensed by the attorney  
18           general ~~to conduct bingo, raffles, calcuttas, pull tabs, punchboards, twenty one,~~  
19           ~~poker, paddlewheels, and sports pools.~~

20       43- 11. "Local permit" means a permit issued to a nonprofit organization ~~recognized as a~~  
21           ~~public spirited organization~~ by a governing body of a city or county ~~that authorizes~~  
22           ~~the organization to conduct only bingo, raffles, and sports pools in that city or~~  
23           ~~county.~~

24       44- 12. "Manufacturer" means a person who designs, assembles, fabricates, produces, or  
25           constructs, ~~or who otherwise prepares~~ a product or a component part of a product  
26           ~~of any~~ equipment usable in designed for the ~~lawful~~ conduct of games. For a pull  
27           tab and bingo card dispensing device, a manufacturer is the person who owns the  
28           rights to the proprietary ~~operating~~ software.

29       45- "Manufacturer's distributor" means ~~a wholesaler of a manufacturer of pull tab~~  
30           ~~dispensing devices who sells at wholesale dispensing devices and associated~~

equipment directly to a licensed distributor and who does not sell or otherwise provide these items to an eligible organization.

~~16. "Member" means a person who has qualified for and been admitted to membership in an eligible organization pursuant to its bylaws, articles of incorporation, charter, rules, or other written statement, and who pays regular monthly, annual, or other periodic dues or is a fully paid life member. "Member" includes a member of an auxiliary organization, but excludes a social member.~~

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

~~14.~~ 14. "Person" means any person, firm, partnership, corporation, limited liability company, association, or organization.

~~15.~~ 15. "Public safety organization" means an organization incorporated as a nonprofit corporation whose primary purpose is to ~~actively engage in~~ provide firefighting, ambulance service, crime prevention, or similar ~~disaster~~ emergency assistance, which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.

~~16.~~ 16. "Public-spirited organization" means an organization incorporated as a nonprofit corporation whose primary purpose is for scientific research, amateur sports competition, safety, arts, agriculture, preservation of cultural heritage, educational activities, educational public service, youth, economic development, tourism, community recreation, or similar organization, ~~and~~ which does not meet the definition of veterans, fraternal, charitable, educational, religious, civic and service, or public safety organization, and which has been actively fulfilling its primary purpose within this state for the two immediately preceding years. However, a nonprofit organization recognized as a public-spirited organization by a governing body of a city or county for obtaining a local permit does not need to meet this definition.

~~17.~~ 17. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership incorporated as a nonprofit corporation whose primary purpose is for advancement of religion, mutual support and edification in piety, worship, and religious observances which has

1           been actively gathered or united in this state for the two immediately preceding  
2           years.

3    ~~22.~~ 18. "Veterans organization" means any congressionally chartered organization within  
4           this state, or any branch or lodge or chapter of a nonprofit national or state  
5           organization ~~within this state, the~~ whose membership ~~of which~~ consists of  
6           individuals who were members of the armed services or forces of the United  
7           States. ~~The~~ An organization must have been actively fulfilling its primary purpose  
8           in this state for the two immediately preceding years and must have obtained an  
9           advance ruling or final determination from the internal revenue service as qualifying  
10          for exemption from federal income tax under section 501(c)(19) of the Internal  
11          Revenue Code. ~~However, if the organization's gross receipts in each tax year are~~  
12          ~~normally not more than twenty five thousand dollars, the organization is not~~  
13          ~~required to have obtained an advance ruling or final determination from the internal~~  
14          ~~revenue service.~~

15           **SECTION 3. AMENDMENT.** Section 53-06.1-01.1 of the 1995 Supplement to the  
16   North Dakota Century Code is amended and reenacted as follows:

17           **53-06.1-01.1. Gaming commission ~~Members Appointment Term~~**  
18   **~~Qualifications Compensation.~~**

- 19           1. The state gaming commission consists of the chairman and four other members  
20           appointed by the governor, with the consent of the senate. The members serve  
21           three-year terms and until a successor is appointed and qualified. If the senate is  
22           not in session when the term of a member expires, the governor may make an  
23           interim appointment, and the interim appointee holds office until the senate  
24           confirms or rejects the appointment. A member appointed to fill a vacancy arising  
25           from other than the natural expiration of a term serves only for the unexpired  
26           portion of the term. The terms of the commissioners must be staggered so that  
27           one term expires each July first.
- 28           2. A person is ineligible for appointment to the commission if that person has not  
29           been a resident of this state for at least two years before the date of appointment.  
30           A person is also ineligible if that person is not of such character and reputation as  
31           to promote public confidence in the administration of gaming in this state. A



1 person is also ineligible if that person has been convicted of a felony criminal  
2 offense or has pled guilty or been found guilty of any violation of chapter 12.1-06,  
3 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,  
4 53-06.1, or 53-06.2, or has pled guilty or been found guilty of any violation of  
5 section 6-08-16 or 6-08-16.2, or has pled guilty or been found guilty of any offense  
6 or violation that has a direct bearing on the person's fitness to be involved in  
7 gaming, or who has committed an equivalent offense or violation of the laws of  
8 another state or of the United States. A person who has a financial interest in  
9 gaming cannot be a member or employee of the commission ~~and cannot be~~  
10 ~~employed by the commission~~. For the purpose of this subsection, a financial  
11 interest includes the receiving of any direct payment from an eligible organization  
12 for property, services, or facilities provided to that organization. ~~Failure to maintain~~  
13 ~~compliance with this subsection is grounds for removal from the commission or~~  
14 ~~from employment with the commission.~~

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

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

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

1           **SECTION 4. AMENDMENT.** Section 53-06.1-03 of the 1995 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **53-06.1-03. ~~City and county local permits and~~ Local permits, site authorizations--**  
4 **~~Licensure by attorney general--Fees--Suspension~~ authorization, and revocation**  
5 **~~licenses.~~**

- 6           1. ~~A nonprofit~~ An organization that has its license suspended or revoked, or has  
7 relinquished its license and not disbursed its net proceeds is ineligible for a local  
8 permit. An organization shall ~~obtain~~ apply for a local permit as follows:
- 9           a. A nonprofit organization recognized as a public-spirited organization by the  
10 governing body of a city or county may apply for a local permit to conduct only  
11 raffles ~~or~~, bingo, or sports pools in which ~~the~~ a primary prize does not exceed  
12 one thousand dollars, and the ~~aggregate~~ total prizes of all games do not  
13 exceed six thousand dollars ~~annually, and to conduct sports pools for~~  
14 ~~professional sports only~~ per year. The determination of what is a  
15 "public-spirited organization" is within the sole discretion of the governing  
16 body which should in its determination consider the definition of a  
17 public-spirited organization under section 53-06.1-01 and eligible uses of net  
18 proceeds under section 53-06.1-11.1. A governing body may issue a local  
19 permit for ~~these~~ the games to be held at designated times and places. ~~If the~~  
20 ~~nonprofit organization is a North Dakota college or university fraternity or~~  
21 ~~sorority, the organization shall include a signed acknowledgement by the~~  
22 ~~administration of the college or university that the applicant is a recognized~~  
23 ~~fraternity or sorority.~~
- 24           b. An eligible organization shall apply to the governing body of the city or county  
25 in which the site where the gaming activity to be conducted is located.  
26 Application for a local permit must be made on a form prescribed by the  
27 attorney general. If the nonprofit organization is a North Dakota college or  
28 university fraternity, sorority, or club, the organization shall provide a signed  
29 acknowledgment by the administration of the college or university that the  
30 applicant is a recognized fraternity, sorority, or club. Approval may be granted  
31 at the discretion of the governing body. A governing body may establish a fee

not to exceed twenty-five dollars for each local permit. A local permit must be on a fiscal year basis from July first to June thirtieth or on a calendar-year basis.

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

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

a. First securing approval for a site authorization from the governing body of the city or county in which the proposed site is located. Approval, which may be granted at the discretion of the governing body, must be recorded on a site authorization form that is to accompany the license application to the attorney general for final approval. A governing body ~~of a city or county~~ may not require an eligible organization to donate net proceeds ~~directly~~ to the city, county, or related political subdivision or for community programs or services within the city or county as a condition for receiving a site authorization from the city or county. A governing body may limit the number of tables for twenty-one per site and the number of sites upon which a licensed organization may conduct games within the city or county. A governing body may charge a one hundred dollar fee for a site authorization; and

b. Annually applying for a license from the attorney general before July first on a form prescribed by the attorney general and including with the application a one hundred fifty dollar license fee. An organization shall sufficiently document that it qualifies as an eligible organization. If a licensed organization amends its primary purpose as stated in its articles of incorporation or changes its basic character in a material manner, the organization shall reapply for licensure.

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

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

- 1 a. Only one licensed organization or organization that has a local permit at a  
2 time may conduct games at an authorized site, except that a raffle may be  
3 conducted for a special occasion by a second ~~organization that is a licensed~~  
4 organization or organization that has a local permit when one of these  
5 conditions is met:
- 6 (1) When the area for the raffle is physically separated from the area where  
7 games are conducted by the regular licensee.
- 8 (2) Upon request of the regular licensee and with the approval of the  
9 alcoholic beverage establishment, the licensee's license is suspended  
10 for that specific time of day by the attorney general.
- 11 b. ~~After June 30, 1995~~ Except for a temporary site authorized for fourteen or  
12 fewer consecutive days for not more than two events per quarter, a licensed  
13 organization ~~or closely connected licensed organizations as a unit~~ may not  
14 have more than twenty-five sites unless granted a waiver by the attorney  
15 general. If the attorney general finds that there is no other licensed  
16 organization ~~willing to conduct~~ interested in conducting gaming at a site for  
17 which a waiver is being sought, the attorney general may approve the waiver:  
18 ~~The attorney general may not grant a licensed organization a waiver for no~~  
19 more than five sites. Only one of two or more closely connected  
20 organizations may have a license at one time. Closely connected ~~licensed~~  
21 organizations are two or more organizations which have an interdependent  
22 relationship, based on the presence and degree of unitary attributes that.  
23 These attributes may include common primary purposes, members on boards  
24 of directors, officers, management, ~~employees, bookkeepers~~ administrative  
25 and operating services, membership, program services, integrations of  
26 gaming activities, and shared facilities.
- 27 c. Games of pull tabs, punchboards, twenty-one, paddlewheels, and sports  
28 pools may be conducted only during the hours when alcoholic beverages may  
29 be dispensed according to applicable regulations of the state, county, or city.
- 30 d. An organization may not permit a person under twenty-one years of age to  
31 directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports

1                    pools, paddlewheels, or poker. An organization may not permit a person  
2                    under eighteen years of age to directly or indirectly play bingo unless the  
3                    person is accompanied by an adult, bingo is conducted by an organization  
4                    that has a local permit, or the game's prize structure does not exceed that  
5                    allowed for a local permit.

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

8            5. ~~The attorney general may, based on reasonable ground or upon written complaint,~~  
9            ~~suspend, deny, or revoke under chapter 28-32, any license granted under this~~  
10           ~~chapter for violations by the licensee, or any officer, director, agent, member, or~~  
11           ~~employee of the licensee, of this chapter or any gaming rule. Notwithstanding~~  
12           ~~section 5-02-02, an eligible organization that possesses a license issued under~~  
13           ~~chapter 5-02 may not have that license suspended, revoked, or denied in~~  
14           ~~consequence of action taken under this subsection unless that organization~~  
15           ~~conducts gaming that violates chapter 12-1-28 or subsection 1 of section~~  
16           ~~53-06.1-07. The attorney general shall license an eligible organization that~~  
17           complies with this chapter and may issue a conditional license to an eligible  
18           organization whose regularly issued license has expired or been suspended,  
19           revoked, or relinquished. The attorney general shall designate the time period for  
20           which the conditional license is valid and may impose any conditions.

21           6. ~~The attorney general may impose monetary fines on licensed organizations,~~  
22           ~~distributors, manufacturers' distributors, and manufacturers for failure to comply~~  
23           ~~with this chapter or any gaming rule. The monetary fine for each violation by an~~  
24           ~~organization is a minimum of twenty-five dollars and may not exceed two percent~~  
25           ~~of the organization's average quarterly gross proceeds, or five thousand dollars,~~  
26           ~~whichever is greater. The monetary fine for each violation by a distributor or~~  
27           ~~manufacturer's distributor is a minimum of one hundred dollars and may not~~  
28           ~~exceed five thousand dollars. The monetary fine for each violation by a~~  
29           ~~manufacturer is a minimum of five hundred dollars and may not exceed two~~  
30           ~~hundred fifty thousand dollars. This fine may be in addition to or in lieu of a license~~  
31           ~~suspension or revocation. A governing body or local law enforcement official may~~

1 inspect a site's gaming equipment, and examine or cause to be examined the  
2 books and records of a licensed organization or organization that has a local permit  
3 to the extent that the books and records relate to any transaction involving the  
4 direct or indirect conduct of games.

5 **SECTION 5. AMENDMENT.** Section 53-06.1-06 of the 1995 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **53-06.1-06. Persons permitted to conduct games - ~~Site~~ Equipment**  
8 **~~Compensation.~~**

- 9 1. No person, except a member or employee of a licensed organization or an  
10 organization that has a local permit, may ~~assist in conducting~~ conduct any game.  
11 "Member" includes a member of an auxiliary organization. In conducting pull tabs  
12 or bingo through a dispensing device, the attorney general may allow an employee  
13 of an alcoholic beverage establishment to provide limited assistance to  
14 ~~organizations~~ an organization. ~~However, a volunteer of an eligible organization~~  
15 ~~may sell raffle tickets.~~
- 16 2. Except when authorized by the attorney general or allowed by the gaming rules, ~~no~~  
17 ~~game may be conducted with gaming equipment other than equipment owned by,~~  
18 ~~loaned to, or rented at a reasonable rate by an eligible organization from an eligible~~  
19 ~~organization or~~ shall procure gaming equipment only from a licensed distributor.  
20 No equipment or prizes may be purchased at an excessive price.
- 21 3. An organization shall maintain complete, accurate, and legible accounting records  
22 in North Dakota for all gaming activity and establish an adequate system of internal  
23 control. The governing board of an eligible organization is primarily responsible  
24 and may be held accountable for the proper determination and distribution of net  
25 proceeds.
- 26 4. ~~The site where any game is being conducted, or where it is intended that the game~~  
27 ~~will be held, must be open to inspection by the attorney general and local law~~  
28 ~~enforcement officials.~~
- 29 5. The value of a merchandise prize awarded in a game is its ~~current~~ retail price.
- 30 6. ~~Equipment, prizes, and supplies for games may not be purchased or sold at~~  
31 ~~excessive prices.~~

1       ~~7.~~ 5. A person is restricted from being involved in gaming and the attorney general shall  
2       conduct criminal history ~~background checks~~ record check as follows:

- 3       a. A person who has pled guilty to or been found guilty of a felony offense as  
4       defined by the laws of this state, other states, or the federal government, or  
5       has pled guilty to or been found guilty of a violation of this chapter, a gaming  
6       rule, chapters 12.1-28 or 53-06.2, or offenses of other states or the federal  
7       government equivalent to offenses defined in these chapters may not be a  
8       licensed distributor, may not be employed by a licensed distributor to sell or  
9       distribute gaming equipment, and may not be employed by a licensed  
10      organization to conduct games on a site for five years from the date of  
11      conviction, release from incarceration, or expiration of parole or probation,  
12      whichever is the latest.
- 13      b. A person who has pled guilty to or been found guilty of a misdemeanor  
14      offense in violation of section ~~6-08-16.1~~ 6-08-16.2 or chapters 12.1-06,  
15      12.1-23, or 12.1-24 or offenses of other states, the federal government, or a  
16      municipality equivalent to these offenses may not be a licensed distributor,  
17      may not be employed by a licensed distributor to sell or distribute gaming  
18      equipment, and may not be employed by a licensed organization to conduct  
19      games on a site for two years from the date of conviction, release from  
20      incarceration, or expiration of parole or probation, whichever is the latest.
- 21      c. The attorney general shall conduct a criminal history ~~background~~ record  
22      check of each potential employee of a licensed organization and charge a fee  
23      of twenty dollars per record check in accord with section 12-60-16.9. ~~In~~  
24      ~~addition, the~~ The fee may be waived in part or in whole by the attorney  
25      general if a federal agency or local law enforcement agency has done a  
26      record check. The attorney general may require payment of any additional  
27      fee necessary to defray the actual cost of a background check of a person for  
28      whom adequate background information sources are not readily available,  
29      including a person who has not resided in North Dakota for the previous ~~one~~  
30      ~~year~~ five years. The attorney general may require payment of the estimated  
31      additional fee in advance as a condition precedent to beginning the

1 background check. The attorney general shall notify the person when a  
2 determination is made that an additional fee is necessary and shall notify the  
3 person of the best estimate of the amount of the additional fee. In lieu of  
4 paying the additional cost, a person may cancel the background check. The  
5 estimated cost must be placed in the attorney general's refund fund for use to  
6 defray the actual expenses of the background check. The remainder of the  
7 funds must be returned to the person within thirty days of the conclusion of  
8 the background check. The attorney general shall notify the organization ~~or~~  
9 and the person, ~~or both~~, of the result of the background check. The attorney  
10 general shall hold the information confidential except in the proper  
11 administration of this chapter or any gaming rule, or to an authorized law  
12 enforcement agency.

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

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

18 ~~10.~~ 6. If bingo is the primary game at a site, a licensed organization may not pay bingo  
19 prizes in which the ~~aggregate of the~~ total bingo prizes ~~for a quarter~~ exceeds the  
20 total bingo gross proceeds for ~~the~~ a quarter ~~at that site~~. However, a bingo prize  
21 that equals or exceeds ten thousand dollars is excluded from the ~~computation of~~  
22 ~~the aggregate total~~ of the bingo prizes.

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

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

27 **SECTION 6. AMENDMENT.** Section 53-06.1-07.2 of the 1995 Supplement to the  
28 North Dakota Century Code is amended and reenacted as follows:

29 **53-06.1-07.2. Poker.** A licensed organization may conduct poker on not more than two  
30 occasions per year ~~as follows:~~

31 ~~4. The~~ An organization may supply the dealer.



- 1        ~~2-~~ The maximum single bet is one dollar.
- 2        ~~3-~~ Not more than three raises, of not more than one dollar each, may be made among
- 3                      all the players in each round of bets. Otherwise the normal rules of poker apply.
- 4        ~~4-~~ ~~The~~ An organization shall assess each player a fee not to exceed two dollars per
- 5                      one-half hour of playing time, collected in advance. A fee may be charged each
- 6                      player for entry into a tournament for prizes ~~which~~ and this fee may be in ~~lieu~~ place
- 7                      of or in addition to the fee assessable at one-half hour intervals.

8                      **SECTION 7. AMENDMENT.** Section 53-06.1-07.3 of the 1995 Supplement to the

9                      North Dakota Century Code is amended and reenacted as follows:

10                      **53-06.1-07.3. Calcuttas.** ~~A licensed organization may conduct a~~ calcutta may only be

11                      conducted for a professional or amateur sporting ~~events~~ event held in this state, but not for

12                      elementary, secondary, or postsecondary education sports events. ~~The~~ An organization shall

13                      post at the site all rules affecting the conduct and play of calcuttas. ~~The~~ An organization may

14                      not have an interest in the outcome of the calcutta. A player must place a wager in the calcutta

15                      auction pool at the site. No more than one wager per competitor may be allowed in any

16                      calcutta pool. ~~The amounts paid to calcutta pool players in~~ amount of prizes may not exceed

17                      ninety percent of the gross proceeds. A competitor in a calcutta ~~pool~~ may not be under

18                      eighteen years of age.

19                      **SECTION 8. AMENDMENT.** Section 53-06.1-07.4 of the 1995 Supplement to the

20                      North Dakota Century Code is amended and reenacted as follows:

21                      **53-06.1-07.4. Paddlewheels.** ~~A licensed~~ An organization shall post at the site ~~all rules~~

22                      ~~affecting the conduct of~~ relating to paddlewheels ~~and requirements of players.~~ A paddlewheel

23                      is a mechanical vertical wheel marked off into equally spaced sections that contain numbers or

24                      symbols, and which after being spun, uses a pointer ~~or marker~~ to indicate the winning number

25                      or symbol. The maximum price per paddlewheel ticket ~~may not exceed~~ is two dollars. No

26                      money may be ~~allowed~~ used to bet on the ~~playing~~ table. A table must be used to register a

27                      player's wagered paddlewheel ticket when a cash prize is a variable multiple of the price of the

28                      paddlewheel ticket. ~~No~~ A player may not place paddlewheel tickets valued at more than twenty

29                      dollars on each spin of the paddlewheel. Cash, chips, or merchandise prizes may be awarded.

30                      No single cash prize, value of chips, or the current retail price of the merchandise prize to be

31                      awarded for a winning paddlewheel ticket may exceed one hundred dollars. ~~The monthly rent~~

~~for each paddlewheel playing table may not exceed the amount authorized by law for a  
twenty one table.~~

**SECTION 9. AMENDMENT.** Section 53-06.1-08 of the 1995 Supplement to the North  
Dakota Century Code is amended and reenacted as follows:

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

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

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

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

**53-06.1-10. Twenty-one.** ~~A licensed organization may conduct and shall control the~~  
~~playing of twenty one on its site.~~ No money may be allowed on the table as a wager. The  
organization shall provide playing chips of various denominations to players. Chips must be  
redeemed by the organization for their full value. The maximum limit per wager may be set by  
the organization at not more than five dollars and wagers in increments of one dollar must be  
accepted up to the maximum limit. A player may not play more than two hands at the same  
time. Only the player actually playing a hand may place a wager on any hand. Each player  
plays the player's hand against the dealer's hand. ~~In order to~~ To remain in the hand being  
dealt, neither the player nor the dealer may play a hand with a count greater than twenty-one.  
A count of twenty-one obtained with two cards is ~~termed~~ a natural twenty-one and is an  
automatic payout except in ~~ease of~~ a tie count with the dealer. Players may double down on a  
natural twenty-one. For a tie count between the player and the dealer, no winner is declared

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

10 **SECTION 12. AMENDMENT.** Section 53-06.1-10.1 of the 1995 Supplement to the  
11 North Dakota Century Code is amended and reenacted as follows:

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

17 **SECTION 13. AMENDMENT.** Section 53-06.1-11 of the 1995 Supplement to the North  
18 Dakota Century Code is amended and reenacted as follows:

19 **53-06.1-11. Gross proceeds - Expenses Allowable expenses - Rent limits.**

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

1           ~~issued by an accountable~~ accounted for by a receipt or nonnegotiable instrument  
2           ~~approved~~ prescribed by the attorney general gaming rules.

3           2. ~~No part of net proceeds after they have been devoted to an eligible use recipient~~  
4           ~~may be used by the donee to pay any person for services rendered or materials~~  
5           ~~purchased in connection with the conduct of games by the donor organization.~~

6           ~~3.~~ ~~Subject to the limitations of this subsection,~~ Allowable expenses incurred for  
7           ~~games~~ may be deducted from adjusted gross proceeds, ~~to the extent that total~~  
8           ~~expenses for games do not exceed.~~ The allowable expense limit is fifty percent of  
9           the first two hundred thousand dollars of adjusted gross proceeds per quarter and  
10          forty-five percent of the adjusted gross proceeds in excess of two hundred  
11          thousand dollars per quarter. In addition, an organization may deduct as an  
12          allowable expense:

13          a. Two and one-half percent of the gross proceeds of pull tabs.

14          b. Capital expenditures for security or video surveillance equipment used for  
15          controlling games if the equipment is required by section 53-06.1-10 or  
16          authorized by rule, and it is approved by the attorney general.

17          ~~3.~~ Cash shorts incurred in games and interest and penalty are classified as expenses  
18          ~~toward the expense limitation. Notwithstanding the limitations of this subsection, in~~  
19          ~~addition to expenses allowed to be deducted from adjusted gross proceeds, a~~  
20          ~~licensed organization may deduct as an expense capital expenditures for security~~  
21          ~~or video surveillance equipment used for controlling games if the equipment is~~  
22          ~~required by section 53-06.1-10 or gaming rules and the equipment is approved by~~  
23          ~~the attorney general. This subsection does not authorize violations of the rent~~  
24          ~~limitations.~~

25          4. ~~In addition to the expense limitation provided in subsection 3, an organization that~~  
26          ~~conducts the game of pull tabs at an authorized site may deduct as an expense~~  
27          ~~two and one half percent of the gross proceeds for this game of chance. For a site~~  
28          ~~where bingo is conducted:~~

29          a. Except under subdivision c, if bingo is the primary game, the monthly rent  
30          must be reasonable.

- 1            b. If bingo is not the primary game, but is conducted with twenty-one,  
2            paddlewheels, or pull tabs, no additional rent is allowed.
- 3            c. If bingo is conducted through a dispensing device and no other game is  
4            conducted, the monthly rent may not exceed two hundred twenty-five dollars.
- 5            5. For a site where bingo is not the primary game:
- 6            a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed  
7            two hundred dollars multiplied by the necessary number of tables. If pull tabs  
8            is also conducted, the monthly rent for pull tabs may not exceed an additional  
9            one hundred twenty-five dollars.
- 10           b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted,  
11           the monthly rent may not exceed two hundred twenty-five dollars.

12           **SECTION 14. AMENDMENT.** Section 53-06.1-11.1 of the 1995 Supplement to the  
13 North Dakota Century Code is amended and reenacted as follows:

14           **53-06.1-11.1. ~~Eligible organizations not to~~ Restricted use any of money in certain**  
15 **political activities - ~~Penalty~~ Eligible uses of net proceeds.**

- 16           1. ~~An eligible~~ A licensed organization that derives any revenue from games it  
17           conducts or an organization that has a local permit may not use money from any  
18           source for the placing on the ballot of any an initiated or referred measure on a  
19           ballot or for any activities consisting of attempts to participate in any a political  
20           campaign on behalf of to promote or in opposition to any active official or oppose a  
21           person who is or has been a candidate for public office. Except for a use related to  
22           an organization's primary purpose, a licensed organization or organization that has  
23           a local permit may not use net proceeds to influence legislation or promote or  
24           oppose referendums or initiatives. Any funds expended by an eligible organization  
25           to promote or oppose an initiated or referred measure that has been placed is on  
26           the ballot or for any activities that qualify as activities of a lobbyist under section  
27           54-05.1-02, that are not compensation or expenses paid to a lobbyist, and that are  
28           not otherwise required to be reported under section 54-05.1-03 must be reported to  
29           the attorney general as prescribed by the attorney general. An eligible  
30           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 from  
5           federal income tax under section 501(c)(6) of the Internal Revenue Code. A  
6           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 15. 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 16. 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 17. 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           ~~eards, 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 18. 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 19. 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 20. 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 1995  
18   Supplement to the North Dakota Century Code are repealed.