

## JOURNAL OF THE HOUSE

## Fifty-third Legislative Assembly

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Bismarck, April 14, 1993

The House convened at 8:00 a.m., with Speaker R. Berg presiding.

The prayer was offered by Rep. Ben Tollefson.

The roll was called and all members were present except Representatives Gulleeson, Hokana, and Rydell.

A quorum was declared by the Speaker.

## SECOND READING OF HOUSE BILL

**HB 1518:** A BILL for an Act to assist community economic development by providing incentive to businesses to locate and expand within the state through government-assisted new jobs training; and to provide a continuing appropriation.

## ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 70 YEAS, 27 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Austin; Bateman; Belter; Bernstein; Boehm; Brown; Byerly; Carlisle; Carlson, A.; Carlson, C.; Christopherson; Clayburgh; Dalrymple; DeWitz; Dorso; Drovdal; Freier; Froseth; Gates; Gerntholz; Gorman; Grosz; Hagle; Hausauer; Henegar; Holm; Howard; Huether; Jacobs; Johnson; Keiser; Kelsch; Kempenich; Klein; Kretschmar; Kunkel; Mahoney; Maragos; Martin; Martinson; Monson; Ness; Nicholas; Olsen, D.; Olson, A.; Payne; Poolman; Porter; Price; Rennerfeldt; Rydell; Schindler; Shide; Sitz; Skarphol; Soukup; St. Aubyn; Stenehjem; Stenson; Svedjan; Sveen; Thorpe; Timm; Tollefson; Torgerson; Wald; Wanzek; Wardner; Wentz; Speaker R. Berg

**NAYS:** Aarsvold; Allmaras; Berg, J.; Bodine; Boucher; Brodshaug; Cleary; Coats; Dobrinski; Glassheim; Goffe; Gorder; Grumbo; Hanson; Hokana; Kaldor; Kerzman; Kilichowski; Kroeber; Laughlin; Mutzenberger; Nelson; Nichols; Oban; Pyle; Ring; Wilkie

**ABSENT AND NOT VOTING:** Gulleeson

HB 1518 passed and the title was agreed to.

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## MOTIONS

**REP. MARTINSON MOVED** that the House clinch HB 1518 and all legislative action taken yesterday, which motion prevailed.

**REP. MARTINSON MOVED** that the House message to the Senate immediately HB 1518 and all legislative action taken yesterday, which motion prevailed.

## ANNOUNCEMENT BY THE SPEAKER

**SPEAKER R. BERG ANNOUNCED** that the House would stand in recess until 1:00 p.m.

## HOUSE ENGROSSING AND ENROLLING REPORT

The following bills were engrossed and enrolled: HB 1028, HB 1256, HB 1467.

## MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The President has appointed as a new conference committee to act with a like committee from the House on:

SB 2384: Sens. Langley; Schoenwald; Krebsbach

## MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The President has appointed as a conference committee to act with a like committee from the House on:

HB 1001: Sens. Robinson; Tallackson; Holmberg

HB 1002: Sens. Mushik; Yockim; Thane

HB 1003: Sens. Heinrich; Kelsch; Holmberg

HB 1005: Sens. Redlin; Kelly; Holmberg

HB 1413: Sens. Heinrich; O'Connell; Evanson

## SIGNING OF BILLS AND RESOLUTIONS

The Speaker signed the following enrolled bills: HB 1188, HB 1230, HB 1349.

## MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1188, HB 1230, HB 1349.

## MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1518.

## MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has reconsidered SB 2003 pursuant to Article V, Section 9, of the Constitution of the State of North Dakota for the purpose of overriding the Governor's veto. The House failed to pass SB 2003 over the Governor's veto. The vote was 52 YEAS, 44 NAYS, 2 ABSENT AND NOT VOTING. Therefore, the Governor's veto was sustained.

## MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1158, HB 1179, HB 1222.

## MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has adopted the conference committee report and subsequently passed: SB 2394, SB 2440, SB 2490.

## MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has adopted the conference committee report on SB 2155, SB 2524, SCR 4031.

## REPORT OF CONFERENCE COMMITTEE

HB 1219, as engrossed: Your conference committee (Sens. O'Connell, Schoenwald, Tennefos and Reps. Boehm, Skarphol, Cleary (refused to sign)) recommends that the SENATE RECEDE from the Senate amendments on HJ page 1185, adopt amendments as follows, and place HB 1219 on the Seventh order:

That the Senate recede from its amendments as printed on page 1185 of the House Journal and pages 901-902 of the Senate Journal and that Engrossed House Bill No. 1219 be amended as follows:

Page 1, line 13, replace "one" with "fifty"

Page 1, line 14, remove "hundred"

Renumber accordingly

Engrossed HB 1219 was placed on the Seventh order of business on the calendar.

THE HOUSE RECONVENED pursuant to recess taken, with Speaker R. Berg presiding.

#### MOTION

REP. MARTINSON MOVED that the House do not adopt the conference committee report on HB 1416, which motion prevailed.

#### ANNOUNCEMENT BY THE SPEAKER

SPEAKER R. BERG ANNOUNCED that HB 1416 was returned to the conference committee.

#### CONSIDERATION OF MESSAGE FROM THE SENATE

REP. D. OLSEN MOVED that the House do concur in the Senate amendments to Engrossed HB 1389 as printed on HJ pages 1701-1702, which motion prevailed.

Engrossed HB 1389, as amended, was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

#### SECOND READING OF HOUSE BILL

HB 1389: A BILL for an Act to provide for adjusted compensation to certain veterans of the Persian Gulf War, Grenada, Lebanon, and Panama armed conflicts and for the method of filing and payment of claims, duties of the adjutant general, and exemption from taxation and execution for the payments; to provide a penalty; and to declare an emergency.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 41 YEAS, 57 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Belter; Berg, J.; Bodine; Byerly; Carlisle; Carlson, C.; Cleary; Coats; Dalrymple; Dobrinski; Gerntholz; Grumbo; Gulleston; Hagle; Hanson; Hausauer; Henegar; Hokana; Huether; Kaldor; Kelsch; Kerzman; Kilichowski; Kretschmar; Kroeber; Laughlin; Mahoney; Maragos; Martinson; Mutzenberger; Ness; Nichols; Olsen, D.; Porter; Ring; Rydell; Schindler; Stenson; Tollefson; Wilkie

NAYS: Allmaras; Austin; Bateman; Bernstein; Boehm; Boucher; Brodshaug; Brown; Carlson, A.; Christopherson; Clayburgh; Dewitz; Dorso; Drovdal; Freier; Froseth; Gates; Glassheim; Goffe; Gorder; Gorman; Grosz; Holm; Howard; Jacobs; Johnson; Keiser; Kempenich; Klein; Kunkel; Martin; Monson; Nelson; Nicholas; Oban; Olson, A.; Payne; Poolman; Price; Pyle; Rennerfeldt; Shide; Sitz; Skarphol; Soukup; St. Aubyn; Stenehjem; Svedjan; Sveen; Thorpe; Timm; Torgerson; Wald; Wanzek; Wardner; Wentz; Speaker R. Berg

Engrossed HB 1389 was declared lost.

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#### SECOND READING OF HOUSE CONCURRENT RESOLUTION AND SENATE CONCURRENT RESOLUTION ON CONSENT CALENDAR

HCR 3072: A concurrent resolution directing the Legislative Council to study charitable gaming laws and rules.

SCR 4075: A concurrent resolution directing the Legislative Council to study methods for funding state, county, and city law enforcement, correctional, and emergency medical technician training facilities and programs and the feasibility and desirability of establishing centralized training for law enforcement, correctional, emergency medical assistance personnel, and other emergency service providers.

The question being on the final adoption of the resolutions, which have been read.

HCR 3072 and SCR 4075 were declared adopted on a voice vote.

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#### SECOND READING OF SENATE BILL

**SB 2540:** A BILL for an Act to create and enact three new sections to chapter 12.1-35 and a new subsection to section 12.1-35-02 of the North Dakota Century Code, relating to testimony and proceedings involving a witness or victim who is a minor; and to amend and reenact sections 12.1-35-01 and 12.1-35-04 of the North Dakota Century Code, relating to victim and witness standards.

#### ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 98 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Allmaras; Austin; Bateman; Belter; Berg, J.; Bernstein; Bodine; Boehm; Boucher; Brodshaug; Brown; Byerly; Carlisle; Carlson, A.; Carlson, C.; Christopherson; Clayburgh; Cleary; Coats; Dalrymple; Dewitz; Dobrinski; Dorso; Drovdal; Freier; Froseth; Gates; Gerntholz; Glassheim; Goffe; Gorder; Gorman; Grosz; Grumbo; Gullson; Hagle; Hanson; Hausauer; Henegar; Hokana; Holm; Howard; Huether; Jacobs; Johnson; Kaldor; Keiser; Kelsch; Kempenich; Kerzman; Kilichowski; Klein; Kretschmar; Kroeber; Kunkel; Laughlin; Mahoney; Maragos; Martin; Martinson; Monson; Mutzenberger; Nelson; Ness; Nicholas; Nichols; Oban; Olsen, D.; Olson, A.; Payne; Poolman; Porter; Price; Pyle; Rennerfeldt; Ring; Rydell; Schindler; Shide; Sitz; Skarphol; Soukup; St. Aubyn; Stenehjem; Stenson; Svedjan; Sveen; Thorpe; Timm; Tollefson; Torgerson; Wald; Wanzek; Wardner; Wentz; Wilkie; Speaker R. Berg

SB 2540 passed and the title was agreed to.

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#### ANNOUNCEMENT BY THE SPEAKER

**SPEAKER R. BERG ANNOUNCED** that the House would stand in recess until 4:00 p.m.

**THE HOUSE RECONVENED** pursuant to recess taken, with Speaker R. Berg presiding.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1208:** Your conference committee (Sens. Tallackson, Kelly, Lips and Reps. Dalrymple, Wald, Kaldor) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 1311-1312 and place HB 1208 on the Seventh order.

HB 1208 was placed on the Seventh order of business on the calendar.

#### MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1158, HB 1179, HB 1222.

#### MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

**MR. SPEAKER:** The Senate has passed and your favorable consideration is requested on: SCR 4077.

#### MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

**MR. SPEAKER:** The President has signed: HB 1104, HB 1120, HB 1126, HB 1178, HB 1188, HB 1230, HB 1274, HB 1349, HB 1383, HB 1393, HB 1463, HB 1514.

## MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2028, SB 2083, SB 2088, SB 2096, SB 2101, SB 2227, SB 2277, SB 2295, SB 2367.

## REPORT OF CONFERENCE COMMITTEE

HB 1011, as engrossed: Your conference committee (Sens. Tallackson, Lindaas, Naaden and Reps. Bateman, Gorman, Nichols) recommends that the SENATE RECEDE from the Senate amendments on HJ page 1470, adopt amendments as follows, and place HB 1011 on the Seventh order.

That the Senate recede from its amendments as printed on page 1470 of the House Journal and page 1157 of the Senate Journal and that Engrossed House Bill No. 1011 be amended as follows:

Page 1, line 9, replace "2,661,994" with "2,683,352"

Page 1, line 10, replace "20,000" with "19,800"

Page 1, line 15, replace "3,846,656" with "3,867,814"

ReNUMBER accordingly

## STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 616 - SEED DEPARTMENT

CONFERENCE COMMITTEE - The salaries and wages line item is increased by \$21,358 of special funds to reflect the state employee salary increase provisions of House Bill No. 1018.

The information services line item is reduced by \$200 of special funds in accordance with provisions of House Bill No. 1018.

Funding of \$19,827 of special funds is included in the Seed Department's 1993-95 appropriation for indirect cost allocation payments to the Office of Management and Budget. Because this amount was included in the executive recommendation for the Seed Department, no change is being made in this amendment.

Engrossed HB 1011 was placed on the Seventh order of business on the calendar.

## REPORT OF CONFERENCE COMMITTEE

HB 1511: Your conference committee (Sens. Langley, Schoenwald, Krebsbach and Reps. Stenehjem, Henegar, Boucher) recommends that the SENATE RECEDE from the Senate amendments on HJ page 1578, adopt amendments as follows, and place HB 1511 on the Seventh order.

That the Senate recede from its amendments as printed on page 1578 of the House Journal and page 1384 of the Senate Journal and that House Bill No. 1511 be amended as follows:

Page 1, line 21, remove "guaranty or"

ReNUMBER accordingly

HB 1511 was placed on the Seventh order of business on the calendar.

## MOTION

REP. MARTINSON MOVED that the House stand in recess until 5:00 p.m., which motion prevailed.

## REPORT OF STANDING COMMITTEE

HCR 3073: Political Subdivisions Committee (Rep. Martin, Chairman)

recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HCR 3073 was placed on the Eleventh order on the calendar.

#### ANNOUNCEMENT BY THE SPEAKER

**SPEAKER R. BERG ANNOUNCED** that the House would reconvene at 5:30 p.m.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1018, as engrossed:** Your conference committee (Sens. DeMers, Lindaas, Holmberg and Reps. Dalrymple, DeWitz, Wilkie) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1572-1578, adopt amendments as follows, and place HB 1018 on the Seventh order.

That the Senate recede from its amendments as printed on pages 1572-1578 of the House Journal and pages 1378-1384 of the Senate Journal and that Engrossed House Bill No. 1018 be amended as follows:

- Page 1, line 2, after "agencies" insert "and to provide for transfers between line items and statements of intent regarding state employee salary increases and state agencies' information services line items"
- Page 1, line 12, replace "1,403,256" with "1,410,511"
- Page 1, line 13, replace "298,680" with "288,039"
- Page 1, line 14, replace "594,723" with "624,641"
- Page 1, line 18, replace "2,616,659" with "2,643,191"
- Page 1, line 21, replace "1,302,118" with "1,313,564"
- Page 2, line 1, replace "396,300" with "381,193"
- Page 2, line 2, replace "579,550" with "623,256"
- Page 2, line 5, replace "2,335,268" with "2,375,313"
- Page 2, line 6, replace "4,951,927" with "5,018,504"
- Page 2, after line 6, insert:

**"SECTION 2. TRANSFERS BETWEEN LINE ITEMS.** Notwithstanding the provisions of chapter 54-16, the director of the office of management and budget and the state treasurer shall make transfers of funds between line items of an agency or institution upon the request of the agency or institution in order to provide funding for 3.0 percent employee salary increases for the second year of the 1993-95 biennium as provided in section 3 of this Act.

**SECTION 3. LEGISLATIVE INTENT - STATE EMPLOYEE COMPENSATION ADJUSTMENTS - GUIDELINES.** It is the intent of the legislative assembly that 1993-95 compensation adjustments for state employees are to be \$60 per month beginning with the month of July 1993, to be paid in August 1993, and 3.0 percent beginning with the month of July 1994, to be paid in August 1994. The 3.0 percent adjustment during the second year of the biennium may only be given to the extent that the increase can be paid without an increase in an agency's appropriation. State employees not on a probationary status are entitled to receive the increases provided in this section. Temporary and part-time employees must be provided pro rata increases in accordance with the number of hours worked. Pay grade maximums may not be used to limit the amount of any increases under this section. State agencies and institutions shall report to the office of management and budget the amounts provided for salary increases for the second year of the 1993-95 biennium and any amounts transferred between line items pursuant to section 2 of this Act. The office of management and budget shall

report to the budget section at its first meeting after August 1, 1994, concerning the amounts provided by state agencies and institutions for salary increases for the second year of the biennium and line item transfers relating to the increases.

**SECTION 4. LEGISLATIVE INTENT - INFORMATION SERVICES.** It is the intent of the legislative assembly that state agencies and institutions' information services line items in total are to be reduced by \$2,775,817, of which \$1,085,060 is from the general fund and \$1,690,757 is from other funds, from the amounts that were included in bills as introduced."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**DEPARTMENT 190 - RETIREMENT AND INVESTMENT OFFICE**

**CONFERENCE COMMITTEE** - The salaries and wages line item is increased by \$7,255 to provide a \$60 per month salary increase effective July 1, 1993, paid August 1, 1993. Also, employees may receive a three percent increase effective July 1, 1994, paid August 1, 1994. The funding for the increase during the second year can only be given to the extent it can be paid within the limits of this appropriation.

The information services line item is decreased by \$10,641 for an information services rate reduction.

The operating expenses line item is increased by \$29,918 for indirect cost allocation payments to the Office of Management and Budget.

**DEPARTMENT 192 - PUBLIC EMPLOYEES RETIREMENT SYSTEM**

**CONFERENCE COMMITTEE** - The salaries and wages line item is increased by \$11,446 to provide a \$60 per month increase effective July 1, 1993, paid August 1, 1993. Also, employees may receive a three percent increase effective July 1, 1994, paid August 1, 1994. The funding for the increase during the second year can only be given to the extent it can be paid within the limits of this appropriation.

The information services line item is decreased by \$15,107 relating to an information services rate reduction.

The operating expenses line item is increased by \$43,706 for indirect cost allocation payments to the Office of Management and Budget.

A section is added that provides for state employee salary increase guidelines. Salary increases of \$60 per month are provided effective July 1993 for state employees including temporary and part-time employees. Three percent increases may be provided for the year beginning in July 1994 if funding can be provided within the limits of an agency's appropriation. The section also exempts agencies from having to receive Emergency Commission approval for transferring amounts between line items for providing up to three percent salary increases for the second year of the biennium. Agencies are to report to the Office of Management and Budget the amounts provided for second-year salary increases and any transfers between line items relating to the increases. The Office of Management and Budget is to report this information to the Budget Section.

A section of intent is added that state agency and institution information services line items are to be reduced by a total of \$2,775,817, of which \$1,085,060 is from the general fund and \$1,690,757 from other funds, from the amounts recommended in the bills as introduced.

Engrossed HB 1018 was placed on the Seventh order of business on the calendar.

**MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)**

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2004, SB 2007, SB 2008, SB 2013, SB 2448.

**REPORT OF STANDING COMMITTEE**

SB 2539, as engrossed: Finance and Taxation Committee (Rep. Timm, Chairman) A MAJORITY of your committee (Reps. Timm, Grosz, Belter, A. Carlson, Freier, Martin, Nicholas, A. Olson, Rennerfeldt, Wardner) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact seven new sections to chapter 53-06.1, subsection 4 of section 53-06.1-11, and a new chapter to title 57 of the North Dakota Century Code, relating to a video gaming tax and a tax to fund medical assistance; to amend and reenact section 53-06.1-01, subsection 1 of section 53-06.1-01.1, sections 53-06.1-01.2, 53-06.1-02, 53-06.1-02.1, 53-06.1-03, 53-06.1-03.3, 53-06.1-05, 53-06.1-05.1, 53-06.1-06, 53-06.1-07, 53-06.1-07.1, 53-06.1-07.2, 53-06.1-07.3, 53-06.1-07.4, 53-06.1-08, 53-06.1-08.1, 53-06.1-09, 53-06.1-10, 53-06.1-10.1, 53-06.1-11, 53-06.1-12, 53-06.1-12.2, 53-06.1-13, 53-06.1-13.1, 53-06.1-14, 53-06.1-15, 53-06.1-15.1, 53-06.1-15.4, 53-06.1-16, 53-06.1-16.1, 53-06.1-16.2, 53-06.1-17, subsection 5 of section 53-06.2-11, subsection 1 of section 57-36-25, subsection 1 of section 57-36-26, subsection 1 of section 57-36-28, and section 57-36-32 of the North Dakota Century Code, relating to games of chance and the taxation of cigarettes and tobacco products; to provide a penalty; to provide an appropriation; to provide an effective date; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 53-06.1-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. "Adjusted gross proceeds" means, except in the case of the for games of draw poker and stud poker authorized under section 53-06.1-07.2 and for games conducted through video gaming devices, gross proceeds less cash prizes ~~or~~ and the price of merchandise prizes and, less the charitable gaming tickets pull tab excise tax imposed by section 53-06.1-12.2, and less the amount of federal excise tax and interest imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401]. In the games of draw poker and stud poker, ~~"adjusted gross proceeds"~~ the term means the time buy-ins or tournament fees collected by the eligible licensed organization. For games conducted through video gaming devices, the term means the value of currency validated by the device less the value of paper credit vouchers issued, and plus or minus any adjustments authorized by the attorney general.
2. "Bona fide guest" means a ~~person who is not a member of an eligible organization, but who is allowed to use the facilities of the organization when invited by a member of the organization in accordance with the eligible organization's bylaws, articles of incorporation, charter, rules, or other written statement.~~ "Associated equipment" means any proprietary device, or part used in the manufacture or maintenance of a video gaming device, including integrated

circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitor, and metering devices.

3. ~~"Charitable gaming ticket" means the game piece used in pull tab games or jar ticket games.~~
- 4- ~~"Charitable organization" means any nonprofit an organization operated incorporated as a nonprofit corporation whose primary purpose is for the relief of poverty, distress poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of cruelty to children or animals, or other condition of public concern within this state, which has been so engaged actively fulfilling its primary purpose within this state for the two immediately preceding years.~~
- 5- 4. ~~"Civic and service club organization" means any branch, lodge, or chapter of a nonprofit national or state organization which is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose within this state, and which shall have existed in has been actively fulfilling its primary purpose within this state for the two immediately preceding years. "Civic and service club organization" also means a similar local nonprofit organization, including a booster club, convention and visitors bureau, community betterment, civic, economic development, tourism, recreation, or similar organization, not affiliated with a state or national organization, which is recognized by resolution adopted by the governing body of the city in which the organization conducts its principal activities, or by the governing body of a county if such the organization conducts its principal activities outside the limits of a city but within a county. Such club shall organization must have existed in been actively fulfilling its primary purpose within this state for the two immediately preceding years.~~
- 6- 5. ~~"Commission" means the state gaming commission.~~
6. ~~"Credit" as it relates to a video gaming device means a value of twenty-five cents.~~
7. ~~"Distributor" means a person, firm, corporation, association, or organization which that sells, markets, or otherwise distributes raffle tickets, bingo gaming equipment, or any other implements of gambling or associated equipment usable in the lawful conduct of games of chance under this chapter or which may service video gaming devices or associated equipment. "Distributor" The term does not include a resident printer who prints raffle tickets at the request of a licensed or authorized organization or an organization that has been issued a local permit, and who sells or otherwise distributes such raffle tickets to such the organization.~~
8. ~~"Educational, charitable, patriotic, fraternal, religious, or other public-spirited uses" are:~~
  - a. ~~To the extent used for purposes enumerated in subdivisions c through l, uses benefiting those organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code. Uses for stimulating and promoting state and community-based economic development programs within the state which~~

improve the quality of life of state and community residents.

- b. ~~To the extent used for purposes enumerated in subdivisions c through l, uses benefiting an organization registered with the North Dakota secretary of state under chapter 50-22.~~ Uses for developing, promoting, and supporting tourism within a city 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 other nonprofit medical facilities.
  - (9) Social services and education programs aimed at aiding ~~the~~ emotionally and physically distressed, handicapped, elderly, and underprivileged persons.
  - (10) Funds for crime prevention, fire protection and prevention, and public safety.
- e. (1) Fraternal uses, consistent with uses ~~and priorities~~ enumerated in subdivisions e a through ~~l~~ and ~~section 53-06.1-02 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 ~~charitable gaming funds~~ net proceeds under this subdivision or any other provision of this chapter.
  - 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.

m. To the extent the net proceeds are used toward the primary purpose of a charitable, educational, religious, or public-spirited organization, 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 of chance or dissolve. The commission may adopt rules for the establishment of special trust funds.

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 of the stated eligible uses. Eligible 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, or. 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. In addition, the ~~licensing authority~~ commission may adopt rules to limit or restrict eligible use disbursements to ensure that funds net proceeds are best utilized for educational, charitable, fraternal, religious, patriotic, or other public-spirited purposes.

9. "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 ~~in~~ existence active for the two immediately preceding years.
10. "Eligible organization" means bona fide nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, public safety, and other public-spirited organizations as defined by this chapter section, which may be licensed by the attorney general or authorized issued a local permit by the governing body of a city or county to conduct games of chance under this chapter.
11. ~~"Entire net proceeds" or "net proceeds" means the adjusted gross proceeds less such expenses and taxes as are specifically authorized under this chapter.~~
- 12- "Fraternal organization" means ~~a nonprofit an~~ an organization within this state, except college and high school fraternities, 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. Such The organization shall must have existed been actively

fulfilling its primary purpose within this state for the two immediately preceding years.

- ~~13-~~ 12. "Gross proceeds" means all moneys collected or received from conducting games of chance and from games of chance admissions thereto.
- ~~14-~~ 13. "Licensee" "Licensed organization" means an eligible organization licensed under this chapter by the attorney general to conduct bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, poker, sports pools, and video gaming devices.
- ~~15-~~ 14. "Licensing authority" means the attorney general. "Local permit" means a permit issued to a nonprofit organization recognized as a public-spirited organization by a governing body of a city or county that authorizes the organization to conduct only bingo, raffles, and sports pools in that city or county.
- ~~16-~~ 15. "Manufacturer" means a person who designs, assembles, fabricates, produces, constructs, or who otherwise prepares a product or a component part of a product of any implement of gambling gaming, including video gaming devices and associated equipment, usable in the lawful conduct of games of chance under this chapter. "Manufacturer" The term does not include a resident printer who prints raffle tickets at the request of a licensed or authorized organization or an organization that has been issued a local permit, and who sells or otherwise distributes such raffle tickets to such ~~an~~ the organization.
16. "Manufacturer's distributor" means a wholesaler of a manufacturer of electronic-mechanical pull tab dispensing devices and associated equipment who maintains a parts inventory, 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 a licensed organization.
17. "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 of the eligible organization. "Member" The term includes auxiliary members, but excludes social and honorary members.
18. "Other public spirited organization" means a nonprofit organization which has been in existence within this state for two years and is recognized by the governing body of a city or county by resolution as public spirited and eligible to conduct games of chance under this chapter. "Net proceeds" means the adjusted gross proceeds less such expenses and taxes as are specifically authorized under this chapter.
19. "Person" means any person, firm, partnership, corporation, association, or organization.
20. "Public safety organization" means an organization incorporated as a nonprofit corporation whose primary purpose is to actively engage in firefighting, ambulance service, or similar disaster assistance, which has been actively

fulfilling its primary purpose within this state for the two immediately preceding years.

21. "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, or similar organization, and which does not meet the definition of veterans, fraternal, charitable, educational, religious, civic and service, or public safety organization, which has been actively fulfilling its primary purpose within this state for the two immediately preceding years and is recognized by the governing body of a city or county by resolution as public spirited. 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.
22. "Pull tab" means the game piece used in deals of pull tabs.
- 20- 23. "Religious organization" means any 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 been actively so gathered or united in this state for the two immediately preceding years.
- 21- 24. "Veterans organization" means any congressionally chartered organization within this state, or any branch or lodge or chapter of a nonprofit national or state organization within this state, the membership of which consists of individuals who were members of the armed services or forces of the United States. ~~Such organizations shall~~ The organization must have been in existence actively fulfilling its primary purpose in this state for the two immediately preceding years.
25. "Video gaming device" means an electronic video gaming device that, upon insertion of currency, simulates the play of a game of chance, utilizing a video display and microprocessors in which, by chance, the player may win credits that can be redeemed for cash through the redemption of a paper credit voucher. The term does not include a machine that directly dispenses coins, cash, or tokens.

SECTION 2. AMENDMENT. Subsection 1 of section 53-06.1-01.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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.

**SECTION 3. AMENDMENT.** Section 53-06.1-01.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-01.2. Duty of attorney general to participate in certain hearings - Employment of private counsel by commission.** The attorney general shall represent the state in all hearings before the commission and shall prosecute all criminal proceedings arising from violations of ~~chapters 53-06.1 and 53-06.2~~ this chapter. The commission may employ private counsel for ~~adoption of rules and to ensure that its hearings are conducted fairly.~~

**SECTION 4. AMENDMENT.** Section 53-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-02. Organizations eligible under chapter - Use of net proceeds.** Nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, public safety, and public-spirited organizations, as ~~those terms are defined by this chapter~~, are eligible to conduct games of chance under ~~the conditions of this chapter~~. The ~~entire~~ net proceeds of such games of chance are ~~to~~ must be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter. Notwithstanding any other provision of this chapter, an eligible organization, ~~which is not required to be licensed by the attorney general, that has been issued a local permit may use the net proceeds of such games of chance to directly benefit the eligible organization.~~

**SECTION 5. AMENDMENT.** Section 53-06.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-02.1. Waiver of two-year existence active requirement - Local permit.** An organization that has not been ~~in existence actively fulfilling its primary purpose~~ within this state for the two immediately preceding years becomes an eligible may be recognized as a public-spirited organization for purposes of this section upon approval by the governing body of the city, if the organization will conduct games of chance ~~only~~ within that city, or upon approval by the board of county commissioners, if the organization will conduct games of chance within the county. An organization that ~~becomes an eligible~~ is recognized as a public-spirited organization under this section is not eligible for licensure by the attorney general until it has ~~been in existence actively fulfilled its primary purpose~~ within this state for the two immediately preceding years and may only conduct games of chance under a local authorization permit as provided in subsection 1 of section 53-06.1-03 until it becomes an eligible organization as ~~otherwise provided in this chapter.~~

**SECTION 6. AMENDMENT.** Section 53-06.1-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-03. Licensure—Exceptions for raffles, sports pools, and bingo - City and county authorization local permits and site authorizations - Licensure by attorney general - Fees - Suspension and revocation.**

1. ~~Except as otherwise provided in this section, eligible organizations desiring to conduct games of chance shall apply annually for a license from the attorney general before July first on forms provided by the attorney general and shall include with the application a one hundred fifty dollar license fee, except for those organizations whose average annual gross proceeds do not exceed twenty five thousand dollars, for which the fee is one hundred dollars.~~

- 2- A nonprofit organization may obtain a local permit as follows:
- a. Any ~~A~~ nonprofit organization recognized as ~~public spirited~~ a public-spirited organization by the governing body of a city or county may obtain a local authorization permit to conduct only raffles or bingo in which the primary prize does not exceed one thousand dollars, and the aggregate ~~does~~ prizes do not exceed six thousand dollars annually, ~~or~~ and to conduct sports pools, ~~for professional sports only,~~ in which the total wagers do not exceed five hundred dollars for each pool.
  - b. A nonprofit organization that conducts a city or county festival or celebration may be recognized as a public-spirited organization by the governing body of a city or county and may obtain a local authorization permit to conduct raffles in which the primary prize does not exceed one thousand dollars and the aggregate ~~does~~ prizes do not exceed two thousand dollars. For purposes of this subdivision, a "city or county festival or celebration" means an event:
    - (1) In celebration of local heritage, anniversary of establishment of the political subdivision, or other significant local event recognized as public spirited by the governing body of the city or county; and
    - (2) Supported by significant community participation.
  - c. To obtain a local authorization permit, the nonprofit organization shall apply directly to the governing body of the city in which it ~~conducts its principal activities~~ the site is located where the raffle, sports pool, or bingo activity will be conducted or, if ~~its principal activities are conducted~~ the raffle, sports pool, or bingo activity is conducted at a site located in a county but outside the limits of a city, ~~it~~ the organization shall apply to the board of county commissioners. ~~Applications~~ Application for the ~~conduct of games of chance subject to authorization by a city or county~~ a local permit must be made on forms provided by the attorney general. The governing body may by ordinance or resolution establish ~~authorization fees~~ a local permit fee not to exceed twenty-five dollars for each ~~authorization~~ local permit.
  - d. For purposes of this subsection ~~issuing a local permit,~~ the determination of what is a "~~public-spirited~~" organization "public-spirited organization" is within the sole discretion of the governing body of the city or county.
2. Except as otherwise provided in this section, an eligible organization desiring to be licensed to conduct lawful games of chance shall apply annually for a license from the attorney general before July first on forms provided by the attorney general and shall include with the application a one hundred fifty dollar license fee, except the fee is one hundred dollars for an organization whose average annual gross proceeds do not exceed twenty-five thousand dollars. An organization shall provide clear and convincing evidence that the organization 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 with the attorney general.

3. The attorney general shall license eligible organizations that conform to the requirements of this chapter ~~by issuing licenses as follows:~~
  - a. ~~A class A license to an eligible organization that is prohibited because of its nature or purpose for existence from expending charitable gaming net proceeds for the organization's own purposes or benefit and is, therefore, required to disburse its net proceeds to beneficiaries for educational, charitable, patriotic, fraternal, religious, or other public spirited uses.~~
  - b. ~~A class B license to an eligible organization that is permitted because of its nature or purpose for existence to expend charitable gaming proceeds for its own educational, charitable, patriotic, fraternal, religious, or other public spirited uses. The attorney general may deny a class B license to an otherwise eligible organization if the organization is connected, directly or indirectly, to the holder of a North Dakota retail alcoholic beverage license. An eligible organization that qualifies for a class A license may not also be issued a class B license.~~
  - c. ~~A class C license to an eligible organization that conducts games of chance on not more than two occasions per year.~~
  - d. ~~The attorney general shall establish by rule no more than two additional classes of licenses based on the frequency of gaming, the types of games of chance conducted by the eligible organization, and the adjusted gross proceeds collected or expected to be collected by the eligible organization. Only one class of license may be issued.~~
4. Games A licensed organization may conduct games of chance may be operated or conducted only on premises or sites an authorized site set forth in the application as follows:
  - a. License applicants A licensed organization shall first secure approval of the proposed site or sites on at which it intends to conduct lawful games of chance under this chapter from the governing body of the city, if within city limits, or the county, if outside city limits, where the site or sites are is located. This approval or permit, which may be granted at the discretion of the governing body, must be recorded on a site authorization form which is to accompany the license application to the attorney general for final approval. The governing body may charge a one hundred dollar fee for this permit the site authorization.
  - b. Rented premises are subject to rules adopted by the attorney general commission.
  - c. Only one eligible licensed organization or organization that has been issued a local permit at a time may be authorized to conduct games of chance at a specific location authorized site, except that a raffle drawing may be conducted for special occasions when one of the following conditions are met:

- (1) When the area for the raffle drawing is physically separated from the area where gaming is conducted by the regular licensee.
  - (2) Upon request of the regular licensee, the licensee's license is suspended for that specific day by the attorney general or commission.
- d. Licenses, rules of conduct and play, state gaming stamps, and state ~~identification devices~~ registration stamps must be displayed on forms and in the manner specified in rules adopted by the ~~attorney general~~ commission.
- e. No licensed organization or closely connected licensed organizations as a unit may have more than thirty authorized sites unless granted a waiver by the attorney general. However, after June 30, 1995, no licensed organization or closely connected licensed organizations as a unit may have more than twenty-five authorized sites unless granted a waiver by the attorney general. If the attorney general finds that there is no other licensed organization willing to conduct 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 more than five sites. Closely connected licensed organizations are two or more organizations which have unitary characteristics that may include common primary purposes, members on boards of directors, officers, management, employees, bookkeepers, program services, integrations of gaming activities, and shared facilities.
5. The attorney general may, ~~by motion~~ based on reasonable ground or upon written complaint, suspend, ~~deny~~, or revoke under chapter 28-32, any license granted under this chapter for violations by the licensee, or any officer, director, agent, member, or employee of the licensee, of this chapter or any rule adopted under this chapter. 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 subsection unless that organization conducts gaming determined to be in violation of chapter 12.1-28 or subsection 1 of section 53-06.1-07.
6. The attorney general ~~or the commission~~ may impose monetary fines on retail licensed alcoholic beverage establishments, licensed organizations, distributors, manufacturers' distributors, and manufacturers for failure to comply with ~~any provision of~~ this chapter or any rule adopted under this chapter. 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 retail licensed alcoholic beverage establishment, distributor or manufacturer, manufacturer's 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 lieu of a ~~license suspension~~ suspension or ~~revocations~~ revocation.

**SECTION 7.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming devices - Rent. For the purpose associated with the privilege of conducting games of chance on video gaming devices at a site other than a site where bingo is the primary game of chance conducted, the monthly rent is twenty percent of the adjusted gross proceeds of the video gaming devices at the site. This rent is in addition to any rent the organization may pay a retail licensed alcoholic beverage establishment for the purposes associated with the organization's conduct of twenty-one, paddlewheels, and charitable gaming tickets at the site. This section does not authorize violations of the rent limitations contained in this chapter.

**SECTION 8. AMENDMENT.** Section 53-06.1-03.3 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-03.3. ~~Charitable gaming ticket~~ Pull tab sites - Limit on rent.** For all purposes associated with the privilege of conducting games of chance at a site other than a site where bingo is the primary game of chance conducted, the monthly rent may not exceed:

1. If the game of twenty-one is conducted on the site, in addition to the rent allowable for the game of twenty-one, one hundred twenty-five dollars.
2. If the game of twenty-one is not conducted on the site, two hundred twenty-five dollars.

**SECTION 9. AMENDMENT.** Section 53-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-05. Local approval permit for educational organizations, college fraternities, and sororities for raffles, sports pools, and bingo.** An educational organization, college fraternity, or sorority shall apply in writing to the governing body of the city in which it is located, or to the board of county commissioners if the educational organization or the college is located outside the ~~geographical limits of a city~~ limits, for permission a local permit to conduct raffles, sports pools, or bingo at least thirty days ~~prior to~~ before each occasion. The application must state the time, place, and educational, charitable, patriotic, fraternal, religious, or other public-spirited uses to which the net proceeds will be devoted. An applicant fraternity or sorority shall include a signed acknowledgment by the administration of the college or university that the applicant is a recognized fraternity or sorority. The governing body may at its ~~own~~ discretion by ordinance or resolution, and upon application, ~~grant permission~~ may issue a local permit for raffles, sports pools, and bingo to be held at specifically designated times and places for specific uses covering a one-year period. The governing body may by ordinance or resolution may establish ~~authorization fees~~ a local permit fee not to exceed twenty-five dollars for each ~~authorization.~~ If the governing body, at its own discretion, chooses to authorize raffles, sports pools, or bingo pursuant to this chapter, the governing body may do so by resolution local permit.

**SECTION 10. AMENDMENT.** Section 53-06.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-05.1. Regulation by city or county of number of twenty-one tables per site and number of sites per eligible licensed organization.** Cities, for sites ~~or locations~~ within city limits, or counties, for sites ~~or locations~~ outside city limits, may establish by

ordinance or resolution a maximum number of tables for twenty-one per site and a maximum number of sites upon which ~~an eligible a licensed~~ organization may conduct games of chance within the city or county.

**SECTION 11. AMENDMENT.** Section 53-06.1-06 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-06. Persons permitted to conduct games of chance - ~~Premises Gaming site~~ - Equipment - Compensation.**

1. No person, except a member or employee of ~~an eligible a licensed~~ organization or ~~an organization that has been issued a local permit or a member of an organization auxiliary to an eligible a licensed organization or an organization that has been issued a local permit,~~ may assist in the holding, operating, or conducting of any game of chance under this chapter. In the conduct of pull tabs through ~~an electronic-mechanical dispensing device or video gaming device,~~ the attorney general may allow employees of licensed alcoholic beverage establishments to provide limited assistance, ~~such as redeeming winning pull tabs or paper credit vouchers,~~ to ~~an authorized class B license holding eligible a licensed~~ organization the adjusted gross proceeds of which do not exceed sixty thousand dollars per quarterly reporting period of operation or to any class A license holding eligible organization. However, a volunteer of an eligible organization may sell raffle tickets.
2. Except when authorized by the attorney general, no games of chance may be conducted with any gaming equipment other than gaming equipment owned by an eligible organization or rented at a reasonable rate by an eligible organization from a licensed distributor.
3. The governing board of an eligible organization is primarily responsible and may be held accountable for the proper determination and distribution of the entire net proceeds of ~~any game games~~ of chance held in accordance with this chapter.
4. The ~~premises gaming site~~ where any game of chance is being held, operated, or conducted, or where it is intended that the game will be held, must be open to inspection by the attorney general, ~~the attorney general's agents and employees,~~ by representatives of the governing body authorizing games of chance, and by peace officers of any political subdivision law enforcement officials of this state.
5. When any merchandise prize is awarded in a game of chance, its value is its current retail price.
6. Equipment, prizes, and supplies for games of chance may not be purchased or sold at prices in excess of the usual price thereof.
7. ~~The A licensed organization must devote the entire net proceeds derived from the holding of conducting~~ games of chance ~~must be devoted~~ within three months from the date end of the quarter in which such proceeds were earned to the eligible uses ~~permitted by this chapter.~~ Any A licensed organization desiring to hold the net proceeds of ~~games of chance~~ for a period longer than three months ~~from the date such proceeds were earned~~ shall apply to the licensing

~~authority or governing body, as the case may be, attorney general~~ for special permission, and upon good cause shown, ~~the licensing authority or governing body~~ attorney general may grant the request.

8. No person who has pled guilty to or been found guilty of a felony may sell or distribute equipment, or conduct or assist in games of chance under this chapter for five years from the date of the conviction or release from incarceration, parole, or probation, whichever is the latter. No person determined by the attorney general to have participated in organized crime or unlawful gambling, may be permitted to sell or distribute equipment, or conduct or assist in games of chance under this chapter for a period determined by the attorney general.
9. Any person involved with the conduct of games of chance must be:
  - a. A person of good character, honesty, and integrity.
  - b. A person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental to the conduct of gaming.
10. The attorney general or commission may prohibit a person from playing games of chance if the person violates ~~any provision of~~ this chapter or any rule adopted under this chapter.
11. The attorney general or commission may require a licensed organization to pay a bingo or raffle prize to a player based on a factual determination, after opportunity for the parties to be heard, by the attorney general or commission.
12. If bingo is the primary game of chance conducted at an authorized site, no licensed organization may pay bingo prizes in which the aggregate of the bingo prizes for a quarter exceeds the total bingo gross proceeds for the quarter at that site. However, a bingo prize that equals or exceeds ten thousand dollars is excluded from the computation of the aggregate of the bingo prizes.

**SECTION 12. AMENDMENT.** Section 53-06.1-07 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07. Games of chance allowed.**

1. Eligible Only eligible organizations licensed by the attorney general shall be permitted to may conduct bingo, raffles, calcuttas, ~~charitable gaming tickets~~ pull tabs, punchboards, twenty-one, paddlewheels, poker, and sports pools for professional sports only. These games may only be conducted and played at gaming sites authorized by a local governing body and approved by the attorney general.
2. ~~College fraternities or sororities may conduct raffles, sports pools, and bingo.~~

- 3- ~~Eligible organizations shall be permitted to conduct draw poker in accordance with section 53-06.1-07.2.~~
- 4- Eligible organizations licensed by the attorney general may conduct bingo, pull tabs, punchboards, twenty-one, poker, and paddlewheels through video gaming devices. In electronic video gaming device play of any game of chance permitted by this section, the maximum prize per play is five hundred dollars.
- 5- 3. Any The game using charitable gaming tickets of pull tabs may be conducted only through use of commingled games after June 30, 1991.

**SECTION 13. AMENDMENT.** Section 53-06.1-07.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.1. Limitations on hours and participation in games of chance.** A person under twenty-one years of age may not ~~participate in placing a wager in the~~ directly or indirectly play games of charitable gaming tickets pull tabs, punchboards, twenty-one, calcuttas, sports pools, paddlewheels, or poker, or play video gaming devices. A person under eighteen years of age ~~not accompanied by an adult~~ may not participate in directly or indirectly play the game of bingo unless the person is accompanied by an adult, the bingo game is ~~locally authorized under section 53-06.1-03~~ conducted by an organization that has been issued a local permit, or the game's prize structure does not exceed those that allowed under subsection 1 of section 53-06.1-03 for locally authorized games local permits. The games of charitable gaming tickets pull tabs, punchboards, twenty-one, paddlewheels, or sports pools, and video gaming devices, may be conducted only during the hours when alcoholic beverages may be dispensed in accordance with applicable regulations of the state or the ~~political subdivision~~ county or city.

**SECTION 14. AMENDMENT.** Section 53-06.1-07.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.2. Draw poker and stud poker - Limited authorization.** ~~An eligible~~ A licensed organization may conduct the game of draw poker on not more than ~~two~~ twelve occasions per year as follows:

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

**SECTION 15. AMENDMENT.** Section 53-06.1-07.3 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.3. Calcuttas.** ~~An eligible~~ A licensed organization may ~~allow the playing of~~ conduct a calcutta ~~on the authorized site.~~

Calcuttas are allowed for professional or amateur sporting events held in this state, but not for elementary, secondary, or postsecondary education sports events. The eligible organization shall post at the gaming site all rules affecting the conduct and play of calcuttas or requirements of participants. An eligible The organization may not have an interest in the outcome of the calcutta. A participant who places player must place a wager in the calcutta auction pool must be at the authorized site. No more than one wager per competitor may be allowed in any calcutta pool. The amounts paid to calcutta pool participants players in prizes may not exceed ninety percent of the gross proceeds. No competitor in a calcutta pool may be under eighteen years of age.

**SECTION 16. AMENDMENT.** Section 53-06.1-07.4 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.4. Paddlewheels.** An eligible A licensed organization may conduct the game of paddlewheels on the authorized site. The eligible organization shall post at the site all rules affecting the conduct of paddlewheels and requirements of players. A paddlewheel is a mechanical vertical wheel marked off into equally spaced sections that contain numbers or symbols, and which after being spun, uses a pointer or marker to indicate the winning number or symbol. The maximum price per paddlewheel ticket may not exceed two dollars. No money may be allowed on the playing table. A table must be used to register a player's wagered paddlewheel ticket when a cash prize is a variable multiple of the price of the paddlewheel ticket. No player may place more than ten paddlewheel tickets valued at more than twenty dollars on each spin of the paddlewheel. Cash, chips, or merchandise prizes may be awarded. No single cash prize, value of chips, or the current retail price of the merchandise prize to be 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 17.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming devices - Management and control - Limitation - Disclosure - Voiding of contracts. A licensed organization may place a video gaming device at an authorized site that is a retail licensed alcoholic beverage establishment that serves alcoholic beverages for consumption on the establishment or at an authorized site where bingo is the primary game of chance conducted. If a minor is permitted at the authorized site, a permanent wall of at least four feet [1.22 meters] in height must separate the area reserved for video gaming devices from the other areas of the premises. The wall may provide for only one entrance to the area where video gaming devices are located. The entrance to the area where video gaming devices are located must display a sign that the area is restricted to persons twenty-one years or older. The authorized site must be physically secure to prevent or detect unauthorized entry onto the site. The licensed organization shall control and manage the operation of a licensed video gaming device regardless if the organization leases the device or has entered into a service contract on the device. No organization may employ or contract with an independent contractor for controlling or managing the operation of a licensed video gaming device. The licensed organization shall acquire, maintain, and safeguard a telephone line for the authorized site for use by a central computer communications and management information system. No more than ten video gaming devices may be placed at the authorized site. However, if the game of bingo is the primary game of chance conducted at the site, no more than fifteen video gaming devices may be placed at the site. The odds of winning a certain prize of a game must be posted on or near each video gaming

device. The commission by rule shall establish the manner in which the odds are calculated and posted. All specific provisions related to video gaming devices that are contained in written agreements or contracts executed before April 1, 1993, between retail licensed alcoholic beverage establishments and coin-operated amusement device operators licensed under section 53-04-02 are void. The attorney general may review and approve or disapprove any written contract or agreement relating to video gaming devices and associated equipment.

**SECTION 18.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Requirements of a video gaming device. Each video gaming device licensed:

1. Must meet the manufacturing specification standards of the rules adopted by the commission.
2. Must be linked under a central computer communications and management information system to monitor performance and provide security, audit, management, accounting, and other information as required by the attorney general. No central computer communications and management information system approved by the attorney general may limit participation to only one manufacturer of video gaming devices by either the cost in implementing the necessary program modifications to communicate or the inability to communicate with the central computer communications system. The central computer communications system must use dedicated lines and a dial-up network based on rules adopted by the commission.
3. May not allow more than eight credits in the value of two dollars to be played on a game or award credits in excess of the value of sixty-two dollars and fifty cents per credit value of twenty-five cents played. The maximum prize per play is five hundred dollars. The potential prize payback structure must be at least eighty percent and not more than ninety-six percent of the value of the credits played. Free games are prohibited.
4. Must, at the conclusion of play by a person, issue a paper credit voucher representing the value of any credits remaining on the device. The credit voucher must contain information based on rules adopted by the commission.
5. Must have resettable and nonresettable electronic meters housed in a readily accessible locked device area that keep an interim period and permanent record of all transactions to provide for a full accounting. The device must issue a paper audit report each time any door to the interior of the device is opened, electrical power to the device is interrupted, and when the device is keyed to audit mode.
6. Must retain an exact and legible duplicate copy of issued paper credit vouchers and audit reports.
7. Must automatically suspend itself from operation should the device detect any tampering or attempted tampering.
8. Must have the licensed organization's name and device's license prominently displayed thereon. Any device which does not display the license is contraband and subject to confiscation by any law enforcement officer. A violation of this subsection is a class C felony.

SECTION 19. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Investigation of vendors - Competitive bidding required before entering into contract.

1. Before a contract for a central computer communications and management information system is awarded, the attorney general shall conduct a background investigation of the vendor, any parent or subsidiary corporation of the vendor, all shareholders of five percent or more interest in the vendor or parent or subsidiary corporation of the vendor, and all officers and directors of the vendor or parent or subsidiary corporation of the vendor to whom the contract is to be awarded. The attorney general may rely on background investigation information obtained by other states or Canadian provinces. The information must be held confidential except in the proper administration of this chapter or any rule adopted under this chapter, to an authorized law enforcement agency, or to a state or Canadian province.
2. When entering into a contract with a vendor of video gaming devices for the purpose of leasing, procuring, or otherwise obtaining a central computer communications and management information system, the attorney general shall use an open and competitive bid process that reflects the best interest of the state. The attorney general shall consider all relevant factors including background investigation, security, competence, experience, timely performance, and state of the art technology.

SECTION 20. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Analyzing, testing, evaluating, and approval of video gaming devices and source of payment. The attorney general shall analyze, test, and evaluate prototypes of video gaming devices and associated equipment of manufacturers seeking to have such devices approved. The attorney general shall require the manufacturer seeking the approval of a video gaming device to pay the anticipated actual costs of the analyzing, testing, and evaluation in advance and, after completion of the analyzing, testing, and evaluation, shall refund any overpayment or charge and collect an amount sufficient to reimburse the attorney general for any underpayment of actual costs. The attorney general may contract for the analyzing, testing, and evaluation of video gaming devices. The attorney general may require a manufacturer to provide the attorney general with an approved device model and specialized equipment for an indefinite period for regulatory and enforcement purposes free of any charge. The attorney general shall approve prototypes of video gaming devices. The attorney general may not allow any licensed organization to start operating video gaming devices unless at least three manufacturers of video gaming devices have been licensed and these manufacturers' video gaming devices have been approved by the attorney general.

SECTION 21. AMENDMENT. Section 53-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-08. Punchboards and ~~charitable gaming tickets~~ pull tabs - Sale of chances - Maximum price per ~~ticket~~ pull tab. Unless all of the highest denomination of winners ~~top tier winning pull tabs or punchboard punches~~ have been ~~sold~~ redeemed, or unless otherwise permitted by the attorney general, a no person or organization engaged in the selling of chances from conducting games of charitable gaming

~~tickets pull tabs or punchboards under this chapter may not discard the chances from any close the game of charitable gaming ticket or punchboard once the contents of that game of charitable gaming ticket or punchboard are have been offered for sale to eligible participants players. The maximum sales price per charitable gaming ticket pull tab and punchboard punch may not exceed two dollars.~~

**SECTION 22. AMENDMENT.** Section 53-06.1-08.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-08.1. Limitation on charitable gaming ticket pull tab prizes.** ~~An eligible A licensed organization may not conduct a game of charitable gaming tickets pull tabs in which the highest denomination winner prize value of the top tier winning pull tab exceeds five hundred dollars.~~

**SECTION 23. AMENDMENT.** Section 53-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-09. Sports pools - Control by licensee - Rules posted - Limitation on prizes.** ~~An eligible A licensed organization or organization that has been issued a local permit may allow the playing of conduct sports pools on the premises or authorized site. Sports pools are allowed for professional sports only. If sports pools are allowed, they must be conducted and controlled by the eligible organization. The eligible licensed organization or organization that has been issued a local permit shall clearly post any rules affecting the conduct of sports pools or requirements of participants players. The maximum wager on any sports pool is five dollars. The amounts paid to sports pool participants players in prizes may not exceed ninety percent of the gross proceeds.~~

**SECTION 24. AMENDMENT.** Section 53-06.1-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-10. Twenty-one - Sale of chips - Redemption - Wager - Limit - Rules of play - Tips.** ~~Any licensee A licensed organization may conduct and shall control the playing of the card game twenty-one on the its authorized site of the licensee, but at no other location. No money may be allowed on the table. The licensee organization shall provide playing chips of various denominations to the participants players. Chips must be redeemed by the licensee for their full value. The maximum limit per wager may be set by the licensee or eligible 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. Twenty-one is a card game played by a maximum of seven players and one dealer. The dealer must be a representative of the eligible organization sponsoring the game of chance. Each player plays the player's hand against the dealer's hand. In order 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 case of a tie count with the dealer. Players may double down on a natural twenty-one. In the case of matching or tie count between the player and the dealer, no winner is declared and the player keeps the player's wager. A licensee may allow the pooling of tips received by dealers at an authorized site. Any requirement to pool tips is within the sole discretion of each licensee and may not be imposed or encouraged by the licensing authority attorney general or commission. Each licensee conducting a twenty-one shall post rules relating to the conduct of the game in a conspicuous location near where the game is played.~~

**SECTION 25. AMENDMENT.** Section 53-06.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-10.1. Raffles - Limitation - Prizes.** Prizes for raffles may include any property which may be legally owned and possessed, but may not include real estate. Cash prizes may be awarded in raffles ~~conducted under this chapter~~ provided the value of no single cash prize exceeds one thousand dollars, and provided further that ~~no eligible organization may award total cash prizes totaling more than do not exceed~~ three thousand dollars in the aggregate during any one day.

**SECTION 26. AMENDMENT.** Section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-11. Statement of receipts - Expenses - Allocation of video gaming device adjusted gross proceeds.**

1. All moneys collected or received from games of chance and admissions thereto, except cash prizes of one hundred dollars or less paid immediately, must be deposited in a special account of the eligible licensed organization which contains only that money. Cash prizes of an amount to be determined by the attorney general, ~~the~~ and purchase prices of merchandise prizes, ~~and all expenses for such games of chance~~ must be withdrawn from such account by consecutively numbered checks duly signed by a specified officer or officers of the eligible organization and payable to a specific person or organization. There must also be written on the check the nature of the ~~expense or~~ prize for which the check is drawn. No check may be drawn to "cash" or a fictitious payee. In the case of a cash prize of more than one hundred dollars, the prize may also be issued by an accountable receipt or nonnegotiable instrument approved by the attorney general.
2. No part of the net proceeds after they have been ~~given over~~ devoted to another organization an eligible use recipient may be used by the donee ~~organization~~ to pay any person for services rendered or materials purchased in connection with the ~~conducting~~ conduct of games of chance by the donor organization.
3. Subject Except for video gaming devices and subject to the limitations of this subsection, expenses incurred for games of chance may be deducted from adjusted gross proceeds, to the extent that total expenses for games of chance do not exceed fifty percent of the first two hundred thousand dollars of adjusted gross proceeds per quarter and forty-five percent of the adjusted gross proceeds in excess of two hundred thousand dollars per quarter. However, for an authorized site at which pull tabs is the only game of chance conducted and the conduct of pull tabs is through an electronic-mechanical dispensing device, expenses incurred for this game of chance may be deducted from adjusted gross proceeds, based on the average adjusted gross proceeds of all of an organization's authorized sites at which the game of pull tabs is conducted through electronic-mechanical dispensing devices, according to the following:
  - a. On average adjusted gross proceeds not exceeding eight thousand dollars per quarter, an expense limitation of fifty percent.

- b. On average adjusted gross proceeds exceeding eight thousand dollars per quarter, but not exceeding twelve thousand dollars per quarter, an expense limitation of forty-five percent.
- c. On average adjusted gross proceeds exceeding twelve thousand dollars per quarter, but not exceeding sixteen thousand dollars per quarter, an expense limitation of forty percent.
- d. On average adjusted gross proceeds exceeding sixteen thousand dollars per quarter, an expense limitation of thirty-five percent.

~~After December 31, 1989, cash~~ Cash shorts incurred in games of chance are classified as expenses toward the expense limitation. ~~Notwithstanding the limitations of this subsection, in addition to the expenses allowed to be deducted from adjusted gross proceeds, an eligible organization may deduct as an expense federal excise taxes and interest imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401] and incurred or paid by the organization for the period beginning January 1, 1986, and ending as of July 1, 1991.~~ The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for taxes. This subsection does not authorize violations of the rent limitations contained in this chapter.

**SECTION 27.** Subsection 4 to section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

- 4. For video gaming devices, and subject to the limitations of this subsection and section 8 of this Act, the adjusted gross proceeds must be allocated as follows:
  - a. Twenty-five percent must be remitted to the attorney general as provided by subsection 2 of section 53-06.1-12.
  - b. Fifty-five percent must be allocated by the licensed organization as:
    - (1) Thirty percent for expenses.
    - (2) Twenty-five percent for net proceeds, which must be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter.

**SECTION 28.** Subsection 4 to section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

- 4. For video gaming devices, and subject to the limitations of this subsection and section 8 of this Act, the adjusted gross proceeds must be allocated as follows:
  - a. Twenty-seven and one-half percent must be remitted to the attorney general, as provided by subsection 2 of section 53-06.1-12.
  - b. Fifty-two and one-half percent must be allocated by the licensed organization as:

- (1) Twenty-seven and one-half percent for expenses.
- (2) Twenty-five percent for net proceeds, which must be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter.

**SECTION 29.** Subsection 4 to section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

4. For video gaming devices, and subject to the limitations of this subsection and section 8 of this Act, the adjusted gross proceeds must be allocated as follows:
  - a. Thirty percent must be remitted to the attorney general, as provided by subsection 2 of section 53-06.1-12.
  - b. Fifty percent must be allocated by the licensed organization as:
    - (1) Twenty-five percent for expenses.
    - (2) Twenty-five percent for net proceeds, which must be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter.

**SECTION 30. AMENDMENT.** Section 53-06.1-12 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-12. Tax based on adjusted gross proceeds. A**

1. Except for video gaming devices, a tax as provided in this section subsection upon the total adjusted gross proceeds received by a licensed eligible organization must be paid to the attorney general on a quarterly basis in the manner and upon the tax return forms as prescribed by the attorney general by rule. The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for expenses. The amount of this tax must be paid from adjusted gross proceeds and may not be charged against the percentage limitation of expenses. The tax is hereby imposed upon every eligible licensed organization, to be levied, collected, and paid quarterly with respect to the adjusted gross proceeds of the eligible organization as provided in this section, computed at the following rates:
  - 1- a. On adjusted gross proceeds not in excess of two hundred thousand dollars per quarter, a tax of five percent.
  - 2- b. On adjusted gross proceeds in excess of two hundred thousand dollars per quarter but not in excess of four hundred thousand dollars per quarter, a tax of ten percent.
  - 3- c. On adjusted gross proceeds in excess of four hundred thousand dollars per quarter but not in excess of six hundred thousand dollars per quarter, a tax of fifteen percent.

- 4- d. On adjusted gross proceeds in excess of six hundred thousand dollars per quarter, a tax of twenty percent.
2. For video gaming devices, a tax computed at the rate under section 53-06.1-11 is imposed upon the adjusted gross proceeds received by a licensed organization and the tax must be paid to the attorney general on a monthly basis. This tax must be paid from adjusted gross proceeds and is not charged against the percentage limitation of expenses. The attorney general shall compute the state's tax amount based on the licensed organization's video gaming device activity recorded by the central computer communications and management information system. The attorney general shall send a report, containing at least the video gaming device's license number, total value of currency validated, total value of credit vouchers issued, adjusted gross proceeds, and the tax amount due the state to the licensed organization within seven days after the end of each month. The commission shall adopt rules by which the licensed organization shall pay the taxes due from a special, separate video gaming device tax account. The attorney general shall collect the tax from the licensed organization's tax account by electronic funds transfer within fifteen days after the end of each month. If the licensed organization's tax account has insufficient funds, the attorney general shall assess a penalty of five percent per month or fraction of a month on the unpaid balance until the tax is paid, up to a maximum of twenty-five percent, plus assess interest at the rate of one and one-half percent per month on the unpaid balance until the tax is paid. The attorney general shall suspend the operation of the organization's video gaming devices and keep the devices inoperable until the organization has made full payment of tax, penalty, and interest. The organization shall file a gaming tax return in the manner and upon the forms prescribed by the attorney general.

SECTION 31. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming device tax is in lieu of sales and use taxes. The adjusted gross proceeds of a video gaming device is subject to taxation under section 53-06.1-12. Except for income tax, the video gaming device tax is in lieu of all other state or local taxation, including sales and use taxes, that would otherwise be based on the gaming activity of the devices.

SECTION 32. AMENDMENT. Section 53-06.1-12.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12.2. ~~Charitable gaming tickets~~ Pull tabs excise tax in lieu of sales and use taxes. In addition to any other tax provided by law and in lieu of sales or use taxes, there is imposed a tax of two percent on the gross ~~receipts~~ proceeds from the sale at retail of ~~charitable gaming tickets~~ pull tabs to a final user. A Gross proceeds and a sale at retail for purposes of this section includes ~~charitable gaming tickets~~ include pull tabs sold and ~~charitable gaming tickets~~ given pull tabs provided a player in return exchange for another ~~charitable gaming ticket~~ as authorized under this chapter. Gross receipts for purposes of this section includes the face value of all ~~charitable gaming tickets~~ sold or given in return for another ~~charitable gaming ticket~~ redeemed winning pull tabs. The tax imposed by this section must be paid to the attorney general at the time tax returns are made filed and taxes are paid by the eligible licensed organization under section 53-06.1-12.

**SECTION 33. AMENDMENT.** Section 53-06.1-13 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-13. Examination of books and records.** ~~The attorney general and the attorney general's agents, and representatives of the governing body of a city or county with respect to eligible organizations authorized a licensed organization or organization that has been issued a local permit by that governing body, may examine or cause to be examined the books and records of any eligible licensed organization licensed or authorized organization that has been issued a local permit to conduct games of chance under this chapter to the extent that such books and records may directly or indirectly relate to any transaction connected with holding, operating, or conducting any game of chance.~~

**SECTION 34. AMENDMENT.** Section 53-06.1-13.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-13.1. Financial statements.** ~~Every eligible A licensed organization receiving gaming gross proceeds of two hundred thousand dollars or more in the organization's annual accounting period shall file with the attorney general on or before the fifteenth day of the fifth month following the end of the accounting period a financial statement, including accompanying notes and footnotes, and a copy of the internal revenue service's form 990 titled return of organization exempt from income tax required to be filed under section 501(c) of the Internal Revenue Code. The financial statement must at least include a schedule of the sources of total revenue, total expenses, listing of the names of nongaming and gaming employees who received any form of compensation amounting to thirty thousand dollars or more during the accounting period, including specific sources of the compensation paid to each employee, and any information as required by the attorney general.~~

**SECTION 35. AMENDMENT.** Section 53-06.1-14 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~Every A manufacturer of charitable gaming tickets pull tabs, every manufacturer of paper bingo cards, manufacturer of electronic-mechanical pull tab dispensing devices, manufacturer's distributor of electronic-mechanical pull tab dispensing devices, and every distributor shall apply annually for a license upon a form prescribed by the attorney general before the first day of April in each year and shall submit the appropriate license fee. However, effective for the licensing period beginning April 1, 1994, every manufacturer of charitable gaming tickets, every manufacturer of paper bingo cards, and every distributor shall apply for a license for the three-month licensing period of April 1, 1994, through June 30, 1994, and then prospectively annually apply for a license before the first day of July in each year and submit the appropriate license fee. Every manufacturer of video gaming devices shall apply annually for a license upon a form prescribed by the attorney general before the first day of July of each year and shall submit the appropriate license fee. Each applicant shall provide such necessary and reasonable information as the attorney general may require. The license fee for a distributor which does not sell, market, or otherwise distribute video gaming~~

devices or associated equipment, or service or maintain video gaming devices or associated equipment is one thousand five hundred dollars, and the except that for the licensing period April 1, 1994, through June 30, 1994, the license fee is three hundred seventy-five dollars. The license fee for a distributor which does sell, market, or otherwise distribute video gaming devices or associated equipment, or service or maintain video gaming devices or associated equipment is five thousand dollars. The license fee for a manufacturer's distributor is five hundred dollars. The license fee for a manufacturer of electronic-mechanical pull tab dispensing devices, manufacturer of charitable gaming tickets pull tabs, paper bingo cards, or both a manufacturer of pull tabs and paper bingo cards, is two thousand dollars, except that for the licensing period April 1, 1994, through June 30, 1994, the license fee is five hundred dollars. The license fee for a manufacturer of video gaming devices is twenty-five thousand dollars.

2. No distributor may sell, market, or otherwise distribute raffle tickets or equipment for games of chance except to other licensed distributors, licensed manufacturers' distributors, licensed organizations, organizations that have been issued a local permit, gaming schools, or other persons authorized by the attorney general. However, no distributor of video gaming devices and associated equipment may sell, market, or otherwise distribute video gaming devices and associated equipment, or service or maintain video gaming devices or associated equipment except to licensed organizations or other persons authorized by the attorney general. A manufacturer of charitable gaming tickets or pull tabs, paper bingo cards, or video gaming devices may not sell, market, or otherwise distribute charitable gaming tickets or pull tabs, paper bingo cards, or video gaming devices or associated equipment other than to a licensed distributor. A distributor of charitable gaming tickets pull tabs or paper bingo cards must purchase or otherwise receive charitable gaming tickets pull tabs or paper bingo cards only from a licensed manufacturer or licensed distributor. A distributor of video gaming devices and associated equipment shall purchase or otherwise receive video gaming devices and associated equipment only from a licensed manufacturer of video gaming devices. A manufacturer of electronic-mechanical pull tab dispensing devices may not sell, market, or otherwise distribute pull tab dispensing devices other than to a licensed distributor or a licensed manufacturer's distributor. A licensed distributor and licensed manufacturer's distributor of electronic-mechanical pull tab dispensing devices may purchase or otherwise receive pull tab dispensing devices only from a licensed manufacturer, licensed manufacturer's distributor, or licensed distributor.
3. Every eligible organization shall acquire all raffle tickets or equipment for games of chance from a distributor licensed under this chapter, unless the raffle tickets or equipment for games of chance are printed, manufactured, or constructed by the eligible organization or unless the raffle tickets are obtained from a resident printer who has printed the raffle tickets at the request of the organization. However, a licensed organization shall acquire video gaming devices and associated equipment, or service contracts on video gaming devices or associated equipment only from a distributor that is licensed to sell, market, or otherwise distribute video gaming devices or associated equipment or service video

- gaming devices or associated equipment. The licensed organization may acquire video gaming devices and associated equipment by a direct purchase or lease. No licensed organization may acquire video gaming devices by a lease with a purchase option. No licensed organization may finance a purchased video gaming device directly or indirectly through a licensed distributor or licensed manufacturer. No game of charitable gaming tickets pull tabs, punchboards, sports pool boards, calcutta boards, or a series of paddlewheel ticket cards may be sold without a North Dakota gaming stamp being affixed to them. North Dakota licensed distributors shall purchase the North Dakota gaming stamps from the attorney general's office and the cost for each stamp may not exceed twenty-five cents. No licensed organization may own, lease, or be in possession of a video gaming device unless the device is licensed by the attorney general.
4. No licensed or authorized eligible organization or organization that has been issued a local permit may be a distributor or have any financial interest in a distributor. No North Dakota wholesaler of liquor or alcoholic beverages may be a North Dakota distributor or have any financial interest in a distributor. No North Dakota licensed manufacturer may be a North Dakota distributor or have any financial interest in a North Dakota distributor. No North Dakota distributor may have any financial interest in a North Dakota licensed manufacturer. No retail licensed alcoholic beverage establishment or owner, officer, or manager thereof may be a distributor or manufacturer or have any financial interest in a distributor or manufacturer.
  5. The attorney general or commission may, by motion based on reasonable grounds or on written complaint, suspend or revoke a an organization's local permit or an organization's, distributor's, or manufacturer's license for violation, by the licensee organization, distributor, or manufacturer or any officer, director, agent, member, or employee of the licensee organization, distributor, or manufacturer, of this chapter or any rule adopted under this chapter.
  6. In addition to the basic license fee, the attorney general may require payment of any additional fee necessary to defray the actual costs of a background investigation of applicants, including each partner of a partnership, and each director and officer and all stockholders owning five percent or more of the voting common stock of a corporation, parent, or subsidiary corporation of a video gaming device manufacturer and distributor. The attorney general may require payment of the estimated additional fee in advance as a condition precedent to beginning the investigation. The attorney general shall notify the applicant as soon as possible after a determination is made that the additional fee is necessary and shall also notify the applicant of the attorney general's best estimate of the amount of the additional license fee. Any applicant may then withdraw the application in lieu of paying the additional cost. The estimated cost must be placed into the attorney general's refund fund for use to defray the actual expenses of the background investigation. The remainder of such funds must be returned to the applicant within thirty days of the conclusion of the investigation.

**SECTION 36.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming devices - Licensure. Every licensed organization that owns, leases, or is in possession of a video gaming device shall apply annually for a license for each video gaming device upon a form prescribed by the attorney general before the first day of July in each year and shall submit the license fee. The license fee for each video gaming device is one hundred dollars.

**SECTION 37. AMENDMENT.** Section 53-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-15. Form and display of license and local permit.** Each license ~~or authorization required under this chapter and local permit~~ must contain a statement of the name and address of the licensee ~~or authorized eligible licensed organization or organization that has been issued a local permit and such other information as the licensing attorney general or authorizing authority~~ local governing body may designate require.

Each license ~~or resolution issued for the conduct of any game or games of chance and local permit~~ must be conspicuously displayed at the place ~~where the same is to be conducted at all times during gaming site when any game of chance is conducted~~ and for at least thirty minutes thereafter. The sale of a raffle ticket does not require the display of the license ~~or authorizing resolution~~ local permit.

**SECTION 38. AMENDMENT.** Section 53-06.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-15.1. Powers and duties of the attorney general.** The attorney general ~~or the agents of the attorney general~~ may:

1. Inspect and examine all premises in which gaming is conducted or gaming devices or equipment are manufactured, sold, or distributed.
2. Inspect all equipment and supplies in, upon, or about such premises.
3. Seize and remove from such premises and impound any gaming related equipment, supplies, games of chance, or books and records for the purpose of examination and inspection. When books or records are seized, the attorney general shall provide copies of those records or books within twenty-four hours of a specific request by the organization or retail licensed alcoholic beverage establishment for a copy of the books or records seized.
4. Demand access to and inspect, examine, photocopy, and audit all books and records of applicants, licensees, lessors, manufacturers, and distributors, including any affiliated companies on their premises and in the presence of the applicants, licensees, lessors, manufacturers, distributors, or agents concerning any income or expense resulting from any gaming business, and require verification of income or expense, and all other matters affecting the enforcement of the policy and provisions of this chapter.
5. Audit and inspect any other books and records of eligible organizations conducting games of chance for the purpose of determining compliance with applicable statutes, rules, and constitutional provisions regarding distribution devotion of net proceeds from games of chance.

6. Enter into a reciprocal agreement with the commissioner of the internal revenue service of the United States for exchange of information for state tax administration purposes.
7. Enter into a written agreement with a state or Canadian province to obtain central computer communications and management information system services to aid the attorney general in efficiently managing and controlling video gaming devices in this state and to reduce the financial resources required of this state.

**SECTION 39. AMENDMENT.** Section 53-06.1-15.4 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-15.4. Conditional license - Issuance.** The attorney general, upon application and at the attorney general's discretion, may issue a conditional license to conduct games of chance to an eligible organization whose regularly issued license has been suspended or revoked for a violation of this chapter or rules adopted under this chapter. The attorney general shall designate the time period for which the conditional license is valid and may impose any conditions for issuance of the license as the attorney general determines necessary. Section 53-06.1-16.2 does not apply to an eligible organization to whom a conditional license is issued pursuant to this section.

**SECTION 40. AMENDMENT.** Section 53-06.1-16 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-16. Violation of chapter or rule - Misdemeanor - Forfeiture of licensure - Ineligibility.** Any person who knowingly makes a false statement in any application for a local permit, license, or authorizing resolution or in any statement annexed thereto, or who fails to keep sufficient books and records to substantiate the receipts, gross proceeds, prizes, expenses, or uses devotion of net proceeds resulting from games of chance conducted under this chapter, or who falsifies any books or records so far as they relate to any transaction connected with the holding, operating, and conducting of any game of chance, or who violates ~~any of the provisions of~~ this chapter, any rule adopted under this chapter, or of any term of a local permit or license is guilty of a class A misdemeanor. If convicted, the person forfeits any license or ~~authorizing resolution~~ local permit issued to it pursuant to this chapter and is ineligible to reapply for a license or ~~authorization~~ local permit for a period of time ~~to be determined by the attorney general or commission~~. 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.

**SECTION 41. AMENDMENT.** Section 53-06.1-16.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-16.1. Bogus chips, marked cards, cheating devices, or fraudulent schemes unlawful - Penalty.** It is unlawful for any person playing or conducting any authorized game of chance conducted by a licensed organization:

1. To use bogus or counterfeit chips, currency, credit vouchers, or charitable gaming tickets ~~pull tabs~~, or to substitute or use any game, cards, or ~~charitable gaming~~

tickets credit vouchers, pull tabs, or game piece that have been marked or tampered with.

2. To employ or have on one's person any cheating device to facilitate cheating in any game of chance.
3. To willfully use any fraudulent scheme or technique, including when an operator or player of games of ~~charitable gaming tickets~~ pull tabs directly or indirectly solicits, provides, or receives inside information of the status of a game for the benefit of either person.
4. To alter or counterfeit a site authorization, gaming license, or North Dakota gaming stamp.
5. To knowingly cause, aid, abet, or conspire with another person or to cause any person to violate ~~any provision of~~ this chapter or any rule adopted under this chapter.
6. To knowingly permit a person under the age of twenty-one years to make a wager on a video gaming device.
7. To tamper or attempt to tamper with a video gaming device with the intent to interfere with the proper operation of the device, attempt or conspire to manipulate the outcome or the determination of credits or operation of a device, cause physical damage to the device, or physically tamper with the device by any other means.
8. To vandalize, misuse, abuse, or damage a video gaming device.

A person violating this section is guilty of a class A misdemeanor unless the amount gained through the use of these items, schemes, or techniques resulted in a person obtaining over five hundred dollars, then the offense is a class C felony. However, if a person uses a fraudulent scheme regarding soliciting, providing, or receiving inside information involving the game of pull tabs or uses a fraudulent scheme or technique to cheat or skim involving the games of twenty-one or bingo or if a person is involved in any unlawful activity referenced by this section involving a video gaming device, regardless of the amount gained, then the offense is a class C felony.

SECTION 42. AMENDMENT. Section 53-06.1-16.2 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-16.2. License suspension or revocation by attorney general or commission - Ineligibility for local authorization permit. ~~Any person whose class A or class B A licensed organization that has its license is~~ suspended or revoked by the attorney general or commission or a licensed organization that has not devoted its net proceeds is ineligible for a local authorization permit to conduct raffles, sports pools, or bingo during the period of suspension or revocation.

SECTION 43. AMENDMENT. Section 53-06.1-17 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-17. Rules. The commission shall adopt rules in accordance with chapter 28-32, relating to, but not limited to, methods of play, conduct, and promotion of games of chance; methods, procedures, and minimum standards for accounting and recordkeeping; requiring reports by ~~licensees and authorized~~ licensed organizations, distributors, and manufacturers; methods of competition and doing business by distributors, manufacturers, and manufacturers'

distributors; marking or identification of raffle tickets, charitable gaming tickets pull tabs, bingo equipment, ticket pull tab receptacles, punchboards, video gaming devices and associated equipment, or any other implements of gambling used or distributed in this state to implement or effectuate the provisions and purpose of this chapter; quality standards for the manufacture of charitable gaming tickets pull tabs, pull tab dispensing devices, and paper bingo cards; hardware and software specifications of video gaming devices and associated equipment; maintenance and repair of video gaming devices; analyzing, testing, evaluation, and approval of video gaming devices and associated equipment; licensing of organizations, distributors, manufacturers, and video gaming devices; to ensure that the entire net proceeds of games of chance are devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter; to protect and promote the public interest; to ensure fair and honest games of chance; to ensure that fees and taxes are paid; to impose monetary fines and establish appeal procedures; and to seek to prevent or detect unlawful gambling activity.

**SECTION 44. AMENDMENT.** Subsection 5 of section 53-06.2-11 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting parimutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under subsection 7 8 of section 53-06.1-01.

**SECTION 45. AMENDMENT.** Subsection 1 of section 57-36-25 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. There is hereby levied and assessed upon all cigars, snuff, and other tobacco products sold in this state an excise tax at the rate of ~~twenty-two~~ twenty-nine and one-half percent of the wholesale purchase price at which such cigars, snuff, and other tobacco products are purchased by distributors. For the purposes of this section, the term "wholesale purchase price" shall mean the established price for which a manufacturer sells cigars, snuff, or other tobacco products to a distributor exclusive of any discount or other reduction. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the distributor on a calendar quarterly basis on or before the tenth day of the month following the quarterly period for which paid. The tax commissioner shall, however, have authority to prescribe monthly returns upon the request of the licensee distributor and such returns accompanied with remittance shall be filed before the tenth day of the month following the month for which the returns are filed.

**SECTION 46. AMENDMENT.** Subsection 1 of section 57-36-26 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. There is hereby levied and assessed upon all cigars, snuff, and other tobacco products, purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate of ~~twenty-two~~

twenty-nine and one-half percent of the wholesale purchase price at the time the products were brought into this state. For the purposes of this section, the term "wholesale purchase price" means the established price for which a manufacturer sells cigars, snuff, or other tobacco products to a distributor exclusive of any discount or other reduction. However, the dealer may elect to report and remit the tax on the cost price of the products to the dealer rather than on the wholesale purchase price. The proceeds of the tax, together with the forms of return and in accordance with any rules and regulations the tax commissioner may prescribe, must be remitted to the tax commissioner by the dealer on a monthly basis on or before the fifteenth day of the month following the monthly period for which it is paid. The tax commissioner shall have the authority to place any dealer on an annual remittance basis when in the judgment of the tax commissioner the operations of the dealer merit that remittance period. In addition, the tax commissioner shall have the authority to permit the consolidation of the filing of a dealer's return when the dealer has more than one location and thereby would be required to file more than one return.

**SECTION 47. AMENDMENT.** Subsection 1 of section 57-36-28 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed upon the use or storage by consumers of cigars, snuff, and other tobacco products in this state, and upon those consumers, at the rate of ~~twenty-two~~ twenty-nine and one-half percent of the cost to the consumer of those products.

**SECTION 48. AMENDMENT.** Section 57-36-32 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-36-32. Separate and additional tax on the sale of cigarettes - Collection - Allocation of revenue - Tax avoidance prohibited.** There is hereby levied and assessed and there shall be collected by the state tax commissioner and paid to the state treasurer, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of ~~nine~~ twelve and one-half mills on each cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying the tax thereon to the state tax commissioner. All of the moneys collected by the state treasurer under this section shall be credited to the state general fund.

**SECTION 49.** A new chapter to title 57 of the North Dakota Century Code is created and enacted as follows:

Definitions. As used in this chapter:

1. "Commissioner" means the state tax commissioner.
2. "Facility" means intermediate care facility for the mentally retarded.
3. "Intermediate care facility for the mentally retarded" has the meaning given that term in 42 U.S.C. 1396d(d) and also means a facility that furnishes similar services, in a community-based group home for the mentally retarded, under a

waiver under section 1915(c) of the Social Security Act [42 U.S.C. 1396n(c)].

4. "Net operating revenue" means gross charges, reduced by bad debts, charity care, and payer discounts, for rendering health-related or habilitation-related services to a patient or resident, whether provided on an inpatient or outpatient basis, including routine services such as room, board, general nursing, and home health services; other nursing services; professional services such as physician's care, laboratory, pharmacy, and renal dialysis; and maintenance or rental fees; but not including:
  - a. Other operating revenue from:
    - (1) Services, other than health care services or habilitation care services, provided to patients or residents;
    - (2) Sales or services to persons who are neither patients nor residents;
    - (3) Gifts, grants, or endowments restricted to charity care;
    - (4) Gifts and grants for research programs;
    - (5) Rental of facility space;
    - (6) Educational program; or
    - (7) Medical transcription fees; and
  - b. Gains and losses resulting from peripheral or incidental transactions such as:
    - (1) Contributions and endowments not restricted to charity care;
    - (2) Tax support or subsidy;
    - (3) Returns on investment; and
    - (4) Sale of all or part of a facility.

Imposition of tax - Basis of tax. A tax is hereby imposed on every facility operating within this state. Each facility shall pay a tax computed at the rate of six percent of the net operating revenue generated by the facility during each calendar month.

#### Reports - Extension.

1. On or before the last day of the next succeeding month, each facility required to pay a tax under this chapter must make out a return for the preceding month in the form and manner prescribed by the commissioner, showing the net operating revenues, the amount of the tax for the period covered by the return, and such further information the commissioner may require to enable the commissioner to correctly compute the tax levied by this chapter.
2. The commissioner may, upon request by any facility and a proper showing of the necessity therefor, grant to the facility an extension of time not exceeding thirty days for making a return. If an extension is granted to any facility,

the time the facility is required to make payment of the tax liability must be extended for the same period, but interest must be charged upon the amount of the deferred payment at the rate of twelve percent per annum from the date the tax would have been due if the extension had not been granted to the date the tax is paid.

3. Returns must be signed by a duly authorized agent of the facility and must contain a written declaration that they are made and subscribed under the penalties of this chapter.

Payment of tax. The tax levied and assessed under this chapter must be paid on a monthly basis and is due and payable on the last day of the next succeeding month, except tax paid with respect to May in each odd-numbered year is due and payable on or before the twenty-second day of June of that year.

#### Penalties - Offenses.

1. If any facility fails to file a return or corrected return or to pay the tax within the time required by this chapter or, if upon audit, is found to owe additional tax, the facility is subject to a penalty of five percent of the amount of tax due, plus interest of one percent of the tax for each month of delay or fraction thereof, excepting the first month after the tax became due. The commissioner may, if satisfied that the delay was excusable, waive and, if paid, refund all or any part of the penalty and interest. The penalty and interest must be paid to the commissioner and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be enforced in the same manner as the tax imposed under this chapter.
2. Any person failing to comply with the provisions of this chapter or failing to remit the tax provided by this chapter to the commissioner on a timely basis is guilty of a class A misdemeanor.

Records required. A facility required to pay the tax under this chapter must preserve the records of net operating revenues as the commissioner may require, and the facility must preserve all such records for a period of three years and one month. All such records must be open to examination at any time by the commissioner or any of the commissioner's duly authorized agents.

Corporate officer liability. If a corporation that owns or operates a facility fails for any reason to file the required returns or to pay the tax due, any of its officers having control, or supervision of, or charged with the responsibility for making such returns and payments is personally liable for such failure. The dissolution of a corporation does not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The sum due for a liability may be assessed and collected pursuant to the provisions of this chapter for the assessment and collection of other liabilities.

Commissioner to administer chapter. The commissioner shall administer this chapter and the tax imposed thereby. The commissioner may prescribe all rules, policies, and practices, consistent with the provisions of this chapter, necessary and advisable for its detailed administration and to effectuate its purposes. The provisions of chapter 57-39.2, pertaining to the administration of the retail sales tax, including provisions for refund and credit, not in conflict with the provisions of this chapter, govern the administration of the tax levied by this chapter.

Lien of tax - Collection - Action authorized.

1. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the same, the amount, including any interest, penalty, or addition to the tax, together with the costs that may accrue in addition thereto, is a lien in favor of the state of North Dakota upon all property and rights to property belonging to the taxpayer. In the case of property where a deceased taxpayer held an interest with right of survivorship at the time of the taxpayer's death, the lien continues as a lien against the property in the hands of the survivor or survivors to the extent of the deceased taxpayer's interest therein. The deceased taxpayer's interest must be determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein.
2. The lien attaches at the time the tax becomes due and payable and continues until the liability for the amount is satisfied. For the purposes of this subsection, the words "due" and "due and payable" mean the first instant the tax becomes due.
3. In order to preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the commissioner shall file with the register of deeds of the county in which the property is located a notice of said lien.
4. The register of deeds of each county shall prepare and keep a book known as "Index of Tax Liens", so ruled as to show in appropriate columns all of the following data, under the names of taxpayers, arranged alphabetically:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The time notice of lien was received.
  - d. The date of notice.
  - e. The amount of lien when due.
  - f. When the lien is satisfied.

The register of deeds shall endorse on each notice of lien the day, hour, and minute when received and preserve the notice and immediately index it in the index book. The lien is effective from the time of the indexing.

5. The commissioner is exempt from the payment of the filing fees as otherwise provided by law for the filing of the lien or for its satisfaction.
6. Upon the payment of a tax as to which the commissioner has filed notice with the register of deeds, the commissioner shall file with the register of deeds a satisfaction of the tax, and the register of deeds shall enter the satisfaction on the notice on file and so indicate in the index of tax liens.

7. The attorney general, upon the request of the commissioner, shall bring an action without bond, to enforce payment of any taxes and any penalties, or to foreclose the lien therefor in the manner provided for mortgages on real or personal property. The state's attorney of the county in which the action is pending shall assist the attorney general.
8. The remedies of the state are cumulative. An action taken by the commissioner or attorney general may not be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other remedy provided by law.

Taxes deposited in general fund. Moneys collected by the commissioner under this chapter must be deposited in the general fund.

**SECTION 50. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the office of attorney general for the purpose of the administration, enforcement, and regulation of video gaming devices as a game of chance for the biennium beginning July 1, 1993, and ending June 30, 1995.

Salaries and wages	\$ 300,000
Information services	300,000
Operating	400,000
Equipment	<u>1,000,000</u>
Total general fund appropriation	\$2,000,000

In addition, five full-time equivalent positions are authorized to the office of attorney general.

**SECTION 51. EFFECTIVE DATE.** Section 27 of this Act is effective for taxable events occurring after May 14, 1993, and before July 1, 1994, and is thereafter ineffective. Section 28 of this Act is effective for taxable events occurring after June 30, 1994, and before July 1, 1995, and is thereafter ineffective. Section 29 of this Act is effective for taxable events occurring after June 30, 1995. Section 49 of this Act is effective for all taxable events occurring on or after August 1, 1993.

**SECTION 52. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

SB 2539, as engrossed: Finance and Taxation Committee (Rep. Timm, Chairman) A MINORITY of your committee (Reps. Nelson, J. Berg, Dobrinski, Glassheim, Hokana) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact seven new sections to chapter 53-06.1, subsection 4 of section 53-06.1-11, and a new chapter to title 57 of the North Dakota Century Code, relating to a video gaming tax and a tax to fund medical assistance; to amend and reenact section 53-06.1-01, subsection 1 of section 53-06.1-01.1, sections 53-06.1-01.2, 53-06.1-02, 53-06.1-02.1, 53-06.1-03, 53-06.1-03.3, 53-06.1-05, 53-06.1-05.1, 53-06.1-06, 53-06.1-07, 53-06.1-07.1, 53-06.1-07.2, 53-06.1-07.3, 53-06.1-07.4, 53-06.1-08, 53-06.1-08.1, 53-06.1-09, 53-06.1-10, 53-06.1-10.1, 53-06.1-11, 53-06.1-12, 53-06.1-12.2, 53-06.1-13, 53-06.1-13.1, 53-06.1-14, 53-06.1-15, 53-06.1-15.1, 53-06.1-15.4, 53-06.1-16, 53-06.1-16.1, 53-06.1-16.2, 53-06.1-17,

subsection 5 of section 53-06.2-11, subsection 1 of section 57-36-25, subsection 1 of section 57-36-26, subsection 1 of section 57-36-28, and section 57-36-32 of the North Dakota Century Code, relating to games of chance and the taxation of cigarettes and tobacco products; to provide a penalty; to provide an appropriation; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.1-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. "Adjusted gross proceeds" means, except in the case of the for games of draw poker and stud poker authorized under section 53-06.1-07.2 and for games conducted through video gaming devices, gross proceeds less cash prizes or and the price of merchandise prizes and, less the charitable gaming tickets pull tab excise tax imposed by section 53-06.1-12.2, and less the amount of federal excise tax and interest imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401]. In the games of draw poker and stud poker, "adjusted gross proceeds" the term means the time buy-ins or tournament fees collected by the eligible licensed organization. For games conducted through video gaming devices, the term means the value of currency validated by the device less the value of paper credit vouchers issued, and plus or minus any adjustments authorized by the attorney general.
2. "Bona fide guest" means a person who is not a member of an eligible organization, but who is allowed to use the facilities of the organization when invited by a member or the organization in accordance with the eligible organization's bylaws, articles of incorporation, charter, rules, or other written statement. "Associated equipment" means any proprietary device, or part used in the manufacture or maintenance of a video gaming device, including integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitor, and metering devices.
3. "Charitable gaming ticket" means the game piece used in pull tab games or jar ticket games.
4. "Charitable organization" means any nonprofit an organization operated incorporated as a nonprofit corporation whose primary purpose is for the relief of poverty, distress poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of cruelty to children or animals, or other condition of public concern within this state, which has been so engaged actively fulfilling its primary purpose within this state for the two immediately preceding years.
- 5- 4. "Civic and service club organization" means any branch, lodge, or chapter of a nonprofit national or state organization which is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose within this state, and which shall have existed in has been actively fulfilling its primary purpose within this state for the two immediately preceding years. "Civic and service club organization" also means a similar local nonprofit organization, including a booster

club, convention and visitors bureau, community betterment, civic, economic development, tourism, recreation, or similar organization, not affiliated with a state or national organization, which is recognized by resolution adopted by the governing body of the city in which the organization conducts its principal activities, or by the governing body of a county if such the organization conducts its principal activities outside the limits of a city but within a county. Such club shall organization must have existed in been actively fulfilling its primary purpose within this state for the two immediately preceding years.

- 6- 5. "Commission" means the state gaming commission.
6. "Credit" as it relates to a video gaming device means a value of twenty-five cents.
7. "Distributor" means a person, firm, corporation, association, or organization which that sells, markets, or otherwise distributes raffle tickets, bingo gaming equipment, or any other implements of gambling or associated equipment usable in the lawful conduct of games of chance under this chapter or which may service video gaming devices or associated equipment. "Distributor" The term does not include a resident printer who prints raffle tickets at the request of a licensed or authorized organization or an organization that has been issued a local permit, and who sells or otherwise distributes such raffle tickets to such the organization.
8. "Educational, charitable, patriotic, fraternal, religious, or other public-spirited uses" are:
- a. To the extent used for purposes enumerated in subdivisions c through l, uses benefiting those organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code. Uses for stimulating and promoting state and community-based economic development programs within the state which improve the quality of life of state and community residents.
  - b. To the extent used for purposes enumerated in subdivisions c through l, uses benefiting an organization registered with the North Dakota secretary of state under chapter 50-22. Uses for developing, promoting, and supporting tourism within a city 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 other nonprofit medical facilities.
  - (9) Social services and education programs aimed at aiding ~~the~~ emotionally and physically distressed, handicapped, elderly, and underprivileged persons.
  - (10) Funds for crime prevention, fire protection and prevention, and public safety.
- e. (1) Fraternal uses, consistent with uses ~~and priorities~~ enumerated in subdivisions e a through ~~l~~ 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

- ~~charitable gaming funds net proceeds~~ under this subdivision or any other provision of this chapter.
- 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.
  - m. To the extent the net proceeds are used toward the primary purpose of a charitable, educational, religious, or public-spirited organization, 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 of chance or dissolve. The commission may adopt rules for the establishment of special trust funds.

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 of the stated eligible

uses. Eligible 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, or. 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. In addition, the licensing authority commission may adopt rules to limit or restrict eligible use disbursements to ensure that funds net proceeds are best utilized for educational, charitable, fraternal, religious, patriotic, or other public-spirited purposes.

9. "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 ~~in~~ existence active for the two immediately preceding years.
10. "Eligible organization" means bona fide nonprofit veterans, charitable, educational, religious, ~~and fraternal organizations, civic and service clubs, public safety, and other public-spirited organizations as defined by this chapter section,~~ which may be licensed by the attorney general or authorized issued a local permit by the governing body of a city or county to conduct games of chance under this chapter.
11. ~~"Entire net proceeds" or "net proceeds" means the adjusted gross proceeds less such expenses and taxes as are specifically authorized under this chapter.~~
- ~~12-~~ 12. "Fraternal organization" means ~~a nonprofit an~~ an organization within this state, except college and high school fraternities, 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. Such The organization shall must have existed been actively fulfilling its primary purpose within this state for the two immediately preceding years.
- ~~13-~~ 12. "Gross proceeds" means all moneys collected or received from conducting games of chance and from games of chance admissions thereto.
- ~~14-~~ 13. "Licensee" "Licensed organization" means an eligible organization licensed under this chapter by the attorney general to conduct bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, poker, sports pools, and video gaming devices.
- ~~15-~~ 14. ~~"Licensing authority" means the attorney general.~~ "Local permit" means a permit issued to a nonprofit organization recognized as a public-spirited organization by a governing body of a city or county that authorizes the organization to conduct only bingo, raffles, and sports pools in that city or county.
- ~~16-~~ 15. "Manufacturer" means a person who designs, assembles, fabricates, produces, constructs, or who otherwise prepares a product or a component part of a product of any implement of gambling gaming, including video gaming devices and associated equipment, usable in the lawful conduct of games of chance under this chapter. "Manufacturer" The term does not include a resident printer who prints raffle tickets at

the request of a licensed ~~or authorized~~ organization or an organization that has been issued a local permit, and who sells or otherwise distributes such raffle tickets to ~~such~~ an the organization.

16. "Manufacturer's distributor" means a wholesaler of a manufacturer of electronic-mechanical pull tab dispensing devices and associated equipment who maintains a parts inventory, 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 a licensed organization.
17. "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 of the eligible organization. ~~"Member"~~ The term includes auxiliary members, but excludes social and honorary members.
18. ~~"Other public spirited organization" means a nonprofit organization which has been in existence within this state for two years and is recognized by the governing body of a city or county by resolution as public spirited and eligible to conduct games of chance under this chapter. "Net proceeds" means the adjusted gross proceeds less such expenses and taxes as are specifically authorized under this chapter.~~
19. "Person" means any person, firm, partnership, corporation, association, or organization.
20. "Public safety organization" means an organization incorporated as a nonprofit corporation whose primary purpose is to actively engage in firefighting, ambulance service, or similar disaster assistance, which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.
21. "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, or similar organization, and which does not meet the definition of veterans, fraternal, charitable, educational, religious, civic and service, or public safety organization, which has been actively fulfilling its primary purpose within this state for the two immediately preceding years and is recognized by the governing body of a city or county by resolution as public spirited. 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.
22. "Pull tab" means the game piece used in deals of pull tabs.
- ~~20-~~ 23. "Religious organization" means any 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 been actively so gathered or united in this state for the two immediately preceding years.

- ~~21-~~ 24. "Veterans organization" means any congressionally chartered organization within this state, or any branch or lodge or chapter of a nonprofit national or state organization within this state, the membership of which consists of individuals who were members of the armed services or forces of the United States. ~~Such organizations shall~~ The organization must have been in existence actively fulfilling its primary purpose in this state for the two immediately preceding years.
25. "Video gaming device" means an electronic video gaming device that, upon insertion of currency, simulates the play of a game of chance, utilizing a video display and microprocessors in which, by chance, the player may win credits that can be redeemed for cash through the redemption of a paper credit voucher. The term does not include a machine that directly dispenses coins, cash, or tokens.

**SECTION 2. AMENDMENT.** Subsection 1 of section 53-06.1-01.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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.

**SECTION 3. AMENDMENT.** Section 53-06.1-01.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-01.2. Duty of attorney general to participate in certain hearings - Employment of private counsel by commission.** The attorney general shall represent the state in all hearings before the commission and shall prosecute all criminal proceedings arising from violations of ~~chapters 53-06.1 and 53-06.2 this chapter.~~ The commission may employ private counsel ~~for adoption of rules and to ensure that its hearings are conducted fairly.~~

**SECTION 4. AMENDMENT.** Section 53-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-02. Organizations eligible under chapter - Use of net proceeds.** Nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, public safety, and public-spirited organizations, as ~~those terms are defined by this chapter,~~ are eligible to conduct games of chance under ~~the conditions of this chapter.~~ The entire net proceeds of such games of chance are to must be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter. Notwithstanding any other provision of this chapter, an eligible organization, which is not required to be licensed by the attorney general, that has been issued a local permit may use the net proceeds of such games of chance to directly benefit the eligible organization.

**SECTION 5. AMENDMENT.** Section 53-06.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-02.1. Waiver of two-year ~~existence~~ active requirement - Local permit.** An organization that has not been ~~in existence~~ actively fulfilling its primary purpose within this state for the two immediately preceding years ~~becomes an eligible~~ may be recognized as a public-spirited organization for purposes of this section upon approval by the governing body of the city, if the organization will conduct games of chance ~~only~~ within that city, or upon approval by the board of county commissioners, if the organization will conduct games of chance within the county. An organization that ~~becomes an eligible~~ is recognized as a public-spirited organization under this section is not eligible for licensure by the attorney general until it has ~~been in existence~~ actively fulfilled its primary purpose within this state for the two immediately preceding years and may only conduct games of chance under a local authorization permit as provided in subsection 1 of section 53-06.1-03 until it ~~becomes an eligible organization as otherwise provided in this chapter.~~

**SECTION 6. AMENDMENT.** Section 53-06.1-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-03. Licensure—Exceptions for raffles, sports pools, and bingo - City and county authorization local permits and site authorizations - Licensure by attorney general - Fees - Suspension and revocation.**

1. ~~Except as otherwise provided in this section, eligible organizations desiring to conduct games of chance shall apply annually for a license from the attorney general before July first on forms provided by the attorney general and shall include with the application a one hundred fifty dollar license fee, except for those organizations whose average annual gross proceeds do not exceed twenty five thousand dollars, for which the fee is one hundred dollars.~~
- 2- A nonprofit organization may obtain a local permit as follows:
  - a. ~~Any~~ A nonprofit organization recognized as ~~public spirited~~ a public-spirited organization by the governing body of a city or county may obtain a local authorization permit to conduct only raffles or bingo in which the primary prize does not exceed one thousand dollars, and the aggregate ~~does~~ prizes do not exceed six thousand dollars annually, ~~or~~ and to conduct sports pools, for professional sports only, in which the total wagers do not exceed five hundred dollars for each pool.
  - b. A nonprofit organization that conducts a city or county festival or celebration may be recognized as a public-spirited organization by the governing body of a city or county and may obtain a local authorization permit to conduct raffles in which the primary prize does not exceed one thousand dollars and the aggregate ~~does~~ prizes do not exceed two thousand dollars. For purposes of this subdivision, a "city or county festival or celebration" means an event:
    - (1) In celebration of local heritage, anniversary of establishment of the political subdivision, or other significant local event recognized as public spirited by the governing body of the city or county; and

- (2) Supported by significant community participation.
- c. To obtain a local authorization permit, the nonprofit organization shall apply directly to the governing body of the city in which it conducts its principal activities the site is located where the raffle, sports pool, or bingo activity will be conducted or, if its principal activities are conducted the raffle, sports pool, or bingo activity is conducted at a site located in a county but outside the limits of a city, ~~it~~ the organization shall apply to the board of county commissioners. Applications Application for the ~~conduct of games of chance subject to authorization by a city or county~~ a local permit must be made on forms provided by the attorney general. The governing body may by ordinance or resolution establish ~~authorization fees~~ a local permit fee not to exceed twenty-five dollars for each authorization local permit.
- d. For purposes of ~~this subsection~~ issuing a local permit, the determination of what is a ~~"public spirited"~~ organization "public spirited organization" is within the sole discretion of the governing body of the city or county.
2. Except as otherwise provided in this section, an eligible organization desiring to be licensed to conduct lawful games of chance shall apply annually for a license from the attorney general before July first on forms provided by the attorney general and shall include with the application a one hundred fifty dollar license fee, except the fee is one hundred dollars for an organization whose average annual gross proceeds do not exceed twenty-five thousand dollars. An organization shall provide clear and convincing evidence that the organization 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 with the attorney general.
3. The attorney general shall license eligible organizations that conform to the requirements of this chapter ~~by issuing licenses as follows:~~
- a. ~~A class A license to an eligible organization that is prohibited because of its nature or purpose for existence from expending charitable gaming net proceeds for the organization's own purposes or benefit and is, therefore, required to disburse its net proceeds to beneficiaries for educational, charitable, patriotic, fraternal, religious, or other public spirited uses.~~
- b. ~~A class B license to an eligible organization that is permitted because of its nature or purpose for existence to expend charitable gaming proceeds for its own educational, charitable, patriotic, fraternal, religious, or other public spirited uses. The attorney general may deny a class B license to an otherwise eligible organization if the organization is connected, directly or indirectly, to the holder of a North Dakota retail alcoholic beverage license. An eligible organization that qualifies for a class A license may not also be issued a class B license.~~

- e. ~~A class C license to an eligible organization that conducts games of chance on not more than two occasions per year.~~
  - d. ~~The attorney general shall establish by rule no more than two additional classes of licenses based on the frequency of gaming, the types of games of chance conducted by the eligible organization, and the adjusted gross proceeds collected or expected to be collected by the eligible organization. Only one class of license may be issued.~~
4. Games A licensed organization may conduct games of chance may be operated or conducted only on premises or sites an authorized site set forth in the application as follows:
- a. License applicants A licensed organization shall first secure approval of the proposed site or sites on at which it intends to conduct lawful games of chance under this chapter from the governing body of the city, if within city limits, or the county, if outside city limits, where the site or sites are is located. This approval or permit, which may be granted at the discretion of the governing body, must be recorded on a site authorization form which is to accompany the license application to the attorney general for final approval. The governing body may charge a one hundred dollar fee for this permit the site authorization.
  - b. Rented premises are subject to rules adopted by the attorney general commission.
  - c. Only one eligible licensed organization or organization that has been issued a local permit at a time may be authorized to conduct games of chance at a specific location authorized site, except that a raffle drawing may be conducted for special occasions when one of the following conditions are met:
    - (1) When the area for the raffle drawing is physically separated from the area where gaming is conducted by the regular licensee.
    - (2) Upon request of the regular licensee, the licensee's license is suspended for that specific day by the attorney general or commission.
  - d. Licenses, rules of conduct and play, state gaming stamps, and state identification devices registration stamps must be displayed on forms and in the manner specified in rules adopted by the attorney general commission.
  - e. No licensed organization or closely connected licensed organizations as a unit may have more than thirty authorized sites unless granted a waiver by the attorney general. However, after June 30, 1995, no licensed organization or closely connected licensed organizations as a unit may have more than twenty-five authorized sites unless granted a waiver by the attorney general. If the attorney general finds that there is no other licensed organization willing to conduct 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 more than five sites. Closely connected licensed organizations are two or more

organizations which have unitary characteristics that may include common primary purposes, members on boards of directors, officers, management, employees, bookkeepers, program services, integrations of gaming activities, and shared facilities.

5. The attorney general may, ~~by motion~~ based on reasonable ground or upon written complaint, suspend, deny, or revoke under chapter 28-32, any license granted under this chapter for violations by the licensee, or any officer, director, agent, member, or employee of the licensee, of this chapter or any rule adopted under this chapter. 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 subsection unless that organization conducts gaming determined to be in violation of chapter 12.1-28 or subsection 1 of section 53-06.1-07.
6. The attorney general ~~or the commission~~ may impose monetary fines on retail licensed alcoholic beverage establishments, licensed organizations, distributors, manufacturers' distributors, and manufacturers for failure to comply with ~~any provision of~~ this chapter or any rule adopted under this chapter. 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 retail licensed alcoholic beverage establishment, distributor or manufacturer, manufacturer's 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 lieu of ~~a license suspensions~~ suspension or ~~revocations~~ revocation.

SECTION 7. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming devices - Rent. For the purpose associated with the privilege of conducting games of chance on video gaming devices at a site other than a site where bingo is the primary game of chance conducted, the monthly rent is twenty percent of the adjusted gross proceeds of the video gaming devices at the site. This rent is in addition to any rent the organization may pay a retail licensed alcoholic beverage establishment for the purposes associated with the organization's conduct of twenty-one, paddlewheels, and charitable gaming tickets at the site. This section does not authorize violations of the rent limitations contained in this chapter.

SECTION 8. AMENDMENT. Section 53-06.1-03.3 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

~~53-06.1-03.3. Charitable gaming ticket~~ Pull tab sites - Limit on rent. For all purposes associated with the privilege of conducting games of chance at a site other than a site where bingo is the primary game of chance conducted, the monthly rent may not exceed:

1. If the game of twenty-one is conducted on the site, in addition to the rent allowable for the game of twenty-one, one hundred twenty-five dollars.

2. If the game of twenty-one is not conducted on the site, two hundred twenty-five dollars.

**SECTION 9. AMENDMENT.** Section 53-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-05. Local approval permit for educational organizations, college fraternities, and sororities for raffles, sports pools, and bingo.** An educational organization, college fraternity, or sorority shall apply in writing to the governing body of the city in which it is located, or to the board of county commissioners if the educational organization or the college is located outside the ~~geographical limits of a city~~ limits, for ~~permission a local permit~~ to conduct raffles, sports pools, or bingo at least thirty days ~~prior to~~ before each occasion. The application must state the time, place, and educational, charitable, patriotic, fraternal, religious, or other public-spirited uses to which the net proceeds will be devoted. An applicant fraternity or sorority shall include a signed acknowledgment by the administration of the college or university that the applicant is a recognized fraternity or sorority. The governing body ~~may~~ at its ~~own~~ discretion by ordinance or resolution, and upon application, ~~grant permission may issue a local permit~~ for raffles, sports pools, and bingo to be held at specifically designated times and places for specific uses covering a one-year period. The governing body ~~may~~ by ordinance or resolution may establish ~~authorization fees a local permit fee~~ not to exceed twenty-five dollars for each ~~authorization.~~ ~~If the governing body, at its own discretion, chooses to authorize raffles, sports pools, or bingo pursuant to this chapter, the governing body may do so by resolution~~ local permit.

**SECTION 10. AMENDMENT.** Section 53-06.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-05.1. Regulation by city or county of number of twenty-one tables per site and number of sites per eligible licensed organization.** Cities, for sites ~~or locations~~ within city limits, or counties, for sites ~~or locations~~ outside city limits, may establish by ordinance or resolution a maximum number of tables for twenty-one per site and a maximum number of sites upon which ~~an eligible a licensed~~ organization may conduct games of chance within the city or county.

**SECTION 11. AMENDMENT.** Section 53-06.1-06 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-06. Persons permitted to conduct games of chance - Premises Gaming site - Equipment - Compensation.**

1. No person, except a member or employee of an ~~eligible a~~ licensed organization or ~~an organization that has been issued a local permit or~~ a member of an organization auxiliary to ~~an eligible a licensed~~ organization or ~~an organization that has been issued a local permit~~, may assist in the holding, operating, or conducting of any game of chance under this chapter. In the conduct of pull tabs ~~through an electronic-mechanical dispensing device or video gaming device~~, the attorney general may allow employees of licensed alcoholic beverage establishments to provide limited assistance, ~~such as redeeming winning pull tabs or paper credit vouchers, to an authorized class B license holding eligible a licensed organization the adjusted gross proceeds of which do not exceed sixty thousand dollars per quarterly reporting period of operation or to any class A license holding eligible organization.~~ However, a volunteer of an eligible organization may sell raffle tickets.

2. Except when authorized by the attorney general, no games of chance may be conducted with any gaming equipment other than gaming equipment owned by an eligible organization or rented at a reasonable rate by an eligible organization from a licensed distributor.
3. The governing board of an eligible organization is primarily responsible and may be held accountable for the proper determination and distribution of the ~~entire~~ net proceeds of ~~any game~~ games of chance ~~held in accordance with this chapter.~~
4. The ~~premises~~ gaming site where any game of chance is being held, operated, or conducted, or where it is intended that the game will be held, must be open to inspection by the attorney general, ~~the attorney general's agents and employees, by representatives of the governing body authorizing games of chance, and by peace officers of any political subdivision~~ law enforcement officials of this state.
5. When any merchandise prize is awarded in a game of chance, its value is its current retail price.
6. Equipment, prizes, and supplies for games of chance may not be purchased or sold at prices in excess of the usual price thereof.
7. The A licensed organization must devote the entire net proceeds derived from the holding of conducting games of chance must be devoted within three months from the date end of the quarter in which such proceeds were earned to the eligible uses permitted by this chapter. ~~Any A licensed organization desiring to hold the net proceeds of games of chance for a period longer than three months from the date such proceeds were earned must shall apply to the licensing authority or governing body, as the case may be, attorney general for special permission, and upon good cause shown, the licensing authority or governing body attorney general may grant the request.~~
8. No person who has pled guilty to or been found guilty of a felony may sell or distribute equipment, or conduct or assist in games of chance under this chapter for five years from the date of the conviction or release from incarceration, parole, or probation, whichever is the latter. No person determined by the attorney general to have participated in organized crime or unlawful gambling, may be permitted to sell or distribute equipment, or conduct or assist in games of chance under this chapter for a period determined by the attorney general.
9. Any person involved with the conduct of games of chance must be:
  - a. A person of good character, honesty, and integrity.
  - b. A person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the

carrying on of the business and financial arrangements incidental to the conduct of gaming.

10. The attorney general or commission may prohibit a person from playing games of chance if the person violates ~~any provision of~~ this chapter or any rule adopted under this chapter.
11. The attorney general or commission may require a licensed organization to pay a bingo or raffle prize to a player based on a factual determination, after opportunity for the parties to be heard, by the attorney general or commission.
12. If bingo is the primary game of chance conducted at an authorized site, no licensed organization may pay bingo prizes in which the aggregate of the bingo prizes for a quarter exceeds the total bingo gross proceeds for the quarter at that site. However, a bingo prize that equals or exceeds ten thousand dollars is excluded from the computation of the aggregate of the bingo prizes.

**SECTION 12. AMENDMENT.** Section 53-06.1-07 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07. Games of chance allowed.**

1. Eligible Only eligible organizations licensed by the attorney general shall be permitted to may conduct bingo, raffles, calcuttas, charitable gaming tickets pull tabs, punchboards, twenty-one, paddlewheels, poker, and sports pools for professional sports only. These games may only be conducted and played at gaming sites authorized by a local governing body and approved by the attorney general.
2. ~~College fraternities or sororities may conduct raffles, sports pools, and bingo.~~
- 3- ~~Eligible organizations shall be permitted to conduct draw poker in accordance with section 53-06.1-07.2.~~
- 4- Eligible organizations licensed by the attorney general may conduct bingo, pull tabs, punchboards, twenty-one, poker, and paddlewheels through video gaming devices. In electronic video gaming device play of any game of chance permitted by this section, the maximum prize per play is five hundred dollars.
- 5- 3. Any The game using charitable gaming tickets of pull tabs may be conducted only through use of commingled games after June 30, 1991.

**SECTION 13. AMENDMENT.** Section 53-06.1-07.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.1. Limitations on hours and participation in games of chance.** A person under twenty-one years of age may not ~~participate in placing a wager in the directly or indirectly play~~ games of ~~charitable gaming tickets pull tabs, punchboards, twenty-one, calcuttas, sports pools, paddlewheels, or poker, or play video gaming devices.~~ A person under eighteen years of age ~~not accompanied by an adult~~ may not ~~participate in directly or indirectly play~~ the game of bingo unless the person is accompanied by an adult, the bingo game is locally authorized under section 53-06.1-03 conducted by an organization that

has been issued a local permit, or the game's prize structure does not exceed those that allowed under subsection 1 of section 53-06.1-03 for locally authorized games local permits. The games of charitable gaming tickets pull tabs, punchboards, twenty-one, paddlewheels, or sports pools, and video gaming devices, may be conducted only during the hours when alcoholic beverages may be dispensed in accordance with applicable regulations of the state or the political subdivision county or city.

**SECTION 14. AMENDMENT.** Section 53-06.1-07.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.2. Draw poker and stud poker - Limited authorization.** An eligible A licensed organization may conduct the game of draw poker on not more than ~~two~~ twelve occasions per year as follows:

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

**SECTION 15. AMENDMENT.** Section 53-06.1-07.3 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.3. Calcuttas.** An ~~eligible~~ A licensed organization may allow the playing of conduct a calcutta ~~on the authorized site.~~ Calcuttas are allowed for professional or amateur sporting events held in this state, but not for elementary, secondary, or postsecondary education sports events. The ~~eligible~~ organization shall post at the gaming site all rules affecting the conduct and play of calcuttas ~~or requirements of participants.~~ An ~~eligible~~ The organization may not have an interest in the outcome of the calcutta. A participant ~~who places~~ player must place a wager in the calcutta auction pool ~~must be~~ at the authorized site. No more than one wager per competitor may be allowed in any calcutta pool. The amounts paid to calcutta pool ~~participants~~ players in prizes may not exceed ninety percent of the gross proceeds. No competitor in a calcutta pool may be under eighteen years of age.

**SECTION 16. AMENDMENT.** Section 53-06.1-07.4 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.4. Paddlewheels.** An ~~eligible~~ A licensed organization may conduct the game of ~~paddlewheels on the authorized site.~~ The ~~eligible~~ organization shall post at the site all rules affecting the conduct of paddlewheels and requirements of players. A paddlewheel is a mechanical vertical wheel marked off into equally spaced sections that contain numbers or symbols, and which after being spun, uses a pointer or marker to indicate the winning number or symbol. The maximum price per paddlewheel ticket may not exceed two dollars. No money may be allowed on the playing table. A table must be used to register a player's wagered paddlewheel ticket when a cash

prize is a variable multiple of the price of the paddlewheel ticket. No player may place ~~more than ten~~ paddlewheel tickets valued at more than twenty dollars on each spin of the paddlewheel. Cash, chips, or merchandise prizes may be awarded. No single cash prize, value of chips, or the current retail price of the merchandise prize to be 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 17. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming devices - Management and control - Limitation - Disclosure - Voiding of contracts. A licensed organization may place a video gaming device at an authorized site that is a retail licensed alcoholic beverage establishment that serves alcoholic beverages for consumption on the establishment or at an authorized site where bingo is the primary game of chance conducted. If a minor is permitted at the authorized site, a permanent wall of at least four feet [1.22 meters] in height must separate the area reserved for video gaming devices from the other areas of the premises. The wall may provide for only one entrance to the area where video gaming devices are located. The entrance to the area where video gaming devices are located must display a sign that the area is restricted to persons twenty-one years or older. The authorized site must be physically secure to prevent or detect unauthorized entry onto the site. The licensed organization shall control and manage the operation of a licensed video gaming device regardless if the organization leases the device or has entered into a service contract on the device. No organization may employ or contract with an independent contractor for controlling or managing the operation of a licensed video gaming device. The licensed organization shall acquire, maintain, and safeguard a telephone line for the authorized site for use by a central computer communications and management information system. No more than ten video gaming devices may be placed at the authorized site. However, if the game of bingo is the primary game of chance conducted at the site, no more than fifteen video gaming devices may be placed at the site. The odds of winning a certain prize of a game must be posted on or near each video gaming device. The commission by rule shall establish the manner in which the odds are calculated and posted. All specific provisions related to video gaming devices that are contained in written agreements or contracts executed before April 1, 1993, between retail licensed alcoholic beverage establishments and coin-operated amusement device operators licensed under section 53-04-02 are void. The attorney general may review and approve or disapprove any written contract or agreement relating to video gaming devices and associated equipment.

SECTION 18. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Requirements of a video gaming device. Each video gaming device licensed:

1. Must meet the manufacturing specification standards of the rules adopted by the commission.
2. Must be linked under a central computer communications and management information system to monitor performance and provide security, audit, management, accounting, and other information as required by the attorney general. No central computer communications and management information system approved by the attorney general may limit participation to only one manufacturer of video gaming devices by either the cost in implementing the necessary program modifications to communicate or the inability to communicate with the central

computer communications system. The central computer communications system must use dedicated lines and a dial-up network based on rules adopted by the commission.

3. May not allow more than eight credits in the value of two dollars to be played on a game or award credits in excess of the value of sixty-two dollars and fifty cents per credit value of twenty-five cents played. The maximum prize per play is five hundred dollars. The potential prize payback structure must be at least eighty percent and not more than ninety-six percent of the value of the credits played. Free games are prohibited.
4. Must, at the conclusion of play by a person, issue a paper credit voucher representing the value of any credits remaining on the device. The credit voucher must contain information based on rules adopted by the commission.
5. Must have resettable and nonresettable electronic meters housed in a readily accessible locked device area that keep an interim period and permanent record of all transactions to provide for a full accounting. The device must issue a paper audit report each time any door to the interior of the device is opened, electrical power to the device is interrupted, and when the device is keyed to audit mode.
6. Must retain an exact and legible duplicate copy of issued paper credit vouchers and audit reports.
7. Must automatically suspend itself from operation should the device detect any tampering or attempted tampering.
8. Must have the licensed organization's name and device's license prominently displayed thereon. Any device which does not display the license is contraband and subject to confiscation by any law enforcement officer. A violation of this subsection is a class C felony.

**SECTION 19.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Investigation of vendors - Competitive bidding required before entering into contract.

1. Before a contract for a central computer communications and management information system is awarded, the attorney general shall conduct a background investigation of the vendor, any parent or subsidiary corporation of the vendor, all shareholders of five percent or more interest in the vendor or parent or subsidiary corporation of the vendor, and all officers and directors of the vendor or parent or subsidiary corporation of the vendor to whom the contract is to be awarded. The attorney general may rely on background investigation information obtained by other states or Canadian provinces. The information must be held confidential except in the proper administration of this chapter or any rule adopted under this chapter, to an authorized law enforcement agency, or to a state or Canadian province.
2. When entering into a contract with a vendor of video gaming devices for the purpose of leasing, procuring, or otherwise obtaining a central computer communications and management information system, the attorney general shall use an open and competitive bid process that reflects the best interest

of the state. The attorney general shall consider all relevant factors including background investigation, security, competence, experience, timely performance, and state of the art technology.

**SECTION 20.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Analyzing, testing, evaluating, and approval of video gaming devices and source of payment. The attorney general shall analyze, test, and evaluate prototypes of video gaming devices and associated equipment of manufacturers seeking to have such devices approved. The attorney general shall require the manufacturer seeking the approval of a video gaming device to pay the anticipated actual costs of the analyzing, testing, and evaluation in advance and, after completion of the analyzing, testing, and evaluation, shall refund any overpayment or charge and collect an amount sufficient to reimburse the attorney general for any underpayment of actual costs. The attorney general may contract for the analyzing, testing, and evaluation of video gaming devices. The attorney general may require a manufacturer to provide the attorney general with an approved device model and specialized equipment for an indefinite period for regulatory and enforcement purposes free of any charge. The attorney general shall approve prototypes of video gaming devices. The attorney general may not allow any licensed organization to start operating video gaming devices unless at least three manufacturers of video gaming devices have been licensed and these manufacturers' video gaming devices have been approved by the attorney general.

**SECTION 21. AMENDMENT.** Section 53-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-08. Punchboards and ~~charitable gaming tickets pull tabs~~ - Sale of chances - Maximum price per ~~ticket~~ pull tab. Unless all of the highest denomination of winners top tier winning pull tabs or punchboard punches have been sold redeemed, or unless otherwise permitted by the attorney general, a no person or organization engaged in the selling of chances from conducting games of charitable gaming tickets pull tabs or punchboards under this chapter may not discard the chances from any close the game of charitable gaming ticket or punchboard once the contents of that game of charitable gaming ticket or punchboard are have been offered for sale to eligible participants players. The maximum sales price per charitable gaming ticket pull tab and punchboard punch may not exceed two dollars.

**SECTION 22. AMENDMENT.** Section 53-06.1-08.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-08.1. Limitation on ~~charitable gaming ticket~~ pull tab prizes. An eligible A licensed organization may not conduct a game of charitable gaming tickets pull tabs in which the highest denomination winner prize value of the top tier winning pull tab exceeds five hundred dollars.

**SECTION 23. AMENDMENT.** Section 53-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-09. Sports pools - Control by licensee - Rules posted - Limitation on prizes. An eligible A licensed organization or organization that has been issued a local permit may allow the playing of conduct sports pools on the premises or authorized site. Sports pools are allowed for professional sports only. If sports pools are allowed, they must be conducted and controlled by the eligible organization. The eligible licensed organization or organization that has been issued a local permit shall clearly post any rules affecting

the conduct of sports pools or requirements of ~~participants~~ players. The maximum wager on any sports pool is five dollars. The amounts paid to sports pool ~~participants~~ players in prizes may not exceed ninety percent of the gross proceeds.

**SECTION 24. AMENDMENT.** Section 53-06.1-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-10. Twenty-one - Sale of chips - Redemption - Wager - Limit - Rules of play - Tips.** ~~Any licensee~~ A licensed organization may conduct and shall control the playing of the card game twenty-one on the its authorized site ~~of the licensee, but at no other location.~~ No money may be allowed on the table. ~~The licensee~~ organization shall provide playing chips of various denominations to ~~the participants~~ players. Chips must be redeemed by the licensee for their full value. ~~The maximum limit per wager may be set by the licensee or eligible~~ 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. Twenty-one is a card game played by a maximum of seven players and one dealer. The dealer must be a representative of the ~~eligible~~ organization sponsoring the game of chance. Each player plays the player's hand against the dealer's hand. In order 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 case of a tie count with the dealer. Players may double down on a natural twenty-one. In the case of matching or tie count between the player and the dealer, no winner is declared and the player keeps the player's wager. A licensee may allow the pooling of tips received by dealers at an authorized site. Any requirement to pool tips is within the sole discretion of each licensee and may not be imposed or encouraged by the ~~licensing authority attorney general or commission.~~ Each licensee conducting twenty-one shall post rules relating to the conduct of the game in a conspicuous location near where the game is played.

**SECTION 25. AMENDMENT.** Section 53-06.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-10.1. Raffles - Limitation - Prizes.** Prizes for raffles may include any property which may be legally owned and possessed, but may not include real estate. Cash prizes may be awarded in raffles ~~conducted under this chapter~~ provided the value of no single cash prize exceeds one thousand dollars, and provided ~~further~~ that ~~no eligible organization may award total~~ cash prizes ~~totaling more than~~ do not exceed three thousand dollars in the ~~aggregate during any one~~ day.

**SECTION 26. AMENDMENT.** Section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-11. Statement of receipts - Expenses - Allocation of video gaming device adjusted gross proceeds.**

1. All moneys collected or received from games of chance and admissions thereto, except cash prizes of one hundred dollars or less paid immediately, must be deposited in a special account of the ~~eligible~~ licensed organization which contains only that money. Cash prizes of an amount to be determined by the attorney general, ~~the~~ and purchase prices of merchandise prizes, ~~and all expenses for such games of chance~~ must be withdrawn from such account by consecutively

numbered checks duly signed by a specified officer or officers of the eligible organization and payable to a specific person or organization. There must also be written on the check the nature of the expense or prize for which the check is drawn. No check may be drawn to "cash" or a fictitious payee. In the case of a cash prize of more than one hundred dollars, the prize may also be issued by an accountable receipt or nonnegotiable instrument approved by the attorney general.

2. No part of the net proceeds after they have been given over devoted to another organization an eligible use recipient may be used by the donee organization to pay any person for services rendered or materials purchased in connection with the conducting conduct of games of chance by the donor organization.
3. Subject Except for video gaming devices and subject to the limitations of this subsection, expenses incurred for games of chance may be deducted from adjusted gross proceeds, to the extent that total expenses for games of chance do not exceed fifty percent of the first two hundred thousand dollars of adjusted gross proceeds per quarter and forty-five percent of the adjusted gross proceeds in excess of two hundred thousand dollars per quarter. However, for an authorized site at which pull tabs is the only game of chance conducted and the conduct of pull tabs is through an electronic-mechanical dispensing device, expenses incurred for this game of chance may be deducted from adjusted gross proceeds, based on the average adjusted gross proceeds of all of an organization's authorized sites at which the game of pull tabs is conducted through electronic-mechanical dispensing devices, according to the following:
  - a. On average adjusted gross proceeds not exceeding eight thousand dollars per quarter, an expense limitation of fifty percent.
  - b. On average adjusted gross proceeds exceeding eight thousand dollars per quarter, but not exceeding twelve thousand dollars per quarter, an expense limitation of forty-five percent.
  - c. On average adjusted gross proceeds exceeding twelve thousand dollars per quarter, but not exceeding sixteen thousand dollars per quarter, an expense limitation of forty percent.
  - d. On average adjusted gross proceeds exceeding sixteen thousand dollars per quarter, an expense limitation of thirty-five percent.

~~After December 31, 1989, cash Cash shorts incurred in games of chance are classified as expenses toward the expense limitation. Notwithstanding the limitations of this subsection, in addition to the expenses allowed to be deducted from adjusted gross proceeds, an eligible organization may deduct as an expense federal excise taxes and interest imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401] and incurred or paid by the organization for the period beginning January 1, 1986, and ending as of July 1, 1991. The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for taxes. This subsection~~

does not authorize violations of the rent limitations contained in this chapter.

**SECTION 27.** Subsection 4 to section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

4. For video gaming devices, and subject to the limitations of this subsection and section 8 of this Act, the adjusted gross proceeds must be allocated as follows:
  - a. Twenty-five percent must be remitted to the attorney general as provided by subsection 2 of section 53-06.1-12.
  - b. Fifty-five percent must be allocated by the licensed organization as:
    - (1) Thirty percent for expenses.
    - (2) Twenty-five percent for net proceeds, which must be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter.

**SECTION 28.** Subsection 4 to section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

4. For video gaming devices, and subject to the limitations of this subsection and section 8 of this Act, the adjusted gross proceeds must be allocated as follows:
  - a. Twenty-seven and one-half percent must be remitted to the attorney general, as provided by subsection 2 of section 53-06.1-12.
  - b. Fifty-two and one-half percent must be allocated by the licensed organization as:
    - (1) Twenty-seven and one-half percent for expenses.
    - (2) Twenty-five percent for net proceeds, which must be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter.

**SECTION 29.** Subsection 4 to section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

4. For video gaming devices, and subject to the limitations of this subsection and section 8 of this Act, the adjusted gross proceeds must be allocated as follows:
  - a. Thirty percent must be remitted to the attorney general, as provided by subsection 2 of section 53-06.1-12.
  - b. Fifty percent must be allocated by the licensed organization as:
    - (1) Twenty-five percent for expenses.
    - (2) Twenty-five percent for net proceeds, which must be devoted to educational, charitable, patriotic,

fraternal, religious, or other public-spirited uses as defined by this chapter.

**SECTION 30. AMENDMENT.** Section 53-06.1-12 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-12. Tax based on adjusted gross proceeds. A**

1. Except for video gaming devices, a tax as provided in this section subsection upon the total adjusted gross proceeds received by a licensed eligible organization must be paid to the attorney general on a quarterly basis in the manner and upon the tax return forms as prescribed by the attorney general by rule. The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for expenses. The amount of this tax must be paid from adjusted gross proceeds and may not be charged against the percentage limitation of expenses. The tax is hereby imposed upon every eligible licensed organization, to be levied, collected, and paid quarterly with respect to the adjusted gross proceeds of the eligible organization as provided in this section, computed at the following rates:
  - 1- a. On adjusted gross proceeds not in excess of two hundred thousand dollars per quarter, a tax of five percent.
  - 2- b. On adjusted gross proceeds in excess of two hundred thousand dollars per quarter but not in excess of four hundred thousand dollars per quarter, a tax of ten percent.
  - 3- c. On adjusted gross proceeds in excess of four hundred thousand dollars per quarter but not in excess of six hundred thousand dollars per quarter, a tax of fifteen percent.
  - 4- d. On adjusted gross proceeds in excess of six hundred thousand dollars per quarter, a tax of twenty percent.
2. For video gaming devices, a tax computed at the rate under section 53-06.1-11 is imposed upon the adjusted gross proceeds received by a licensed organization and the tax must be paid to the attorney general on a monthly basis. This tax must be paid from adjusted gross proceeds and is not charged against the percentage limitation of expenses. The attorney general shall compute the state's tax amount based on the licensed organization's video gaming device activity recorded by the central computer communications and management information system. The attorney general shall send a report, containing at least the video gaming device's license number, total value of currency validated, total value of credit vouchers issued, adjusted gross proceeds, and the tax amount due the state to the licensed organization within seven days after the end of each month. The commission shall adopt rules by which the licensed organization shall pay the taxes due from a special, separate video gaming device tax account. The attorney general shall collect the tax from the licensed organization's tax account by electronic funds transfer within fifteen days after the end of each month. If the licensed organization's tax account has insufficient funds, the attorney general shall assess a penalty of five percent per month or fraction of a month on the unpaid balance until the tax is paid, up to a maximum of twenty-five

percent, plus assess interest at the rate of one and one-half percent per month on the unpaid balance until the tax is paid. The attorney general shall suspend the operation of the organization's video gaming devices and keep the devices inoperable until the organization has made full payment of tax, penalty, and interest. The organization shall file a gaming tax return in the manner and upon the forms prescribed by the attorney general.

**SECTION 31.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming device tax is in lieu of sales and use taxes. The adjusted gross proceeds of a video gaming device is subject to taxation under section 53-06.1-12. Except for income tax, the video gaming device tax is in lieu of all other state or local taxation, including sales and use taxes, that would otherwise be based on the gaming activity of the devices.

**SECTION 32. AMENDMENT.** Section 53-06.1-12.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12.2. ~~Charitable gaming tickets~~ Pull tabs excise tax in lieu of sales and use taxes. In addition to any other tax provided by law and in lieu of sales or use taxes, there is imposed a tax of two percent on the gross ~~receipts~~ proceeds from the sale at retail of ~~charitable gaming tickets~~ pull tabs to a final user. A Gross proceeds and a sale at retail for purposes of this section ~~includes charitable gaming tickets~~ include pull tabs sold and ~~charitable gaming tickets given pull tabs provided a player in return exchange for another charitable gaming ticket as authorized under this chapter.~~ Gross receipts for purposes of this section includes the face value of all charitable gaming tickets sold or given in return for another charitable gaming ticket redeemed winning pull tabs. The tax imposed by this section must be paid to the attorney general at the time tax returns are made filed and taxes are paid by the eligible licensed organization under section 53-06.1-12.

**SECTION 33. AMENDMENT.** Section 53-06.1-13 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-13. Examination of books and records. The attorney general and the attorney general's agents, and representatives of the governing body of a city or county with respect to ~~eligible organizations authorized a licensed organization or organization that has been issued a local permit~~ by that governing body, may examine or cause to be examined the books and records of any eligible licensed organization ~~licensed or authorized~~ organization that has been issued a local permit to conduct games of chance under this chapter to the extent that such books and records may directly or indirectly relate to any transaction connected with holding, operating, or conducting any game of chance.

**SECTION 34. AMENDMENT.** Section 53-06.1-13.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-13.1. Financial statements. ~~Every eligible~~ A licensed organization receiving gaming gross proceeds of two hundred thousand dollars or more in the organization's annual accounting period shall file with the attorney general on or before the fifteenth day of the fifth month following the end of the accounting period a financial statement, including accompanying notes and footnotes, and a copy of

the internal revenue service's form 990 titled return of organization exempt from income tax required to be filed under section 501(c) of the Internal Revenue Code. The financial statement must at least include a schedule of the sources of total revenue, total expenses, listing of the names of nongaming and gaming employees who received any form of compensation amounting to thirty thousand dollars or more during the accounting period, including specific sources of the compensation paid to each employee, and any information as required by the attorney general.

**SECTION 35. AMENDMENT.** Section 53-06.1-14 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. Every A manufacturer of charitable gaming tickets pull tabs, every manufacturer of paper bingo cards, manufacturer of electronic-mechanical pull tab dispensing devices, manufacturer's distributor of electronic-mechanical pull tab dispensing devices, and every distributor shall apply annually for a license upon a form prescribed by the attorney general before the first day of April in each year and shall submit the appropriate license fee. However, effective for the licensing period beginning April 1, 1994, every manufacturer of charitable gaming tickets, every manufacturer of paper bingo cards, and every distributor shall apply for a license for the three-month licensing period of April 1, 1994, through June 30, 1994, and then prospectively annually apply for a license before the first day of July in each year and submit the appropriate license fee. Every manufacturer of video gaming devices shall apply annually for a license upon a form prescribed by the attorney general before the first day of July of each year and shall submit the appropriate license fee. Each applicant shall provide such necessary and reasonable information as the attorney general may require. The license fee for a distributor which does not sell, market, or otherwise distribute video gaming devices or associated equipment, or service or maintain video gaming devices or associated equipment is one thousand five hundred dollars, and the except that for the licensing period April 1, 1994, through June 30, 1994, the license fee is three hundred seventy-five dollars. The license fee for a distributor which does sell, market, or otherwise distribute video gaming devices or associated equipment is five thousand dollars. The license fee for a manufacturer's distributor is five hundred dollars. The license fee for a manufacturer of electronic-mechanical pull tab dispensing devices, manufacturer of charitable gaming tickets pull tabs, paper bingo cards, or both a manufacturer of pull tabs and paper bingo cards, is two thousand dollars, except that for the licensing period April 1, 1994, through June 30, 1994, the license fee is five hundred dollars. The license fee for a manufacturer of video gaming devices is twenty-five thousand dollars.
2. No distributor may sell, market, or otherwise distribute raffle tickets or equipment for games of chance except to other licensed distributors, licensed manufacturers' distributors, licensed organizations, organizations that have been issued a local permit, gaming schools, or other persons authorized by the attorney general. However, no distributor of video gaming devices and associated equipment may sell, market, or otherwise distribute video gaming devices and

associated equipment, or service or maintain video gaming devices or associated equipment except to licensed organizations or other persons authorized by the attorney general. A manufacturer of charitable gaming tickets or pull tabs, paper bingo cards, or video gaming devices may not sell, market, or otherwise distribute charitable gaming tickets or pull tabs, paper bingo cards, or video gaming devices or associated equipment other than to a licensed distributor. A distributor of charitable gaming tickets pull tabs or paper bingo cards must purchase or otherwise receive charitable gaming tickets pull tabs or paper bingo cards only from a licensed manufacturer or licensed distributor. A distributor of video gaming devices and associated equipment shall purchase or otherwise receive video gaming devices and associated equipment only from a licensed manufacturer of video gaming devices. A manufacturer of electronic-mechanical pull tab dispensing devices may not sell, market, or otherwise distribute pull tab dispensing devices other than to a licensed distributor or a licensed manufacturer's distributor. A licensed distributor and licensed manufacturer's distributor of electronic-mechanical pull tab dispensing devices may purchase or otherwise receive pull tab dispensing devices only from a licensed manufacturer, licensed manufacturer's distributor, or licensed distributor.

3. Every eligible organization shall acquire all raffle tickets or equipment for games of chance from a distributor licensed under this chapter, unless the raffle tickets or equipment for games of chance are printed, manufactured, or constructed by the eligible organization or unless the raffle tickets are obtained from a resident printer who has printed the raffle tickets at the request of the organization. However, a licensed organization shall acquire video gaming devices and associated equipment, or service contracts on video gaming devices or associated equipment only from a distributor that is licensed to sell, market, or otherwise distribute video gaming devices or associated equipment or service video gaming devices or associated equipment. The licensed organization may acquire video gaming devices and associated equipment by a direct purchase or lease. No licensed organization may acquire video gaming devices by a lease with a purchase option. No licensed organization may finance a purchased video gaming device directly or indirectly through a licensed distributor or licensed manufacturer. No game of charitable gaming tickets pull tabs, punchboards, sports pool boards, calcutta boards, or a series of paddlewheel ticket cards may be sold without a North Dakota gaming stamp being affixed to them. North Dakota licensed distributors shall purchase the North Dakota gaming stamps from the attorney general's office and the cost for each stamp may not exceed twenty-five cents. No licensed organization may own, lease, or be in possession of a video gaming device unless the device is licensed by the attorney general.
4. No licensed or authorized eligible organization or organization that has been issued a local permit may be a distributor or have any financial interest in a distributor. No North Dakota wholesaler of liquor or alcoholic beverages may be a North Dakota distributor or have any financial interest in a distributor. No North Dakota licensed manufacturer may be a North Dakota distributor or have any financial interest in a North Dakota distributor. No North Dakota distributor may have any financial interest in a North Dakota licensed manufacturer. No retail licensed alcoholic

beverage establishment or owner, officer, or manager thereof may be a distributor or manufacturer or have any financial interest in a distributor or manufacturer.

5. The attorney general ~~or commission~~ may, ~~by motion~~ based on reasonable grounds or on written complaint, suspend or revoke a an organization's local permit or an organization's, distributor's, or manufacturer's license for violation, by the licensee organization, distributor, or manufacturer or any officer, director, agent, member, or employee of the licensee organization, distributor, or manufacturer, of this chapter or any rule adopted under this chapter.
  
6. In addition to the basic license fee, the attorney general may require payment of any additional fee necessary to defray the actual costs of a background investigation of applicants, including each partner of a partnership, and each director and officer and all stockholders owning five percent or more of the voting common stock of a corporation, parent, or subsidiary corporation of a video gaming device manufacturer and distributor. The attorney general may require payment of the estimated additional fee in advance as a condition precedent to beginning the investigation. The attorney general shall notify the applicant as soon as possible after a determination is made that the additional fee is necessary and shall also notify the applicant of the attorney general's best estimate of the amount of the additional license fee. Any applicant may then withdraw the application in lieu of paying the additional cost. The estimated cost must be placed into the attorney general's refund fund for use to defray the actual expenses of the background investigation. The remainder of such funds must be returned to the applicant within thirty days of the conclusion of the investigation.

**SECTION 36.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming devices - licensure. Every licensed organization that owns, leases, or is in possession of a video gaming device shall apply annually for a license for each video gaming device upon a form prescribed by the attorney general before the first day of July in each year and shall submit the license fee. The license fee for each video gaming device is one hundred dollars.

**SECTION 37. AMENDMENT.** Section 53-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-15. Form and display of license and local permit.** ~~Each license or authorization required under this chapter and local permit must contain a statement of the name and address of the licensee or authorized eligible licensed organization or organization that has been issued a local permit and such other information as the licensing attorney general or authorizing authority local governing body may designate require.~~

~~Each license or resolution issued for the conduct of any game or games of chance and local permit must be conspicuously displayed at the place where the same is to be conducted at all times during gaming site when any game of chance is conducted and for at least thirty minutes thereafter. The sale of a raffle ticket does not require the display of the license or authorizing resolution local permit.~~

**SECTION 38. AMENDMENT.** Section 53-06.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-15.1. Powers and duties of the attorney general.** The attorney general ~~or the agents of the attorney general~~ may:

1. Inspect and examine all premises in which gaming is conducted or gaming devices or equipment are manufactured, sold, or distributed.
2. Inspect all equipment and supplies in, upon, or about such premises.
3. Seize and remove from such premises and impound any gaming related equipment, supplies, games of chance, or books and records for the purpose of examination and inspection. When books or records are seized, the attorney general shall provide copies of those records or books within twenty-four hours of a specific request by the organization or retail licensed alcoholic beverage establishment for a copy of the books or records seized.
4. Demand access to and inspect, examine, photocopy, and audit all books and records of applicants, licensees, lessors, manufacturers, and distributors, including any affiliated companies on their premises and in the presence of the applicants, licensees, lessors, manufacturers, distributors, or agents concerning any income or expense resulting from any gaming business, and require verification of income or expense, and all other matters affecting the enforcement of the policy and provisions of this chapter.
5. Audit and inspect any other books and records of eligible organizations conducting games of chance for the purpose of determining compliance with applicable statutes, rules, and constitutional provisions regarding distribution devotion of net proceeds from games of chance.
6. Enter into a reciprocal agreement with the commissioner of the internal revenue service of the United States for exchange of information for state tax administration purposes.
7. Enter into a written agreement with a state or Canadian province to obtain central computer communications and management information system services to aid the attorney general in efficiently managing and controlling video gaming devices in this state and to reduce the financial resources required of this state.

**SECTION 39. AMENDMENT.** Section 53-06.1-15.4 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-15.4. Conditional license - Issuance.** The attorney general, upon application and at the attorney general's discretion, may issue a conditional license to conduct games of chance to an eligible organization whose regularly issued license has been suspended or revoked for a violation of this chapter or rules adopted under this chapter. The attorney general shall designate the time period for which the conditional license is valid and may impose any conditions for issuance of the license as the attorney general determines necessary. Section 53-06.1-16.2 does not apply to an eligible organization to whom a conditional license is issued pursuant to this section.

**SECTION 40. AMENDMENT.** Section 53-06.1-16 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-15. Violation of chapter or rule - Misdemeanor - Forfeiture of licensure - Ineligibility.** Any person who knowingly makes a false statement in any application for a local permit, license, or authorizing resolution or in any statement annexed thereto, or who fails to keep sufficient books and records to substantiate the receipts, gross proceeds, prizes, expenses, or uses devotion of net proceeds resulting from games of chance conducted under this chapter, or who falsifies any books or records so far as they relate to any transaction connected with the holding, operating, and conducting of any game of chance, or who violates ~~any of the provisions of this chapter~~, any rule adopted under this chapter, or of any term of a local permit or license is guilty of a class A misdemeanor. If convicted, the person forfeits any license or ~~authorizing resolution local permit~~ issued to it pursuant to this chapter and is ineligible to reapply for a license or ~~authorization local permit~~ for a period of time ~~to be determined by the attorney general or commission~~. 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.

**SECTION 41. AMENDMENT.** Section 53-06.1-16.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-16.1. Bogus chips, marked cards, cheating devices, or fraudulent schemes unlawful - Penalty.** It is unlawful for any person playing or conducting any authorized game of chance conducted by a licensed organization:

1. To use bogus or counterfeit chips, currency, credit vouchers, or charitable gaming tickets pull tabs, or to substitute or use any game, cards, ~~or charitable gaming tickets~~ credit vouchers, pull tabs, or game piece that have been marked or tampered with.
2. To employ or have on one's person any cheating device to facilitate cheating in any game of chance.
3. To willfully use any fraudulent scheme or technique, including when an operator or player of games of ~~charitable gaming tickets pull tabs~~ directly or indirectly solicits, provides, or receives inside information of the status of a game for the benefit of either person.
4. To alter or counterfeit a site authorization, gaming license, or North Dakota gaming stamp.
5. To knowingly cause, aid, abet, or conspire with another person or to cause any person to violate ~~any provision of this chapter or any rule adopted under this chapter~~.
6. To knowingly permit a person under the age of twenty-one years to make a wager on a video gaming device.
7. To tamper or attempt to tamper with a video gaming device with the intent to interfere with the proper operation of the device, attempt or conspire to manipulate the outcome or the determination of credits or operation of a device, cause

physical damage to the device, or physically tamper with the device by any other means.

8. To vandalize, misuse, abuse, or damage a video gaming device.

A person violating this section is guilty of a class A misdemeanor unless the amount gained through the use of these items, schemes, or techniques resulted in a person obtaining over five hundred dollars, then the offense is a class C felony. However, if a person uses a fraudulent scheme regarding soliciting, providing, or receiving inside information involving the game of pull tabs or uses a fraudulent scheme or technique to cheat or skim involving the games of twenty-one or bingo or if a person is involved in any unlawful activity referenced by this section involving a video gaming device, regardless of the amount gained, then the offense is a class C felony.

**SECTION 42. AMENDMENT.** Section 53-06.1-16.2 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-16.2. License suspension or revocation by attorney general or commission - Ineligibility for local authorization permit.** ~~Any person whose class A or class B A licensed organization that has its license is~~ suspended or revoked by the attorney general or commission or a licensed organization that has not devoted its net proceeds is ineligible for a local authorization permit to conduct raffles, sports pools, or bingo during the period of suspension or revocation.

**SECTION 43. AMENDMENT.** Section 53-06.1-17 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-17. Rules.** The commission shall adopt rules in accordance with chapter 28-32, relating to, but not limited to, methods of play, conduct, and promotion of games of chance; methods, procedures, and minimum standards for accounting and recordkeeping; requiring reports by ~~licensees and authorized~~ licensed organizations, distributors, and manufacturers; methods of competition and doing business by ~~distributors, manufacturers, and manufacturers'~~ distributors; marking or identification of raffle tickets, ~~charitable gaming tickets~~ pull tabs, bingo equipment, ~~ticket~~ pull tab receptacles, punchboards, video gaming devices and associated equipment, or any other implements of gambling used or distributed in this state to implement or effectuate the provisions and purpose of this chapter; quality standards for the manufacture of ~~charitable gaming tickets~~ pull tabs, pull tab dispensing devices, and paper bingo cards; hardware and software specifications of video gaming devices and associated equipment; maintenance and repair of video gaming devices; analyzing, testing, evaluation, and approval of video gaming devices and associated equipment; licensing of organizations, distributors, manufacturers, and video gaming devices; to ensure that the entire net proceeds of games of chance are devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter; to protect and promote the public interest; to ensure fair and honest games of chance; to ensure that fees and taxes are paid; to impose monetary fines and establish appeal procedures; and to seek to prevent or detect unlawful gambling activity.

**SECTION 44. AMENDMENT.** Subsection 5 of section 53-06.2-11 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting parimutuel racing

under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under subsection 7 8 of section 53-06.1-01.

**SECTION 45. AMENDMENT.** Subsection 1 of section 57-36-25 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. There is hereby levied and assessed upon all cigars, snuff, and other tobacco products sold in this state an excise tax at the rate of ~~twenty-two~~ twenty-nine and one-half percent of the wholesale purchase price at which such cigars, snuff, and other tobacco products are purchased by distributors. For the purposes of this section, the term "wholesale purchase price" shall mean the established price for which a manufacturer sells cigars, snuff, or other tobacco products to a distributor exclusive of any discount or other reduction. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the distributor on a calendar quarterly basis on or before the tenth day of the month following the quarterly period for which paid. The tax commissioner shall, however, have authority to prescribe monthly returns upon the request of the licensee distributor and such returns accompanied with remittance shall be filed before the tenth day of the month following the month for which the returns are filed.

**SECTION 46. AMENDMENT.** Subsection 1 of section 57-36-26 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. There is hereby levied and assessed upon all cigars, snuff, and other tobacco products, purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate of ~~twenty-two~~ twenty-nine and one-half percent of the wholesale purchase price at the time the products were brought into this state. For the purposes of this section, the term "wholesale purchase price" means the established price for which a manufacturer sells cigars, snuff, or other tobacco products to a distributor exclusive of any discount or other reduction. However, the dealer may elect to report and remit the tax on the cost price of the products to the dealer rather than on the wholesale purchase price. The proceeds of the tax, together with the forms of return and in accordance with any rules and regulations the tax commissioner may prescribe, must be remitted to the tax commissioner by the dealer on a monthly basis on or before the fifteenth day of the month following the monthly period for which it is paid. The tax commissioner shall have the authority to place any dealer on an annual remittance basis when in the judgment of the tax commissioner the operations of the dealer merit that remittance period. In addition, the tax commissioner shall have the authority to permit the consolidation of the filing of a dealer's return when the dealer has more than one location and thereby would be required to file more than one return.

**SECTION 47. AMENDMENT.** Subsection 1 of section 57-36-28 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed upon the use or storage by consumers of cigars, snuff, and other tobacco products in this state, and upon those consumers, at the rate of ~~twenty-two~~ twenty-nine and one-half percent of the cost to the consumer of those products.

SECTION 48. AMENDMENT. Section 57-36-32 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-36-32. **Separate and additional tax on the sale of cigarettes - Collection - Allocation of revenue - Tax avoidance prohibited.** There is hereby levied and assessed and there shall be collected by the state tax commissioner and paid to the state treasurer, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of ~~nine and one-half~~ fifteen mills on each cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying the tax thereon to the state tax commissioner. All of the moneys collected by the state treasurer under this section shall be credited to the state general fund.

SECTION 49. A new chapter to title 57 of the North Dakota Century Code is created and enacted as follows:

Definitions. As used in this chapter:

1. "Commissioner" means the state tax commissioner.
2. "Facility" means intermediate care facility for the mentally retarded.
3. "Intermediate care facility for the mentally retarded" has the meaning given that term in 42 U.S.C. 1396d(d) and also means a facility that furnishes similar services, in a community-based group home for the mentally retarded, under a waiver under section 1915(c) of the Social Security Act [42 U.S.C. 1396n(c)].
4. "Net operating revenue" means gross charges, reduced by bad debts, charity care, and payer discounts, for rendering health-related or habilitation-related services to a patient or resident, whether provided on an inpatient or outpatient basis, including routine services such as room, board, general nursing, and home health services; other nursing services; professional services such as physician's care, laboratory, pharmacy, and renal dialysis; and maintenance or rental fees; but not including:
  - a. Other operating revenue from:
    - (1) Services, other than health care services or habilitation care services, provided to patients or residents;
    - (2) Sales or services to persons who are neither patients nor residents;
    - (3) Gifts, grants, or endowments restricted to charity care;
    - (4) Gifts and grants for research programs;

- (5) Rental of facility space;
  - (6) Educational program; or
  - (7) Medical transcription fees; and
- b. Gains and losses resulting from peripheral or incidental transactions such as:
- (1) Contributions and endowments not restricted to charity care;
  - (2) Tax support or subsidy;
  - (3) Returns on investment; and
  - (4) Sale of all or part of a facility.

Imposition of tax - Basis of tax. A tax is hereby imposed on every facility operating within this state. Each facility shall pay a tax computed at the rate of six percent of the net operating revenue generated by the facility during each calendar month.

Reports - Extension.

1. On or before the last day of the next succeeding month, each facility required to pay a tax under this chapter must make out a return for the preceding month in the form and manner prescribed by the commissioner, showing the net operating revenues, the amount of the tax for the period covered by the return, and such further information the commissioner may require to enable the commissioner to correctly compute the tax levied by this chapter.
2. The commissioner may, upon request by any facility and a proper showing of the necessity therefor, grant to the facility an extension of time not exceeding thirty days for making a return. If an extension is granted to any facility, the time the facility is required to make payment of the tax liability must be extended for the same period, but interest must be charged upon the amount of the deferred payment at the rate of twelve percent per annum from the date the tax would have been due if the extension had not been granted to the date the tax is paid.
3. Returns must be signed by a duly authorized agent of the facility and must contain a written declaration that they are made and subscribed under the penalties of this chapter.

Payment of tax. The tax levied and assessed under this chapter must be paid on a monthly basis and is due and payable on the last day of the next succeeding month, except tax paid with respect to May in each odd-numbered year is due and payable on or before the twenty-second day of June of that year.

Penalties - Offenses.

1. If any facility fails to file a return or corrected return or to pay the tax within the time required by this chapter or, if upon audit, is found to owe additional tax, the facility is subject to a penalty of five percent of the amount of tax due, plus interest of one percent of the tax for each month of delay or fraction thereof, excepting the first month after the tax became due. The commissioner may, if satisfied that

the delay was excusable, waive and, if paid, refund all or any part of the penalty and interest. The penalty and interest must be paid to the commissioner and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be enforced in the same manner as the tax imposed under this chapter.

2. Any person failing to comply with the provisions of this chapter or failing to remit the tax provided by this chapter to the commissioner on a timely basis is guilty of a class A misdemeanor.

Records required. A facility required to pay the tax under this chapter must preserve the records of net operating revenues as the commissioner may require, and the facility must preserve all such records for a period of three years and one month. All such records must be open to examination at any time by the commissioner or any of the commissioner's duly authorized agents.

Corporate officer liability. If a corporation that owns or operates a facility fails for any reason to file the required returns or to pay the tax due, any of its officers having control, or supervision of, or charged with the responsibility for making such returns and payments is personally liable for such failure. The dissolution of a corporation does not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The sum due for a liability may be assessed and collected pursuant to the provisions of this chapter for the assessment and collection of other liabilities.

Commissioner to administer chapter. The commissioner shall administer this chapter and the tax imposed thereby. The commissioner may prescribe all rules, policies, and practices, consistent with the provisions of this chapter, necessary and advisable for its detailed administration and to effectuate its purposes. The provisions of chapter 57-39.2, pertaining to the administration of the retail sales tax, including provisions for refund and credit, not in conflict with the provisions of this chapter, govern the administration of the tax levied by this chapter.

#### Lien of tax - Collection - Action authorized.

1. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the same, the amount, including any interest, penalty, or addition to the tax, together with the costs that may accrue in addition thereto, is a lien in favor of the state of North Dakota upon all property and rights to property belonging to the taxpayer. In the case of property where a deceased taxpayer held an interest with right of survivorship at the time of the taxpayer's death, the lien continues as a lien against the property in the hands of the survivor or survivors to the extent of the deceased taxpayer's interest therein. The deceased taxpayer's interest must be determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein.
2. The lien attaches at the time the tax becomes due and payable and continues until the liability for the amount is satisfied. For the purposes of this subsection, the words "due" and "due and payable" mean the first instant the tax becomes due.
3. In order to preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without

notice of the lien, on any property situated in a county, the commissioner shall file with the register of deeds of the county in which the property is located a notice of said lien.

4. The register of deeds of each county shall prepare and keep a book known as "Index of Tax Liens", so ruled as to show in appropriate columns all of the following data, under the names of taxpayers, arranged alphabetically:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The time notice of lien was received.
  - d. The date of notice.
  - e. The amount of lien when due.
  - f. When the lien is satisfied.

The register of deeds shall endorse on each notice of lien the day, hour, and minute when received and preserve the notice and immediately index it in the index book. The lien is effective from the time of the indexing.

5. The commissioner is exempt from the payment of the filing fees as otherwise provided by law for the filing of the lien or for its satisfaction.
6. Upon the payment of a tax as to which the commissioner has filed notice with the register of deeds, the commissioner shall file with the register of deeds a satisfaction of the tax, and the register of deeds shall enter the satisfaction on the notice on file and so indicate in the index of tax liens.
7. The attorney general, upon the request of the commissioner, shall bring an action without bond, to enforce payment of any taxes and any penalties, or to foreclose the lien therefor in the manner provided for mortgages on real or personal property. The state's attorney of the county in which the action is pending shall assist the attorney general.
8. The remedies of the state are cumulative. An action taken by the commissioner or attorney general may not be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other remedy provided by law.

Taxes deposited in general fund. Moneys collected by the commissioner under this chapter must be deposited in the general fund.

**SECTION 50. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the office of attorney general for the purpose of the administration, enforcement, and regulation of video gaming devices as a game of chance for the biennium beginning July 1, 1993, and ending June 30, 1995.

Salaries and wages	\$ 300,000
Information services	300,000
Operating	400,000

Equipment	<u>1,000,000</u>
Total general fund appropriation	\$2,000,000

In addition, five full-time equivalent positions are authorized to the office of attorney general.

**SECTION 51. EFFECTIVE DATE.** Section 27 of this Act is effective for taxable events occurring after May 14, 1993, and before July 1, 1994, and is thereafter ineffective. Section 28 of this Act is effective for taxable events occurring after June 30, 1994, and before July 1, 1995, and is thereafter ineffective. Section 29 of this Act is effective for taxable events occurring after June 30, 1995. Section 49 of this Act is effective for all taxable events occurring on or after August 1, 1993.

**SECTION 52. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

The reports of the majority and the minority were placed on the Sixth order of business on the calendar for the succeeding legislative day.

The HOUSE RECONVENED pursuant to recess taken, with Speaker R. Berg presiding.

#### REQUEST

REP. MARTINSON REQUESTED that the Chief Clerk call the roll, which request was granted.

The roll was called and all members were present.

#### SIXTH ORDER OF BUSINESS

SB 2539, as engrossed: REP. TIMM MOVED that the amendments of the Majority Report be adopted and then be placed on the Fourteenth order with DO PASS.

#### ANNOUNCEMENT BY THE SPEAKER

SPEAKER R. BERG ANNOUNCED that a roll call vote on the motion to adopt the proposed amendments of the Majority Report to Engrossed SB 2539 would be taken. The roll was called and there were 65 YEAS, 33 NAYS, 0 ABSENT AND NOT VOTING.

The Majority Report amendments to Engrossed SB 2539 were adopted.

Engrossed SB 2539, as amended, was placed on the Fourteenth order.

#### RULING BY THE SPEAKER

SPEAKER R. BERG RULED that in accordance with House Rule 602, Section 5, if the Majority Report proposed amendments to Engrossed SB 2539 are adopted, the proposed amendments of the Minority Report will not be voted upon; however, if the Majority Report proposed amendments are defeated, the Minority Report proposed amendments will be voted upon.

#### REQUEST

REP. RING REQUESTED that the House divide Engrossed SB 2539, which request was granted.

#### DIVISION A

**SECTION 45. AMENDMENT.** Subsection 1 of section 57-36-25 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. There is hereby levied and assessed upon all cigars, snuff, and other tobacco products sold in this state an excise tax at the rate of ~~twenty-two~~ twenty-nine and one-half percent of the wholesale purchase price at which such cigars, snuff, and other tobacco products are purchased by distributors. For the purposes of this section, the term "wholesale purchase price" shall mean the established price for which a manufacturer sells cigars, snuff, or other tobacco products to a distributor exclusive of any discount or other reduction. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the distributor on a calendar quarterly basis on or before the tenth day of the month following the quarterly period for which paid. The tax commissioner shall, however, have authority to prescribe monthly returns upon the request of the licensee distributor and such returns accompanied with remittance shall be filed before the tenth day of the month following the month for which the returns are filed.

**SECTION 46. AMENDMENT.** Subsection 1 of section 57-36-26 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. There is hereby levied and assessed upon all cigars, snuff, and other tobacco products, purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate of ~~twenty-two~~ twenty-nine and one-half percent of the wholesale purchase price at the time the products were brought into this state. For the purposes of this section, the term "wholesale purchase price" means the established price for which a manufacturer sells cigars, snuff, or other tobacco products to a distributor exclusive of any discount or other reduction. However, the dealer may elect to report and remit the tax on the cost price of the products to the dealer rather than on the wholesale purchase price. The proceeds of the tax, together with the forms of return and in accordance with any rules and regulations the tax commissioner may prescribe, must be remitted to the tax commissioner by the dealer on a monthly basis on or before the fifteenth day of the month following the monthly period for which it is paid. The tax commissioner shall have the authority to place any dealer on an annual remittance basis when in the judgment of the tax commissioner the operations of the dealer merit that remittance period. In addition, the tax commissioner shall have the authority to permit the consolidation of the filing of a dealer's return when the dealer has more than one location and thereby would be required to file more than one return.

**SECTION 47. AMENDMENT.** Subsection 1 of section 57-36-28 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed upon the use or storage by consumers of cigars, snuff, and other tobacco products in this state, and upon those consumers, at the rate of ~~twenty-two~~ twenty-nine and one-half percent of the cost to the consumer of those products.

**SECTION 48. AMENDMENT.** Section 57-36-32 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-36-32. Separate and additional tax on the sale of cigarettes - Collection - Allocation of revenue - Tax avoidance prohibited.** There is hereby levied and assessed and there shall be collected by the state tax commissioner and paid to the state treasurer, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of ~~nine~~ twelve and one-half mills on each cigarette, to be collected as

existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying the tax thereon to the state tax commissioner. All of the moneys collected by the state treasurer under this section shall be credited to the state general fund.

**SECTION 52. EMERGENCY.** This Act is declared to be an emergency measure.

#### REQUEST

REP. NELSON REQUESTED a recorded roll call vote on Division A of the Majority Report amendments to Engrossed SB 2539, which request was granted.

#### ROLL CALL

The question being on the adoption of Division A of the Majority Report amendments to Engrossed SB 2539, the roll was called and there were 75 YEAS, 23 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Austin; Bateman; Belter; Berg, J.; Bernstein; Boehm; Brodshaug; Brown; Byerly; Carlisle; Carlson, A.; Carlson, C.; Christopherson; Clayburgh; Cleary; Dalrymple; DeWitz; Drovdal; Freier; Froseth; Gates; Gertholz; Goffe; Gorder; Gorman; Grosz; Hagle; Hausauer; Henegar; Holm; Howard; Jacobs; Johnson; Keiser; Kelsch; Kempenich; Klein; Kretschmar; Kunkel; Maragos; Martin; Martinson; Monson; Mutzenberger; Nelson; Ness; Nicholas; Oban; Olsen, D.; Olson, A.; Payne; Poolman; Porter; Price; Pyle; Rennerfeldt; Ring; Rydell; Schindler; Shide; Skarphol; Soukup; St. Aubyn; Stenehjem; Svedjan; Sveen; Thorpe; Timm; Tollefson; Torgerson; Wald; Wanzenk; Wardner; Wentz; Speaker R. Berg

**NAYS:** Aarsvold; Allmaras; Bodine; Boucher; Coats; Dobrinski; Dorso; Glasheim; Grumbo; Gulleson; Hanson; Hokana; Huether; Kaldor; Kerzman; Kilichowski; Kroeber; Laughlin; Mahoney; Nichols; Sitz; Stenson; Wilkie

Division A of Engrossed SB 2539 passed.

#### DIVISION B

**SECTION 49.** A new chapter to title 57 of the North Dakota Century Code is created and enacted as follows:

##### Definitions. As used in this chapter:

1. "Commissioner" means the state tax commissioner.
2. "Facility" means intermediate care facility for the mentally retarded.
3. "Intermediate care facility for the mentally retarded" has the meaning given that term in 42 U.S.C. 1396d(d) and also means a facility that furnishes similar services, in a community-based group home for the mentally retarded, under a waiver under section 1915(c) of the Social Security Act [42 U.S.C. 1396n(c)].
4. "Net operating revenue" means gross charges, reduced by bad debts, charity care, and payer discounts, for rendering health-related or habilitation-related services to a patient or resident, whether provided on an inpatient or outpatient basis, including routine services such as room, board, general nursing, and home health services; other nursing services; professional services such as physician's care, laboratory, pharmacy, and renal dialysis; and maintenance or rental fees; but not including:
  - a. Other operating revenue from:

- (1) Services, other than health care services or habilitation care services, provided to patients or residents;
  - (2) Sales or services to persons who are neither patients nor residents;
  - (3) Gifts, grants, or endowments restricted to charity care;
  - (4) Gifts and grants for research programs;
  - (5) Rental of facility space;
  - (6) Educational program; or
  - (7) Medical transcription fees; and
- b. Gains and losses resulting from peripheral or incidental transactions such as:
- (1) Contributions and endowments not restricted to charity care;
  - (2) Tax support or subsidy;
  - (3) Returns on investment; and
  - (4) Sale of all or part of a facility.

Imposition of tax - Basis of tax. A tax is hereby imposed on every facility operating within this state. Each facility shall pay a tax computed at the rate of six percent of the net operating revenue generated by the facility during each calendar month.

Reports - Extension.

1. On or before the last day of the next succeeding month, each facility required to pay a tax under this chapter must make out a return for the preceding month in the form and manner prescribed by the commissioner, showing the net operating revenues, the amount of the tax for the period covered by the return, and such further information the commissioner may require to enable the commissioner to correctly compute the tax levied by this chapter.
2. The commissioner may, upon request by any facility and a proper showing of the necessity therefor, grant to the facility an extension of time not exceeding thirty days for making a return. If an extension is granted to any facility, the time the facility is required to make payment of the tax liability must be extended for the same period, but interest must be charged upon the amount of the deferred payment at the rate of twelve percent per annum from the date the tax would have been due if the extension had not been granted to the date the tax is paid.
3. Returns must be signed by a duly authorized agent of the facility and must contain a written declaration that they are made and subscribed under the penalties of this chapter.

Payment of tax. The tax levied and assessed under this chapter must be paid on a monthly basis and is due and payable on the last day of the next succeeding month, except tax paid with respect to May in each odd-numbered year is due and payable on or before the twenty-second day of June of that year.

Penalties - Offenses.

1. If any facility fails to file a return or corrected return or to pay the tax within the time required by this chapter or, if upon audit, is found to owe additional tax, the facility is subject to a penalty of five percent of the amount of tax due, plus interest of one percent of the tax for each month of delay or fraction thereof, excepting the first month after the tax became due. The commissioner may, if satisfied that the delay was excusable, waive and, if paid, refund all or any part of the penalty and interest. The penalty and interest must be paid to the commissioner and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be enforced in the same manner as the tax imposed under this chapter.
2. Any person failing to comply with the provisions of this chapter or failing to remit the tax provided by this chapter to the commissioner on a timely basis is guilty of a class A misdemeanor.

Records required. A facility required to pay the tax under this chapter must preserve the records of net operating revenues as the commissioner may require, and the facility must preserve all such records for a period of three years and one month. All such records must be open to examination at any time by the commissioner or any of the commissioner's duly authorized agents.

Corporate officer liability. If a corporation that owns or operates a facility fails for any reason to file the required returns or to pay the tax due, any of its officers having control, or supervision of, or charged with the responsibility for making such returns and payments is personally liable for such failure. The dissolution of a corporation does not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The sum due for a liability may be assessed and collected pursuant to the provisions of this chapter for the assessment and collection of other liabilities.

Commissioner to administer chapter. The commissioner shall administer this chapter and the tax imposed thereby. The commissioner may prescribe all rules, policies, and practices, consistent with the provisions of this chapter, necessary and advisable for its detailed administration and to effectuate its purposes. The provisions of chapter 57-39.2, pertaining to the administration of the retail sales tax, including provisions for refund and credit, not in conflict with the provisions of this chapter, govern the administration of the tax levied by this chapter.

#### Lien of tax - Collection - Action authorized.

1. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the same, the amount, including any interest, penalty, or addition to the tax, together with the costs that may accrue in addition thereto, is a lien in favor of the state of North Dakota upon all property and rights to property belonging to the taxpayer. In the case of property where a deceased taxpayer held an interest with right of survivorship at the time of the taxpayer's death, the lien continues as a lien against the property in the hands of the survivor or survivors to the extent of the deceased taxpayer's interest therein. The deceased taxpayer's interest must be determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein.
2. The lien attaches at the time the tax becomes due and payable and continues until the liability for the amount is satisfied. For the purposes of this subsection, the words "due" and "due and payable" mean the first instant the tax becomes due.

3. In order to preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the commissioner shall file with the register of deeds of the county in which the property is located a notice of said lien.
4. The register of deeds of each county shall prepare and keep a book known as "Index of Tax Liens", so ruled as to show in appropriate columns all of the following data, under the names of taxpayers, arranged alphabetically:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The time notice of lien was received.
  - d. The date of notice.
  - e. The amount of lien when due.
  - f. When the lien is satisfied.

The register of deeds shall endorse on each notice of lien the day, hour, and minute when received and preserve the notice and immediately index it in the index book. The lien is effective from the time of the indexing.

5. The commissioner is exempt from the payment of the filing fees as otherwise provided by law for the filing of the lien or for its satisfaction.
6. Upon the payment of a tax as to which the commissioner has filed notice with the register of deeds, the commissioner shall file with the register of deeds a satisfaction of the tax, and the register of deeds shall enter the satisfaction on the notice on file and so indicate in the index of tax liens.
7. The attorney general, upon the request of the commissioner, shall bring an action without bond, to enforce payment of any taxes and any penalties, or to foreclose the lien therefor in the manner provided for mortgages on real or personal property. The state's attorney of the county in which the action is pending shall assist the attorney general.
8. The remedies of the state are cumulative. An action taken by the commissioner or attorney general may not be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other remedy provided by law.

Taxes deposited in general fund. Moneys collected by the commissioner under this chapter must be deposited in the general fund.

#### REQUEST

REP. NELSON REQUESTED a recorded roll call vote on Division B of the Majority Report amendments to Engrossed SB 2539, which request was granted.

#### ROLL CALL

The question then was on the adoption of Division B to Engrossed SB 2539, the roll was called and there were 65 YEAS, 33 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Austin; Bateman; Belter; Bernstein; Boehm; Brown; Byerly; Carlisle; Carlson, A.; Carlson, C.; Christopherson; Clayburgh; Dalrymple; DeWitz; Dorso; Drowdal; Freier; Froseth; Gates; Gerntholz; Gorder; Gorman;

Grosz; Hagle; Hausauer; Henegar; Holm; Howard; Jacobs; Johnson; Keiser; Kelsch; Kempenich; Klein; Kretschmar; Kunkel; Maragos; Martin; Martinson; Monson; Nicholas; Olsen, D.; Olson, A.; Payne; Poolman; Porter; Price; Rennerfeldt; Rydell; Schindler; Shide; Skarphol; Soukup; St. Aubyn; Stenehjem; Svedjan; Sveen; Timm; Tollefson; Torgerson; Wald; Wanzek; Wardner; Wentz; Speaker R. Berg

NAYS: Aarsvold; Allmaras; Berg, J.; Bodine; Boucher; Brodshaug; Cleary; Coats; Dobrinski; Glassheim; Goffe; Grumbo; Gulleson; Hanson; Hokana; Huether; Kaldor; Kerzman; Kilichowski; Kroeber; Laughlin; Mahoney; Mutzenberger; Nelson; Ness; Nichols; Oban; Pyle; Ring; Sitz; Stenson; Thorpe; Wilkie

Division B of Engrossed SB 2539 passed.

#### DIVISION C

SECTION 1. AMENDMENT. Section 53-06.1-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. "Adjusted gross proceeds" means, except in the case of the for games of draw poker and stud poker authorized under section 53-06.1-07.2 and for games conducted through video gaming devices, gross proceeds less cash prizes ~~or~~ and the price of merchandise prizes and, less the charitable gaming tickets pull tab excise tax imposed by section 53-06.1-12.2, and less the amount of federal excise tax and interest imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401]. In the games of draw poker and stud poker, "adjusted gross proceeds" the term means the time buy-ins or tournament fees collected by the eligible licensed organization. For games conducted through video gaming devices, the term means the value of currency validated by the device less the value of paper credit vouchers issued, and plus or minus any adjustments authorized by the attorney general.
2. "Bona fide guest" means a person who is not a member of an eligible organization, but who is allowed to use the facilities of the organization when invited by a member or the organization in accordance with the eligible organization's bylaws, articles of incorporation, charter, rules, or other written statement. "Associated equipment" means any proprietary device, or part used in the manufacture or maintenance of a video gaming device, including integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitor, and metering devices.
3. "Charitable gaming ticket" means the game piece used in pull tab games or jar ticket games.
4. "Charitable organization" means any nonprofit an organization operated incorporated as a nonprofit corporation whose primary purpose is for the relief of poverty, distress poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of cruelty to children or animals, or other condition of public concern within this state, which has been so engaged actively fulfilling its primary purpose within this state for the two immediately preceding years.
- 5- 4. "Civic and service club organization" means any branch, lodge, or chapter of a nonprofit national or state organization which is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose within this state, and which shall have existed in has been actively fulfilling its primary purpose within this state for the

two immediately preceding years. "Civic and service ~~club~~ organization" also means a similar local nonprofit organization, including a booster club, convention and visitors bureau, community betterment, civic, economic development, tourism, recreation, or similar organization, not affiliated with a state or national organization, which is recognized by resolution adopted by the governing body of the city in which the organization conducts its principal activities, or by the governing body of a county if ~~such~~ the organization conducts its principal activities outside the limits of a city but within a county. Such ~~club~~ shall organization must have existed in been actively fulfilling its primary purpose within this state for the two immediately preceding years.

- 6- 5. "Commission" means the state gaming commission.
6. "Credit" as it relates to a video gaming device means a value of twenty-five cents.
7. ~~"Distributor" means a person, firm, corporation, association, or organization which that sells, markets, or otherwise distributes raffle tickets, bingo gaming equipment, or any other implements of gambling or associated equipment usable in the lawful conduct of games of chance under this chapter or which may service video gaming devices or associated equipment. "Distributor" The term does not include a resident printer who prints raffle tickets at the request of a licensed or authorized organization or an organization that has been issued a local permit, and who sells or otherwise distributes such raffle tickets to such the organization.~~
8. "Educational, charitable, patriotic, fraternal, religious, or other public-spirited uses" are:
- a. ~~To the extent used for purposes enumerated in subdivisions e through l, uses benefiting those organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code. Uses for stimulating and promoting state and community-based economic development programs within the state which improve the quality of life of state and community residents.~~
  - b. ~~To the extent used for purposes enumerated in subdivisions e through l, uses benefiting an organization registered with the North Dakota secretary of state under chapter 50-22. Uses for developing, promoting, and supporting tourism within a city 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 other nonprofit medical facilities.
  - (9) Social services and education programs aimed at aiding ~~the~~ emotionally and physically distressed, handicapped, elderly, and underprivileged persons.
  - (10) Funds for crime prevention, fire protection and prevention, and public safety.
- e. (1) Fraternal uses, consistent with uses ~~and priorities~~ enumerated in subdivisions e a through ~~l~~ and ~~section 53-06-1-02 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 ~~charitable gaming funds~~ net proceeds under this subdivision or any other provision of this chapter.

- 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.
- m. To the extent the net proceeds are used toward the primary purpose of a charitable, educational, religious, or public-spirited organization, 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 of chance or dissolve. The commission may adopt rules for the establishment of special trust funds.

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 of the stated eligible uses. Eligible 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, or. 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. In addition, the ~~licensing authority~~ commission may adopt rules to limit or restrict eligible use disbursements to ensure that ~~funds~~ net proceeds are best utilized for educational, charitable, fraternal, religious, patriotic, or other public-spirited purposes.

9. "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 ~~in existence~~ active for the two immediately preceding years.
10. "Eligible organization" means bona fide nonprofit veterans, charitable, educational, religious, and fraternal ~~organizations~~, civic and service ~~clubs~~, public safety, and other public-spirited organizations as defined by this ~~chapter~~ section, which may be licensed by the attorney general or ~~authorized~~ issued a local permit by the governing body of a city or county to conduct games of chance under this chapter.
11. "~~Entire net proceeds~~" or "~~net proceeds~~" means the ~~adjusted gross proceeds less such expenses and taxes as are specifically authorized under this chapter~~.
- ~~12-~~ 12. "Fraternal organization" means ~~a nonprofit~~ an organization within this state, except college and high school fraternities, 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. Such The organization shall must have existed been actively fulfilling its primary purpose within this state for the two immediately preceding years.
- ~~13-~~ 12. "Gross proceeds" means all moneys collected or received from conducting games of chance and from games of chance admissions thereto.
- ~~14-~~ 13. "Licensee" "Licensed organization" means an eligible organization licensed ~~under this chapter~~ by the attorney general to conduct bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, poker, sports pools, and video gaming devices.
- ~~15-~~ 14. "~~Licensing authority~~" means ~~the attorney general~~. "Local permit" means a permit issued to a nonprofit organization recognized as a public-spirited organization by a governing body of a city or county that authorizes the organization to conduct only bingo, raffles, and sports pools in that city or county.
- ~~16-~~ 15. "Manufacturer" means a person who designs, assembles, fabricates, produces, constructs, or who otherwise prepares a product or a component part of a product of any implement of gambling gaming, including video gaming devices and associated equipment, usable in the lawful conduct of games of chance under this chapter. "~~Manufacturer~~" The term does not include a resident printer who prints raffle tickets at the request of a licensed ~~or authorized~~ organization or an organization that has been issued a local permit, and who sells or otherwise distributes such raffle tickets to ~~such an~~ the organization.
16. "Manufacturer's distributor" means a wholesaler of a manufacturer of electronic-mechanical pull tab dispensing devices and associated equipment who maintains a parts inventory, 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 a licensed organization.

17. "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 of the eligible organization. ~~"Member"~~ The term includes auxiliary members, but excludes social and honorary members.
18. ~~"Other public spirited organization" means a nonprofit organization which has been in existence within this state for two years and is recognized by the governing body of a city or county by resolution as public spirited and eligible to conduct games of chance under this chapter. "Net proceeds" means the adjusted gross proceeds less such expenses and taxes as are specifically authorized under this chapter.~~
19. "Person" means any person, firm, partnership, corporation, association, or organization.
20. "Public safety organization" means an organization incorporated as a nonprofit corporation whose primary purpose is to actively engage in firefighting, ambulance service, or similar disaster assistance, which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.
21. "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, or similar organization, and which does not meet the definition of veterans, fraternal, charitable, educational, religious, civic and service, or public safety organization, which has been actively fulfilling its primary purpose within this state for the two immediately preceding years and is recognized by the governing body of a city or county by resolution as public spirited. 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.
22. "Pull tab" means the game piece used in deals of pull tabs.
- ~~20-~~ 23. "Religious organization" means any 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 been actively so gathered or united in this state for the two immediately preceding years.
- ~~21-~~ 24. "Veterans organization" means any congressionally chartered organization within this state, or any branch or lodge or chapter of a nonprofit national or state organization within this state, the membership of which consists of individuals who were members of the armed services or forces of the United States. ~~Such organizations shall~~ The organization must have been in existence actively fulfilling its primary purpose in this state for the two immediately preceding years.
25. "Video gaming device" means an electronic video gaming device that, upon insertion of currency, simulates the play of a game of chance, utilizing a video display and microprocessors in which, by chance, the player may win credits that can be redeemed for cash through the redemption of a paper credit voucher. The term does not include a machine that directly dispenses coins, cash, or tokens.

**SECTION 2. AMENDMENT.** Subsection 1 of section 53-06.1-01.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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.

**SECTION 3. AMENDMENT.** Section 53-06.1-01.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-01.2. Duty of attorney general to participate in certain hearings - Employment of private counsel by commission.** The attorney general shall represent the state in all hearings before the commission and shall prosecute all criminal proceedings arising from violations of ~~chapters 53-06.1 and 53-06.2~~ this chapter. The commission may employ private counsel ~~for adoption of rules and to ensure that its hearings are conducted fairly.~~

**SECTION 4. AMENDMENT.** Section 53-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-02. Organizations eligible under chapter - Use of net proceeds.** Nonprofit veterans, charitable, educational, religious, ~~and fraternal organizations,~~ civic and service clubs, public safety, and public-spirited organizations, as ~~those terms are defined by this chapter,~~ are eligible to conduct games of chance under ~~the conditions of this chapter.~~ The entire net proceeds of such games of chance are to must be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter. Notwithstanding any other provision of this chapter, ~~an eligible organization, which is not required to be licensed by the attorney general, that has been issued a local permit may use the net proceeds of such games of chance to directly benefit the eligible organization.~~

**SECTION 5. AMENDMENT.** Section 53-06.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-02.1. Waiver of two-year existence active requirement - Local permit.** An organization that has not been ~~in existence~~ actively fulfilling its primary purpose within this state for the two immediately preceding years becomes an eligible may be recognized as a public-spirited organization for purposes of this section upon approval by the governing body of the city, if the organization will conduct games of chance ~~only~~ within that city, or upon approval by the board of county commissioners, if the organization will conduct games of chance within the county. An organization that ~~becomes an eligible~~ is recognized as a public-spirited organization under this section is not eligible for licensure by the attorney general until it has ~~been in existence~~ actively fulfilled its primary purpose within this state for the two immediately preceding years and may only conduct games of chance under a local authorization permit as provided in subsection 1 of section 53-06.1-03 ~~until it becomes an eligible organization as otherwise provided in this chapter.~~

**SECTION 6. AMENDMENT.** Section 53-06.1-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-03. Licensure—Exceptions for raffles, sports pools, and bingo - City and county authorization local permits and site authorizations - Licensure by attorney general - Fees - Suspension and revocation.

1. ~~Except as otherwise provided in this section, eligible organizations desiring to conduct games of chance shall apply annually for a license from the attorney general before July first on forms provided by the attorney general and shall include with the application a one hundred fifty dollar license fee, except for those organizations whose average annual gross proceeds do not exceed twenty five thousand dollars, for which the fee is one hundred dollars.~~
2. A nonprofit organization may obtain a local permit as follows:
  - a. ~~Any~~ A nonprofit organization recognized as public spirited a public-spirited organization by the governing body of a city or county may obtain a local authorization permit to conduct only raffles or bingo in which the primary prize does not exceed one thousand dollars, and the aggregate ~~does~~ prizes do not exceed six thousand dollars annually, ~~or and~~ to conduct sports pools, for professional sports only, in which the total wagers do not exceed five hundred dollars for each pool.
  - b. A nonprofit organization that conducts a city or county festival or celebration may be recognized as a public-spirited organization by the governing body of a city or county and may obtain a local authorization permit to conduct raffles in which the primary prize does not exceed one thousand dollars and the aggregate ~~does~~ prizes do not exceed two thousand dollars. For purposes of this subdivision, a "city or county festival or celebration" means an event:
    - (1) In celebration of local heritage, anniversary of establishment of the political subdivision, or other significant local event recognized as public spirited by the governing body of the city or county; and
    - (2) Supported by significant community participation.
  - c. To obtain a local authorization permit, the nonprofit organization shall apply directly to the governing body of the city in which ~~it conducts its principal activities the site is located where the raffle, sports pool, or bingo activity will be conducted or, if its principal activities are conducted the raffle, sports pool, or bingo activity is conducted at a site located~~ in a county but outside the limits of a city, ~~it the organization~~ shall apply to the board of county commissioners. Applications Application for the conduct of games of chance subject to authorization by a city or county a local permit must be made on forms provided by the attorney general. The governing body may by ordinance or resolution establish authorization fees a local permit fee not to exceed twenty-five dollars for each authorization local permit.
  - d. For purposes of this subsection issuing a local permit, the determination of what is a "public-spirited" organization "public-spirited organization" is within the sole discretion of the governing body of the city or county.
2. Except as otherwise provided in this section, an eligible organization desiring to be licensed to conduct lawful games of chance shall apply annually for a license from the attorney general before July first on forms provided by the attorney general and shall include with the application a one hundred fifty dollar

license fee, except the fee is one hundred dollars for an organization whose average annual gross proceeds do not exceed twenty-five thousand dollars. An organization shall provide clear and convincing evidence that the organization 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 with the attorney general.

3. The attorney general shall license eligible organizations that conform to the requirements of this chapter ~~by issuing licenses as follows:~~
  - a. ~~A class A license to an eligible organization that is prohibited because of its nature or purpose for existence from expending charitable gaming net proceeds for the organization's own purposes or benefit and is, therefore, required to disburse its net proceeds to beneficiaries for educational, charitable, patriotic, fraternal, religious, or other public spirited uses.~~
  - b. ~~A class B license to an eligible organization that is permitted because of its nature or purpose for existence to expend charitable gaming proceeds for its own educational, charitable, patriotic, fraternal, religious, or other public spirited uses. The attorney general may deny a class B license to an otherwise eligible organization if the organization is connected, directly or indirectly, to the holder of a North Dakota retail alcoholic beverage license. An eligible organization that qualifies for a class A license may not also be issued a class B license.~~
  - c. ~~A class C license to an eligible organization that conducts games of chance on not more than two occasions per year.~~
  - d. ~~The attorney general shall establish by rule no more than two additional classes of licenses based on the frequency of gaming, the types of games of chance conducted by the eligible organization, and the adjusted gross proceeds collected or expected to be collected by the eligible organization. Only one class of license may be issued.~~
4. ~~Games A licensed organization may conduct games of chance may be operated or conducted only on premises or sites an authorized site set forth in the application as follows:~~
  - a. ~~License applicants~~ A licensed organization shall first secure approval of the proposed site or sites on at which it intends to conduct lawful games of chance under this chapter from the governing body of the city, if within city limits, or the county, if outside city limits, where the site or sites are is located. This approval or permit, which may be granted at the discretion of the governing body, must be recorded on a site authorization form which is to accompany the license application to the attorney general for final approval. The governing body may charge a one hundred dollar fee for this permit the site authorization.
  - b. ~~Rented premises are subject to rules adopted by the attorney general commission.~~
  - c. ~~Only one eligible licensed organization or organization that has been issued a local permit at a time may be authorized to conduct games of chance at a specific location authorized site, except that a raffle drawing may be conducted for special occasions when one of the following conditions are met:~~

- (1) When the area for the raffle drawing is physically separated from the area where gaming is conducted by the regular licensee.
  - (2) Upon request of the regular licensee, the licensee's license is suspended for that specific day by the attorney general or commission.
- d. Licenses, rules of conduct and play, state gaming stamps, and state ~~identification devices~~ registration stamps must be displayed on forms and in the manner specified in rules adopted by the ~~attorney general~~ commission.
- e. No licensed organization or closely connected licensed organizations as a unit may have more than thirty authorized sites unless granted a waiver by the attorney general. However, after June 30, 1995, no licensed organization or closely connected licensed organizations as a unit may have more than twenty-five authorized sites unless granted a waiver by the attorney general. If the attorney general finds that there is no other licensed organization willing to conduct 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 more than five sites. Closely connected licensed organizations are two or more organizations which have unitary characteristics that may include common primary purposes, members on boards of directors, officers, management, employees, bookkeepers, program services, integrations of gaming activities, and shared facilities.
5. The attorney general may, ~~by motion~~ based on reasonable ground or upon written complaint, suspend, deny, or revoke under chapter 28-32, any license granted under this chapter for violations by the licensee, or any officer, director, agent, member, or employee of the licensee, of this chapter or any rule adopted under this chapter. 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 subsection unless that organization conducts gaming determined to be in violation of chapter 12.1-28 or subsection 1 of section 53-06.1-07.
6. The attorney general ~~or the commission~~ may impose monetary fines on retail licensed alcoholic beverage establishments, licensed organizations, distributors, manufacturers' distributors, and manufacturers for failure to comply with ~~any provision of~~ this chapter or any rule adopted under this chapter. 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 retail licensed alcoholic beverage establishment, distributor or manufacturer, manufacturer's 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 lieu of a license suspensions suspension or revocations revocation.

**SECTION 7.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming devices - Rent. For the purpose associated with the privilege of conducting games of chance on video gaming devices at a site other than a site where bingo is the primary game of chance conducted, the monthly rent is twenty percent of the adjusted gross proceeds of the video gaming devices at the site. This rent is in addition to any rent the organization may pay a retail licensed alcoholic beverage establishment for the purposes associated with the organization's conduct of twenty-one, paddlewheels, and charitable gaming tickets at the site. This section does not authorize violations of the rent limitations contained in this chapter.

**SECTION 8. AMENDMENT.** Section 53-06.1-03.3 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-03.3. ~~Charitable gaming ticket~~ Pull tab sites - Limit on rent.** For all purposes associated with the privilege of conducting games of chance at a site other than a site where bingo is the primary game of chance conducted, the monthly rent may not exceed:

1. If the game of twenty-one is conducted on the site, in addition to the rent allowable for the game of twenty-one, one hundred twenty-five dollars.
2. If the game of twenty-one is not conducted on the site, two hundred twenty-five dollars.

**SECTION 9. AMENDMENT.** Section 53-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-05. Local ~~approval~~ permit for educational organizations, college fraternities, and sororities for raffles, sports pools, and bingo.** An educational organization, college fraternity, or sorority shall apply in writing to the governing body of the city in which it is located, or to the board of county commissioners if the educational organization or the college is located outside the ~~geographical limits of a city~~ limits, for permission a local permit to conduct raffles, sports pools, or bingo at least thirty days ~~prior to~~ before each occasion. The application must state the time, place, and educational, charitable, patriotic, fraternal, religious, or other public-spirited uses to which the net proceeds will be devoted. An applicant fraternity or sorority shall include a signed acknowledgment by the administration of the college or university that the applicant is a recognized fraternity or sorority. The governing body ~~may~~ at its own discretion by ordinance or resolution, and upon application, ~~grant permission~~ may issue a local permit for raffles, sports pools, and bingo to be held at specifically designated times and places for specific uses covering a one-year period. The governing body ~~may~~ by ordinance or resolution may establish ~~authorization fees~~ a local permit fee not to exceed twenty-five dollars for each authorization. ~~If the governing body, at its own discretion, chooses to authorize raffles, sports pools, or bingo pursuant to this chapter, the governing body may do so by resolution~~ local permit.

**SECTION 10. AMENDMENT.** Section 53-06.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-05.1. Regulation by city or county of number of twenty-one tables per site and number of sites per eligible licensed organization.** Cities, for sites ~~or locations~~ within city limits, or counties, for sites ~~or locations~~ outside city limits, may establish by ordinance or resolution a maximum number of tables for twenty-one per site and a maximum number of sites upon which an ~~eligible~~ a licensed organization may conduct games of chance within the city or county.

**SECTION 11. AMENDMENT.** Section 53-06.1-06 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-06. Persons permitted to conduct games of chance - ~~Premises Gaming site~~ - Equipment - Compensation.

1. No person, except a member or employee of an ~~eligible a licensed organization or an organization that has been issued a local permit~~ or a member of an organization auxiliary to an ~~eligible a licensed organization or an organization that has been issued a local permit~~, may assist in the holding, operating, or conducting of any game of chance under this chapter. In the conduct of pull tabs ~~through an electronic-mechanical dispensing device or video gaming device~~, the attorney general may allow employees of licensed alcoholic beverage establishments to provide limited assistance, such as redeeming winning pull tabs or paper credit vouchers, to an ~~authorized class B license holding eligible a licensed organization the adjusted gross proceeds of which do not exceed sixty thousand dollars per quarterly reporting period of operation or to any class A license holding eligible organization~~. However, a volunteer of an eligible organization may sell raffle tickets.
2. Except when authorized by the attorney general, no games of chance may be conducted with any gaming equipment other than gaming equipment owned by an eligible organization or rented at a reasonable rate by an eligible organization from a licensed distributor.
3. The governing board of an eligible organization is primarily responsible and may be held accountable for the proper determination and distribution of the entire net proceeds of any game games of chance held in accordance with this chapter.
4. The ~~premises gaming site~~ where any game of chance is being held, operated, or conducted, or where it is intended that the game will be held, must be open to inspection by the attorney general, ~~the attorney general's agents and employees, by representatives of the governing body authorizing games of chance, and by peace officers of any political subdivision~~ law enforcement officials of this state.
5. When any merchandise prize is awarded in a game of chance, its value is its current retail price.
6. Equipment, prizes, and supplies for games of chance may not be purchased or sold at prices in excess of the usual price thereof.
7. The A licensed organization must devote the entire net proceeds derived from the ~~holding of conducting~~ games of chance ~~must be devoted~~ within three months from the date end of the quarter in which such proceeds were earned to the eligible uses ~~permitted by this chapter~~. Any A licensed organization desiring to hold the net proceeds ~~of games of chance~~ for a period longer than three months from the date such proceeds were earned ~~must shall~~ apply to the ~~licensing authority or governing body, as the case may be, attorney general~~ for special permission, and upon good cause shown, the ~~licensing authority or governing body~~ attorney general may grant the request.
8. No person who has pled guilty to or been found guilty of a felony may sell or distribute equipment, or conduct or assist in games of chance under this chapter for five years from the date of the conviction or release from incarceration, parole, or probation, whichever is the latter. No person determined by the attorney general to have participated in organized crime or unlawful gambling, may be permitted to sell or distribute equipment, or conduct or assist in games of chance under this chapter for a period determined by the attorney general.

9. Any person involved with the conduct of games of chance must be:
  - a. A person of good character, honesty, and integrity.
  - b. A person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental to the conduct of gaming.
10. The attorney general or commission may prohibit a person from playing games of chance if the person violates ~~any provision of~~ this chapter or any rule adopted under this chapter.
11. The attorney general or commission may require a licensed organization to pay a bingo or raffle prize to a player based on a factual determination, after opportunity for the parties to be heard, by the attorney general or commission.
12. If bingo is the primary game of chance conducted at an authorized site, no licensed organization may pay bingo prizes in which the aggregate of the bingo prizes for a quarter exceeds the total bingo gross proceeds for the quarter at that site. However, a bingo prize that equals or exceeds ten thousand dollars is excluded from the computation of the aggregate of the bingo prizes.

**SECTION 12. AMENDMENT.** Section 53-06.1-07 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07. Games of chance allowed.**

1. Eligible Only eligible organizations licensed by the attorney general ~~shall be permitted to~~ may conduct bingo, raffles, calcuttas, ~~charitable gaming tickets~~ pull tabs, punchboards, twenty-one, paddlewheels, poker, and sports pools ~~for professional sports only.~~ These games may only be conducted and played at gaming sites authorized by a local governing body and approved by the attorney general.
2. ~~College fraternities or sororities may conduct raffles, sports pools, and bingo.~~
- 3- ~~Eligible organizations shall be permitted to conduct draw poker in accordance with section 53-06.1-07.2.~~
- 4- Eligible organizations licensed by the attorney general may conduct bingo, pull tabs, punchboards, twenty-one, poker, and paddlewheels through video gaming devices. In electronic video gaming device play of any game of chance permitted by this section, the maximum prize per play is five hundred dollars.
- 5- 3. ~~Any The game using charitable gaming tickets of pull tabs may be conducted only through use of commingled games after June 30, 1991.~~

**SECTION 13. AMENDMENT.** Section 53-06.1-07.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.1. Limitations on hours and participation in games of chance.** A person under twenty-one years of age may not ~~participate in placing a wager in the~~ directly or indirectly play games of ~~charitable gaming tickets~~ pull tabs, punchboards, twenty-one, calcuttas, sports pools,

~~paddlewheels, or poker, or play video gaming devices.~~ A person under eighteen years of age ~~not accompanied by an adult~~ may not participate in ~~directly or indirectly play~~ the game of bingo unless ~~the person is accompanied by an adult, the bingo game is locally authorized under section 53-06.1-03 conducted by an organization that has been issued a local permit,~~ or the game's prize structure does not exceed ~~those that~~ allowed under ~~subsection 1 of section 53-06.1-03 for locally authorized games local permits.~~ The games of ~~charitable gaming tickets pull tabs, punchboards, twenty-one, paddlewheels, or sports pools, and video gaming devices,~~ may be conducted only during the hours when alcoholic beverages may be dispensed in accordance with applicable regulations of the state or the ~~political subdivision~~ county or city.

**SECTION 14. AMENDMENT.** Section 53-06.1-07.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.2. Draw poker and stud poker - Limited authorization.** An eligible A licensed organization may conduct the game of draw poker on not more than ~~two~~ twelve occasions per year as follows:

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

**SECTION 15. AMENDMENT.** Section 53-06.1-07.3 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.3. Calcuttas.** An eligible A licensed organization may ~~allow the playing of~~ conduct a calcutta ~~on the authorized site.~~ ~~Calcuttas are allowed for professional or amateur sporting events held in this state, but not for elementary, secondary, or postsecondary education sports events.~~ The eligible organization shall post at the gaming site all rules affecting the conduct and play of calcuttas ~~or requirements of participants.~~ An eligible The organization may not have an interest in the outcome of the calcutta. A ~~participant who places~~ player must place a wager in the calcutta auction pool ~~must be~~ at the authorized site. No more than one wager per competitor may be allowed in any calcutta pool. The amounts paid to calcutta pool ~~participants~~ players in prizes may not exceed ninety percent of the gross proceeds. No competitor in a calcutta pool may be under eighteen years of age.

**SECTION 16. AMENDMENT.** Section 53-06.1-07.4 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.4. Paddlewheels.** An eligible A licensed organization may ~~conduct the game of paddlewheels on the authorized site.~~ The eligible organization shall post at the site all rules affecting the conduct of paddlewheels and requirements of players. A paddlewheel is a mechanical vertical wheel marked off into equally spaced sections that contain numbers or symbols, and which after being spun, uses a pointer or marker to indicate the winning number or symbol. The maximum price per paddlewheel ticket may not exceed two dollars. No money may be allowed on the playing table. A table must be used to register a player's wagered paddlewheel ticket when a cash prize is a variable multiple of the price of the paddlewheel ticket. No

player may place ~~more than ten~~ paddlewheel tickets valued at more than twenty dollars on each spin of the paddlewheel. Cash, chips, or merchandise prizes may be awarded. No single cash prize, value of chips, or the current retail price of the merchandise prize to be 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 17.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming devices - Management and control - Limitation - Disclosure - Voiding of contracts. A licensed organization may place a video gaming device at an authorized site that is a retail licensed alcoholic beverage establishment that serves alcoholic beverages for consumption on the establishment or at an authorized site where bingo is the primary game of chance conducted. If a minor is permitted at the authorized site, a permanent wall of at least four feet [1.22 meters] in height must separate the area reserved for video gaming devices from the other areas of the premises. The wall may provide for only one entrance to the area where video gaming devices are located. The entrance to the area where video gaming devices are located must display a sign that the area is restricted to persons twenty-one years or older. The authorized site must be physically secure to prevent or detect unauthorized entry onto the site. The licensed organization shall control and manage the operation of a licensed video gaming device regardless if the organization leases the device or has entered into a service contract on the device. No organization may employ or contract with an independent contractor for controlling or managing the operation of a licensed video gaming device. The licensed organization shall acquire, maintain, and safeguard a telephone line for the authorized site for use by a central computer communications and management information system. No more than ten video gaming devices may be placed at the authorized site. However, if the game of bingo is the primary game of chance conducted at the site, no more than fifteen video gaming devices may be placed at the site. The odds of winning a certain prize of a game must be posted on or near each video gaming device. The commission by rule shall establish the manner in which the odds are calculated and posted. All specific provisions related to video gaming devices that are contained in written agreements or contracts executed before April 1, 1993, between retail licensed alcoholic beverage establishments and coin-operated amusement device operators licensed under section 53-04-02 are void. The attorney general may review and approve or disapprove any written contract or agreement relating to video gaming devices and associated equipment.

**SECTION 18.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Requirements of a video gaming device. Each video gaming device licensed:

1. Must meet the manufacturing specification standards of the rules adopted by the commission.
2. Must be linked under a central computer communications and management information system to monitor performance and provide security, audit, management, accounting, and other information as required by the attorney general. No central computer communications and management information system approved by the attorney general may limit participation to only one manufacturer of video gaming devices by either the cost in implementing the necessary program modifications to communicate or the inability to communicate with the central computer communications system. The central computer communications system must use dedicated lines and a dial-up network based on rules adopted by the commission.

3. May not allow more than eight credits in the value of two dollars to be played on a game or award credits in excess of the value of sixty-two dollars and fifty cents per credit value of twenty-five cents played. The maximum prize per play is five hundred dollars. The potential prize payback structure must be at least eighty percent and not more than ninety-six percent of the value of the credits played. Free games are prohibited.
4. Must, at the conclusion of play by a person, issue a paper credit voucher representing the value of any credits remaining on the device. The credit voucher must contain information based on rules adopted by the commission.
5. Must have resettable and nonresettable electronic meters housed in a readily accessible locked device area that keep an interim period and permanent record of all transactions to provide for a full accounting. The device must issue a paper audit report each time any door to the interior of the device is opened, electrical power to the device is interrupted, and when the device is keyed to audit mode.
6. Must retain an exact and legible duplicate copy of issued paper credit vouchers and audit reports.
7. Must automatically suspend itself from operation should the device detect any tampering or attempted tampering.
8. Must have the licensed organization's name and device's license prominently displayed thereon. Any device which does not display the license is contraband and subject to confiscation by any law enforcement officer. A violation of this subsection is a class C felony.

SECTION 19. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Investigation of vendors - Competitive bidding required before entering into contract.

1. Before a contract for a central computer communications and management information system is awarded, the attorney general shall conduct a background investigation of the vendor, any parent or subsidiary corporation of the vendor, all shareholders of five percent or more interest in the vendor or parent or subsidiary corporation of the vendor, and all officers and directors of the vendor or parent or subsidiary corporation of the vendor to whom the contract is to be awarded. The attorney general may rely on background investigation information obtained by other states or Canadian provinces. The information must be held confidential except in the proper administration of this chapter or any rule adopted under this chapter, to an authorized law enforcement agency, or to a state or Canadian province.
2. When entering into a contract with a vendor of video gaming devices for the purpose of leasing, procuring, or otherwise obtaining a central computer communications and management information system, the attorney general shall use an open and competitive bid process that reflects the best interest of the state. The attorney general shall consider all relevant factors including background investigation, security, competence, experience, timely performance, and state of the art technology.

SECTION 20. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Analyzing, testing, evaluating, and approval of video gaming devices and source of payment. The attorney general shall analyze, test, and evaluate prototypes of video gaming devices and associated equipment of manufacturers seeking to have such devices approved. The attorney general shall require the manufacturer seeking the approval of a video gaming device to pay the anticipated actual costs of the analyzing, testing, and evaluation in advance and, after completion of the analyzing, testing, and evaluation, shall refund any overpayment or charge and collect an amount sufficient to reimburse the attorney general for any underpayment of actual costs. The attorney general may contract for the analyzing, testing, and evaluation of video gaming devices. The attorney general may require a manufacturer to provide the attorney general with an approved device model and specialized equipment for an indefinite period for regulatory and enforcement purposes free of any charge. The attorney general shall approve prototypes of video gaming devices. The attorney general may not allow any licensed organization to start operating video gaming devices unless at least three manufacturers of video gaming devices have been licensed and these manufacturers' video gaming devices have been approved by the attorney general.

SECTION 21. AMENDMENT. Section 53-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-08. Punchboards and charitable gaming tickets pull tabs - Sale of chances - Maximum price per ticket pull tab. Unless all of the highest denomination of winners top tier winning pull tabs or punchboard punches have been sold redeemed, or unless otherwise permitted by the attorney general, a no person or organization engaged in the selling of chances from conducting games of charitable gaming tickets pull tabs or punchboards under this chapter may not discard the chances from any close the game of charitable gaming ticket or punchboard once the contents of that game of charitable gaming ticket or punchboard are have been offered for sale to eligible participants players. The maximum sales price per charitable gaming ticket pull tab and punchboard punch may not exceed two dollars.

SECTION 22. AMENDMENT. Section 53-06.1-08.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-08.1. Limitation on charitable gaming ticket pull tab prizes. An eligible A licensed organization may not conduct a game of charitable gaming tickets pull tabs in which the highest denomination winner prize value of the top tier winning pull tab exceeds five hundred dollars.

SECTION 23. AMENDMENT. Section 53-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-09. Sports pools - Control by licensee - Rules posted - Limitation on prizes. An eligible A licensed organization or organization that has been issued a local permit may allow the playing of conduct sports pools on the premises or authorized site. Sports pools are allowed for professional sports only. If sports pools are allowed, they must be conducted and controlled by the eligible organization. The eligible licensed organization or organization that has been issued a local permit shall clearly post any rules affecting the conduct of sports pools or requirements of participants players. The maximum wager on any sports pool is five dollars. The amounts paid to sports pool participants players in prizes may not exceed ninety percent of the gross proceeds.

SECTION 24. AMENDMENT. Section 53-06.1-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-10. Twenty-one - Sale of chips - Redemption - Wager - Limit - Rules of play - Tips. Any licensee A licensed organization may conduct and shall control the playing of the eard game twenty-one on the its authorized site of the licensee, but at no other location. No money may be allowed on

the table. The ~~licensee~~ organization shall provide playing chips of various denominations to ~~the participants~~ players. Chips must be redeemed by the licensee for their full value. The maximum limit per wager may be set by the ~~licensee or eligible~~ 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. Twenty-one is a card game played by a maximum of seven players and one dealer. The dealer must be a representative of the ~~eligible~~ organization sponsoring the game of chance. Each player plays the player's hand against the dealer's hand. In order 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 case of a tie count with the dealer. Players may double down on a natural twenty-one. In the case of matching or tie count between the player and the dealer, no winner is declared and the player keeps the player's wager. A licensee may allow the pooling of tips received by dealers at an authorized site. Any requirement to pool tips is within the sole discretion of each licensee and may not be imposed or encouraged by the ~~licensing authority~~ attorney general or commission. Each licensee conducting twenty-one shall post rules relating to the conduct of the game in a conspicuous location near where the game is played.

**SECTION 25. AMENDMENT.** Section 53-06.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-10.1. Raffles - Limitation - Prizes.** Prizes for raffles may include any property which may be legally owned and possessed, but may not include real estate. Cash prizes may be awarded in raffles ~~conducted under this chapter~~ provided the value of no single cash prize exceeds one thousand dollars; and provided ~~further that no eligible organization may award total cash prizes totaling more than~~ do not exceed three thousand dollars in the ~~aggregate during any one day.~~

**SECTION 26. AMENDMENT.** Section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-11. Statement of receipts - Expenses - Allocation of video gaming device adjusted gross proceeds.**

1. All moneys collected or received from games of chance and admissions thereto, except cash prizes of one hundred dollars or less paid immediately, must be deposited in a special account of the ~~eligible~~ licensed organization which contains only that money. Cash prizes of an amount to be determined by the attorney general; ~~the and purchase prices of merchandise prizes, and all expenses for such games of chance~~ must be withdrawn from such account by consecutively numbered checks duly signed by a specified officer or officers of the ~~eligible~~ organization and payable to a specific person or organization. There must also be written on the check the nature of the ~~expense or prize~~ for which the check is drawn. No check may be drawn to "cash" or a fictitious payee. In the case of a cash prize of more than one hundred dollars, the prize may also be issued by an accountable receipt or nonnegotiable instrument approved by the attorney general.
2. No part of the net proceeds after they have been ~~given over~~ devoted to another organization an eligible use recipient may be used by the donee ~~organization~~ to pay any person for services rendered or materials purchased in connection with the ~~conducting~~ conduct of games of chance by the donor organization.
3. Subject Except for video gaming devices and subject to the limitations of this subsection, expenses incurred for games of chance may be deducted from adjusted gross proceeds, to the extent

that total expenses for games of chance do not exceed fifty percent of the first two hundred thousand dollars of adjusted gross proceeds per quarter and forty-five percent of the adjusted gross proceeds in excess of two hundred thousand dollars per quarter. However, for an authorized site at which pull tabs is the only game of chance conducted and the conduct of pull tabs is through an electronic-mechanical dispensing device, expenses incurred for this game of chance may be deducted from adjusted gross proceeds, based on the average adjusted gross proceeds of all of an organization's authorized sites at which the game of pull tabs is conducted through electronic-mechanical dispensing devices, according to the following:

- a. On average adjusted gross proceeds not exceeding eight thousand dollars per quarter, an expense limitation of fifty percent.
- b. On average adjusted gross proceeds exceeding eight thousand dollars per quarter, but not exceeding twelve thousand dollars per quarter, an expense limitation of forty-five percent.
- c. On average adjusted gross proceeds exceeding twelve thousand dollars per quarter, but not exceeding sixteen thousand dollars per quarter, an expense limitation of forty percent.
- d. On average adjusted gross proceeds exceeding sixteen thousand dollars per quarter, an expense limitation of thirty-five percent.

~~After December 31, 1989, cash Cash shorts incurred in games of chance are classified as expenses toward the expense limitation. Notwithstanding the limitations of this subsection, in addition to the expenses allowed to be deducted from adjusted gross proceeds, an eligible organization may deduct as an expense federal excise taxes and interest imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401] and incurred or paid by the organization for the period beginning January 1, 1986, and ending as of July 1, 1991. The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for taxes. This subsection does not authorize violations of the rent limitations contained in this chapter.~~

SECTION 27. Subsection 4 to section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

4. For video gaming devices, and subject to the limitations of this subsection and section 8 of this Act, the adjusted gross proceeds must be allocated as follows:
  - a. Twenty-five percent must be remitted to the attorney general as provided by subsection 2 of section 53-06.1-12.
  - b. Fifty-five percent must be allocated by the licensed organization as:
    - (1) Thirty percent for expenses.
    - (2) Twenty-five percent for net proceeds, which must be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter.

SECTION 28. Subsection 4 to section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

4. For video gaming devices, and subject to the limitations of this subsection and section 8 of this Act, the adjusted gross proceeds must be allocated as follows:
- a. Twenty-seven and one-half percent must be remitted to the attorney general, as provided by subsection 2 of section 53-06.1-12.
  - b. Fifty-two and one-half percent must be allocated by the licensed organization as:
    - (1) Twenty-seven and one-half percent for expenses.
    - (2) Twenty-five percent for net proceeds, which must be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter.

SECTION 29. Subsection 4 to section 53-06.1-11 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

4. For video gaming devices, and subject to the limitations of this subsection and section 8 of this Act, the adjusted gross proceeds must be allocated as follows:
- a. Thirty percent must be remitted to the attorney general, as provided by subsection 2 of section 53-06.1-12.
  - b. Fifty percent must be allocated by the licensed organization as:
    - (1) Twenty-five percent for expenses.
    - (2) Twenty-five percent for net proceeds, which must be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter.

SECTION 30. AMENDMENT. Section 53-06.1-12 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-12. Tax based on adjusted gross proceeds. A**

1. Except for video gaming devices, a tax as provided in this section subsection upon the total adjusted gross proceeds received by a licensed eligible organization must be paid to the attorney general on a quarterly basis in the manner and upon the tax return forms as prescribed by the attorney general by rule. The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for expenses. The amount of this tax must be paid from adjusted gross proceeds and may not be charged against the percentage limitation of expenses. The tax is hereby imposed upon every eligible licensed organization, to be levied, collected, and paid quarterly with respect to the adjusted gross proceeds of the eligible organization as provided in this section, computed at the following rates:
- 1- a. On adjusted gross proceeds not in excess of two hundred thousand dollars per quarter, a tax of five percent.
  - 2- b. On adjusted gross proceeds in excess of two hundred thousand dollars per quarter but not in excess of four hundred thousand dollars per quarter, a tax of ten percent.

- 3- c. On adjusted gross proceeds in excess of four hundred thousand dollars per quarter but not in excess of six hundred thousand dollars per quarter, a tax of fifteen percent.
- 4- d. On adjusted gross proceeds in excess of six hundred thousand dollars per quarter, a tax of twenty percent.
2. For video gaming devices, a tax computed at the rate under section 53-06.1-11 is imposed upon the adjusted gross proceeds received by a licensed organization and the tax must be paid to the attorney general on a monthly basis. This tax must be paid from adjusted gross proceeds and is not charged against the percentage limitation of expenses. The attorney general shall compute the state's tax amount based on the licensed organization's video gaming device activity recorded by the central computer communications and management information system. The attorney general shall send a report, containing at least the video gaming device's license number, total value of currency validated, total value of credit vouchers issued, adjusted gross proceeds, and the tax amount due the state to the licensed organization within seven days after the end of each month. The commission shall adopt rules by which the licensed organization shall pay the taxes due from a special, separate video gaming device tax account. The attorney general shall collect the tax from the licensed organization's tax account by electronic funds transfer within fifteen days after the end of each month. If the licensed organization's tax account has insufficient funds, the attorney general shall assess a penalty of five percent per month or fraction of a month on the unpaid balance until the tax is paid, up to a maximum of twenty-five percent, plus assess interest at the rate of one and one-half percent per month on the unpaid balance until the tax is paid. The attorney general shall suspend the operation of the organization's video gaming devices and keep the devices inoperable until the organization has made full payment of tax, penalty, and interest. The organization shall file a gaming tax return in the manner and upon the forms prescribed by the attorney general.

SECTION 31. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming device tax is in lieu of sales and use taxes. The adjusted gross proceeds of a video gaming device is subject to taxation under section 53-06.1-12. Except for income tax, the video gaming device tax is in lieu of all other state or local taxation, including sales and use taxes, that would otherwise be based on the gaming activity of the devices.

SECTION 32. AMENDMENT. Section 53-06.1-12.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12.2. ~~Charitable gaming tickets~~ Pull tabs excise tax in lieu of sales and use taxes. In addition to any other tax provided by law and in lieu of sales or use taxes, there is imposed a tax of two percent on the gross receipts proceeds from the sale at retail of charitable gaming tickets pull tabs to a final user. A Gross proceeds and a sale at retail for purposes of this section includes charitable gaming tickets include pull tabs sold and charitable gaming tickets given pull tabs provided a player in return exchange for another charitable gaming ticket as authorized under this chapter. Gross receipts for purposes of this section includes the face value of all charitable gaming tickets sold or given in return for another charitable gaming ticket redeemed winning pull tabs. The tax imposed by this section must be paid to the attorney general at the time tax returns are made filed and taxes are paid by the eligible licensed organization under section 53-06.1-12.

**SECTION 33. AMENDMENT.** Section 53-06.1-13 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-13. Examination of books and records.** ~~The attorney general and the attorney general's agents, and representatives of the governing body of a city or county with respect to eligible organizations authorized a licensed organization or organization that has been issued a local permit by that governing body, may examine or cause to be examined the books and records of any eligible licensed organization licensed or authorized organization that has been issued a local permit to conduct games of chance under this chapter to the extent that such books and records may directly or indirectly relate to any transaction connected with holding, operating, or conducting any game of chance.~~

**SECTION 34. AMENDMENT.** Section 53-06.1-13.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-13.1. Financial statements.** ~~Every eligible A licensed organization receiving gaming gross proceeds of two hundred thousand dollars or more in the organization's annual accounting period shall file with the attorney general on or before the fifteenth day of the fifth month following the end of the accounting period a financial statement, including accompanying notes and footnotes, and a copy of the internal revenue service's form 990 titled return of organization exempt from income tax required to be filed under section 501(c) of the Internal Revenue Code. The financial statement must at least include a schedule of the sources of total revenue, total expenses, listing of the names of nongaming and gaming employees who received any form of compensation amounting to thirty thousand dollars or more during the accounting period, including specific sources of the compensation paid to each employee, and any information as required by the attorney general.~~

**SECTION 35. AMENDMENT.** Section 53-06.1-14 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~Every A manufacturer of charitable gaming tickets pull tabs, every manufacturer of paper bingo cards, manufacturer of electronic-mechanical pull tab dispensing devices, manufacturer's distributor of electronic-mechanical pull tab dispensing devices, and every distributor shall apply annually for a license upon a form prescribed by the attorney general before the first day of April in each year and shall submit the appropriate license fee. However, effective for the licensing period beginning April 1, 1994, every manufacturer of charitable gaming tickets, every manufacturer of paper bingo cards, and every distributor shall apply for a license for the three-month licensing period of April 1, 1994, through June 30, 1994, and then prospectively annually apply for a license before the first day of July in each year and submit the appropriate license fee. Every manufacturer of video gaming devices shall apply annually for a license upon a form prescribed by the attorney general before the first day of July of each year and shall submit the appropriate license fee. Each applicant shall provide such necessary and reasonable information as the attorney general may require. The license fee for a distributor which does not sell, market, or otherwise distribute video gaming devices or associated equipment, or service or maintain video gaming devices or associated equipment is one thousand five hundred dollars, and the except that for the licensing period April 1, 1994, through June 30, 1994, the license fee is three hundred seventy-five dollars. The license fee for a distributor which does sell, market, or otherwise distribute video gaming devices or associated equipment, or service or maintain video gaming devices or associated equipment is five thousand~~

dollars. The license fee for a manufacturer's distributor is five hundred dollars. The license fee for a manufacturer of electronic-mechanical pull tab dispensing devices, manufacturer of charitable gaming tickets pull tabs, paper bingo cards, or both a manufacturer of pull tabs and paper bingo cards, is two thousand dollars, except that for the licensing period April 1, 1994, through June 30, 1994, the license fee is five hundred dollars. The license fee for a manufacturer of video gaming devices is twenty-five thousand dollars.

2. No distributor may sell, market, or otherwise distribute raffle tickets or equipment for games of chance except to other licensed distributors, licensed manufacturers' distributors, licensed organizations, organizations that have been issued a local permit, gaming schools, or other persons authorized by the attorney general. However, no distributor of video gaming devices and associated equipment may sell, market, or otherwise distribute video gaming devices and associated equipment, or service or maintain video gaming devices or associated equipment except to licensed organizations or other persons authorized by the attorney general. A manufacturer of charitable gaming tickets or pull tabs, paper bingo cards, or video gaming devices may not sell, market, or otherwise distribute charitable gaming tickets or pull tabs, paper bingo cards, or video gaming devices or associated equipment other than to a licensed distributor. A distributor of charitable gaming tickets pull tabs or paper bingo cards must purchase or otherwise receive charitable gaming tickets pull tabs or paper bingo cards only from a licensed manufacturer or licensed distributor. A distributor of video gaming devices and associated equipment shall purchase or otherwise receive video gaming devices and associated equipment only from a licensed manufacturer of video gaming devices. A manufacturer of electronic-mechanical pull tab dispensing devices may not sell, market, or otherwise distribute pull tab dispensing devices other than to a licensed distributor or a licensed manufacturer's distributor. A licensed distributor and licensed manufacturer's distributor of electronic-mechanical pull tab dispensing devices may purchase or otherwise receive pull tab dispensing devices only from a licensed manufacturer, licensed manufacturer's distributor, or licensed distributor.
3. Every eligible organization shall acquire all raffle tickets or equipment for games of chance from a distributor licensed under this chapter, unless the raffle tickets or equipment for games of chance are printed, manufactured, or constructed by the eligible organization or unless the raffle tickets are obtained from a resident printer who has printed the raffle tickets at the request of the organization. However, a licensed organization shall acquire video gaming devices and associated equipment, or service contracts on video gaming devices or associated equipment only from a distributor that is licensed to sell, market, or otherwise distribute video gaming devices or associated equipment or service video gaming devices or associated equipment. The licensed organization may acquire video gaming devices and associated equipment by a direct purchase or lease. No licensed organization may acquire video gaming devices by a lease with a purchase option. No licensed organization may finance a purchased video gaming device directly or indirectly through a licensed distributor or licensed manufacturer. No game of charitable gaming tickets pull tabs, punchboards, sports pool boards, calcutta boards, or a series of paddlewheel ticket cards may be sold without a North Dakota gaming stamp being affixed to them. North Dakota licensed distributors shall purchase the North Dakota gaming stamps from the attorney general's office and the cost for each stamp may not exceed twenty-five cents. No licensed organization may own,

lease, or be in possession of a video gaming device unless the device is licensed by the attorney general.

4. No licensed or authorized eligible organization or organization that has been issued a local permit may be a distributor or have any financial interest in a distributor. No North Dakota wholesaler of liquor or alcoholic beverages may be a North Dakota distributor or have any financial interest in a distributor. No North Dakota licensed manufacturer may be a North Dakota distributor or have any financial interest in a North Dakota distributor. No North Dakota distributor may have any financial interest in a North Dakota licensed manufacturer. No retail licensed alcoholic beverage establishment or owner, officer, or manager thereof may be a distributor or manufacturer or have any financial interest in a distributor or manufacturer.
5. The attorney general or commission may, by motion based on reasonable grounds or on written complaint, suspend or revoke a an organization's local permit or an organization's, distributor's, or manufacturer's license for violation, by the licensee organization, distributor, or manufacturer or any officer, director, agent, member, or employee of the licensee organization, distributor, or manufacturer, of this chapter or any rule adopted under this chapter.
6. In addition to the basic license fee, the attorney general may require payment of any additional fee necessary to defray the actual costs of a background investigation of applicants, including each partner of a partnership, and each director and officer and all stockholders owning five percent or more of the voting common stock of a corporation, parent, or subsidiary corporation of a video gaming device manufacturer and distributor. The attorney general may require payment of the estimated additional fee in advance as a condition precedent to beginning the investigation. The attorney general shall notify the applicant as soon as possible after a determination is made that the additional fee is necessary and shall also notify the applicant of the attorney general's best estimate of the amount of the additional license fee. Any applicant may then withdraw the application in lieu of paying the additional cost. The estimated cost must be placed into the attorney general's refund fund for use to defray the actual expenses of the background investigation. The remainder of such funds must be returned to the applicant within thirty days of the conclusion of the investigation.

**SECTION 36.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Video gaming devices - Licensure. Every licensed organization that owns, leases, or is in possession of a video gaming device shall apply annually for a license for each video gaming device upon a form prescribed by the attorney general before the first day of July in each year and shall submit the license fee. The license fee for each video gaming device is one hundred dollars.

**SECTION 37. AMENDMENT.** Section 53-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-15. Form and display of license and local permit. Each license or authorization required under this chapter and local permit must contain a statement of the name and address of the licensee or authorized eligible licensed organization or organization that has been issued a local permit and such other information as the licensing attorney general or authorizing authority local governing body may designate require.

~~Each license or resolution issued for the conduct of any game or games of chance and local permit must be conspicuously displayed at the place where the same is to be conducted at all times during gaming site when any game of chance is conducted and for at least thirty minutes thereafter. The sale of a raffle ticket does not require the display of the license or authorizing resolution local permit.~~

**SECTION 38. AMENDMENT.** Section 53-06.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-15.1. Powers and duties of the attorney general.** The attorney general ~~or the agents of the attorney general~~ may:

1. Inspect and examine all premises in which gaming is conducted or gaming devices or equipment are manufactured, sold, or distributed.
2. Inspect all equipment and supplies in, upon, or about such premises.
3. Seize and remove from such premises and impound any gaming related equipment, supplies, games of chance, or books and records for the purpose of examination and inspection. When books or records are seized, the attorney general shall provide copies of those records or books within twenty-four hours of a specific request by the organization or retail licensed alcoholic beverage establishment for a copy of the books or records seized.
4. Demand access to and inspect, examine, photocopy, and audit all books and records of applicants, licensees, lessors, manufacturers, and distributors, including any affiliated companies on their premises and in the presence of the applicants, licensees, lessors, manufacturers, distributors, or agents concerning any income or expense resulting from any gaming business, and require verification of income or expense, and all other matters affecting the enforcement of the policy and provisions of this chapter.
5. Audit and inspect any other books and records of eligible organizations conducting games of chance for the purpose of determining compliance with applicable statutes, rules, and constitutional provisions regarding distribution devotion of net proceeds from games of chance.
6. Enter into a reciprocal agreement with the commissioner of the internal revenue service of the United States for exchange of information for state tax administration purposes.
7. Enter into a written agreement with a state or Canadian province to obtain central computer communications and management information system services to aid the attorney general in efficiently managing and controlling video gaming devices in this state and to reduce the financial resources required of this state.

**SECTION 39. AMENDMENT.** Section 53-06.1-15.4 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-15.4. Conditional license - Issuance.** The attorney general, upon application and at the attorney general's discretion, may issue a conditional license to conduct games of chance to an eligible organization whose regularly issued license has been suspended or revoked for a violation of this chapter or rules adopted under this chapter. The attorney general shall designate the time period for which the conditional license is valid and may impose any conditions for issuance of the license as the attorney general determines necessary. Section 53-06.1-16.2 does not apply to an eligible organization to whom a conditional license is issued pursuant to this section.

**SECTION 40. AMENDMENT.** Section 53-06.1-16 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-16. Violation of chapter or rule - Misdemeanor - Forfeiture of licensure - Ineligibility.** Any person who knowingly makes a false statement in any application for a local permit, license, or authorizing resolution or in any statement annexed thereto, or who fails to keep sufficient books and records to substantiate the receipts, gross proceeds, prizes, expenses, or uses devotion of net proceeds resulting from games of chance conducted under this chapter, or who falsifies any books or records so far as they relate to any transaction connected with the holding, operating, and conducting of any game of chance, or who violates ~~any of the provisions of~~ this chapter, any rule adopted under this chapter, or of any term of a local permit or license is guilty of a class A misdemeanor. If convicted, the person forfeits any license or ~~authorizing resolution~~ local permit issued to it pursuant to this chapter and is ineligible to reapply for a license or ~~authorization~~ local permit for a period of time ~~to be determined by the attorney general or~~ commission. 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.

**SECTION 41. AMENDMENT.** Section 53-06.1-16.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-16.1. Bogus chips, marked cards, cheating devices, or fraudulent schemes unlawful - Penalty.** It is unlawful for any person playing or conducting any authorized game of chance conducted by a licensed organization:

1. To use bogus or counterfeit chips, currency, credit vouchers, or ~~charitable gaming tickets~~ pull tabs, or to substitute or use any game, cards, or ~~charitable gaming tickets~~ credit vouchers, pull tabs, or game piece that have been marked or tampered with.
2. To employ or have on one's person any cheating device to facilitate cheating in any game of chance.
3. To willfully use any fraudulent scheme or technique, including when an operator or player of games of ~~charitable gaming tickets~~ pull tabs directly or indirectly solicits, provides, or receives inside information of the status of a game for the benefit of either person.
4. To alter or counterfeit a site authorization, gaming license, or North Dakota gaming stamp.
5. To knowingly cause, aid, abet, or conspire with another person or to cause any person to violate ~~any provision of~~ this chapter or any rule adopted under this chapter.
6. To knowingly permit a person under the age of twenty-one years to make a wager on a video gaming device.
7. To tamper or attempt to tamper with a video gaming device with the intent to interfere with the proper operation of the device, attempt or conspire to manipulate the outcome or the determination of credits or operation of a device, cause physical damage to the device, or physically tamper with the device by any other means.
8. To vandalize, misuse, abuse, or damage a video gaming device.

A person violating this section is guilty of a class A misdemeanor unless the amount gained through the use of these items, schemes, or techniques resulted

in a person obtaining over five hundred dollars, then the offense is a class C felony. However, if a person uses a fraudulent scheme regarding soliciting, providing, or receiving inside information involving the game of pull tabs or uses a fraudulent scheme or technique to cheat or skim involving the games of twenty-one or bingo or if a person is involved in any unlawful activity referenced by this section involving a video gaming device, regardless of the amount gained, then the offense is a class C felony.

**SECTION 42. AMENDMENT.** Section 53-06.1-16.2 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-16.2. License suspension or revocation by attorney general or commission - Ineligibility for local authorization permit.** ~~Any person whose class A or class B A licensed organization that has its license is suspended or revoked by the attorney general or commission or a licensed organization that has not devoted its net proceeds is ineligible for a local authorization permit to conduct raffles, sports pools, or bingo during the period of suspension or revocation.~~

**SECTION 43. AMENDMENT.** Section 53-06.1-17 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-17. Rules.** The commission shall adopt rules in accordance with chapter 28-32, relating to, but not limited to, methods of play, conduct, and promotion of games of chance; methods, procedures, and minimum standards for accounting and recordkeeping; requiring reports by ~~licensees and authorized licensed organizations, distributors, and manufacturers;~~ methods of competition and doing business by distributors, manufacturers, and manufacturers' distributors; marking or identification of raffle tickets, ~~charitable gaming tickets pull tabs,~~ bingo equipment, ~~ticket pull tab receptacles, punchboards, video gaming devices and associated equipment,~~ or any other implements of gambling used or distributed in this state to implement or effectuate the provisions and purpose of this chapter; quality standards for the manufacture of ~~charitable gaming tickets pull tabs, pull tab dispensing devices, and paper bingo cards;~~ hardware and software specifications of video gaming devices and associated equipment; maintenance and repair of video gaming devices; analyzing, testing, evaluation, and approval of video gaming devices and associated equipment; licensing of organizations, distributors, manufacturers, and video gaming devices; to ensure that the entire net proceeds of games of chance are devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter; to protect and promote the public interest; to ensure fair and honest games of chance; to ensure that fees and taxes are paid; to impose monetary fines and establish appeal procedures; and to seek to prevent or detect unlawful gambling activity.

**SECTION 44. AMENDMENT.** Subsection 5 of section 53-06.2-11 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting parimutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under subsection 7 & 8 of section 53-06.1-01.

**SECTION 50. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the office of attorney general for the purpose of the administration, enforcement, and regulation of video gaming devices as a game of chance for the biennium beginning July 1, 1993, and ending June 30, 1995.

Salaries and wages	\$ 300,000
Information services	300,000
Operating	400,000
Equipment	<u>1,000,000</u>
Total general fund appropriation	\$2,000,000

In addition, five full-time equivalent positions are authorized to the office of attorney general.

Correct the title, revise the effective date section, and renumber accordingly

#### REQUEST

REP. NELSON REQUESTED a recorded roll call vote on Division C of the Majority Report amendments to Engrossed SB 2539, which request was granted.

#### ROLL CALL

The question then was on the adoption of Division C of the Majority Report amendments to Engrossed SB 2539, the roll was called and there were 62 YEAS, 36 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Bateman; Belter; Bernstein; Boehm; Brown; Byerly; Carlisle; Carlson, A.; Carlson, C.; Christopherson; Clayburgh; Dalrymple; Dewitz; Dorso; Drovdal; Freier; Froseth; Gates; Gerntholz; Gorman; Grosz; Hagle; Hausauer; Henegar; Holm; Howard; Jacobs; Johnson; Keiser; Kelsch; Kempenich; Klein; Kretschmar; Kunkel; Maragos; Martin; Martinson; Monson; Nicholas; Olsen, D.; Olson, A.; Payne; Poolman; Porter; Price; Rennerfeldt; Rydell; Shide; Skarphol; Soukup; St. Aubyn; Stenehjem; Svedjan; Sveen; Timm; Tollefson; Torgerson; Wald; Wanzek; Wardner; Wentz; Speaker R. Berg

**NAYS:** Aarsvold; Allmaras; Austin; Berg, J.; Bodine; Boucher; Brodshaug; Cleary; Coats; Dobrinski; Glassheim; Goffe; Gordor; Grumbo; Gulleeson; Hanson; Hokana; Huether; Kaldor; Kerzman; Kilichowski; Kroeber; Laughlin; Mahoney; Mutzenberger; Nelson; Ness; Nichols; Oban; Pyle; Ring; Schindler; Sitz; Stenson; Thorpe; Wilkie

Division C of Engrossed SB 2539 passed.

#### REQUEST

REP. KALDOR REQUESTED a Ruling by the Speaker as to whether Engrossed SB 2539, if passed, would it be rereferred to the Appropriations Committee.

#### RULING BY THE SPEAKER

SPEAKER R. BERG ANNOUNCED that if Engrossed SB 2539 passed, he would entertain a motion to message Engrossed SB 2539 to the Senate.

#### MOTION

REP. GATES MOVED the previous question, which motion prevailed.

The question then was on the final passage of Engrossed SB 2539, including Divisions A, B, and C, with title amended appropriately, and lines, sections and pages renumbered accordingly. The roll was called and there were 48 YEAS, 50 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Austin; Bateman; Bernstein; Boehm; Brown; Byerly; Carlson, C.; Christopherson; Clayburgh; Dalrymple; Dorso; Drovdal; Freier; Froseth; Gates; Gerntholz; Gorman; Hagle; Hausauer; Howard; Johnson; Kelsch; Kempenich; Klein; Kretschmar; Kunkel; Maragos; Martinson; Nicholas; Payne; Poolman; Porter; Price; Rennerfeldt; Rydell; Skarphol; Soukup; St. Aubyn; Stenehjem; Sveen; Timm; Tollefson; Torgerson; Wald; Wanzek; Wardner; Wentz; Speaker R. Berg

**NAYS:** Aarsvold; Allmaras; Belter; Berg, J.; Bodine; Boucher; Brodshaug; Carlisle; Carlson, A.; Cleary; Coats; Dewitz; Dobrinski; Glassheim;

Goffe; Gorder; Grosz; Grumbo; Gulleson; Hanson; Henegar; Hokana; Holm; Huether; Jacobs; Kaldor; Keiser; Kerzman; Kilichowski; Kroeber; Laughlin; Mahoney; Martin; Monson; Mutzenberger; Nelson; Ness; Nichols; Oban; Olsen, D.; Olson, A.; Pyle; Ring; Schindler; Shide; Sitz; Stenson; Svedjan; Thorpe; Wilkie

Engrossed SB 2539, as amended, was declared lost.

**MOTION**

REP. FREIER MOVED that the absent members be excused, which motion prevailed.

**MOTION**

REP. FREIER MOVED that the House be on the Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the House stand adjourned until 8:00 a.m., Thursday, April 15, 1993, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

HB 1519: Appropriations Committee (Rep. Dalrymple, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (16 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1519 was placed on the Sixth order on the calendar.

Page 1, line 16, replace "1,695,518" with "1,690,948"

Page 1, line 17, replace "81,450" with "79,009"

Page 2, line 10, replace "14,087,687" with "14,080,676"

Page 2, line 12, replace "9,138,267" with "9,131,256"

Page 2, line 15, replace "12,923,179" with "13,120,260"

Page 2, line 19, replace "16,948,763" with "17,145,844"

Page 2, line 21, replace "8,615,633" with "8,812,714"

Page 2, line 24, replace "3,654,602" with "3,719,797"

Page 2, line 28, replace "4,977,329" with "5,042,524"

Page 3, line 1, replace "2,937,673" with "3,002,868"

Page 3, line 4, replace "4,228,011" with "4,296,707"

Page 3, line 8, replace "5,791,244" with "5,859,940"

Page 3, line 10, replace "2,801,491" with "2,870,187"

Page 3, line 13, replace "91,362,028" with "92,879,513"

Page 3, line 18, replace "123,370,437" with "124,887,922"

Page 3, line 20, replace "74,256,374" with "75,773,859"

Page 3, line 23, replace "72,554,833" with "73,651,942"

Page 3, line 27, replace "97,655,070" with "98,752,179"

Page 3, line 29, replace "58,413,031" with "59,510,140"

Page 4, line 3, replace "19,030,687" with "19,390,920"

Page 4, line 7, replace "25,841,218" with "26,201,451"

Page 4, line 9, replace "18,825,580" with "19,185,813"

Page 4, line 12, replace "11,444,765" with "11,644,301"  
Page 4, line 16, replace "15,140,056" with "15,339,592"  
Page 4, line 18, replace "9,540,943" with "9,740,479"  
Page 4, line 21, replace "6,972,445" with "7,104,730"  
Page 4, line 25, replace "9,001,598" with "9,133,883"  
Page 4, line 27, replace "6,379,139" with "6,511,424"  
Page 5, line 1, replace "25,243,944" with "25,656,129"  
Page 5, line 5, replace "31,389,231" with "31,801,416"  
Page 5, line 7, replace "17,612,664" with "18,024,849"  
Page 5, line 10, replace "9,112,660" with "9,286,197"  
Page 5, line 15, replace "12,017,526" with "12,191,063"  
Page 5, line 17, replace "8,550,986" with "8,724,523"  
Page 5, line 20, replace "3,324,146" with "3,391,858"  
Page 5, line 24, replace "4,390,850" with "4,458,562"  
Page 5, line 26, replace "3,010,534" with "3,078,246"  
Page 5, line 29, replace "1,505,020" with "1,539,161"  
Page 6, line 4, replace "1,940,205" with "1,974,346"  
Page 6, line 6, replace "1,277,165" with "1,311,306"  
Page 6, line 9, replace "42,968,976" with "43,355,211"  
Page 6, line 12, replace "60,582,913" with "60,969,148"  
Page 6, line 13, replace "35,685,093" with "35,687,469"  
Page 6, line 14, replace "24,897,820" with "25,281,679"  
Page 6, line 17, replace "16,938,622" with "17,049,762"  
Page 6, line 20, replace "25,550,550" with "25,661,690"  
Page 6, line 21, replace "246,257,300" with "250,959,343"  
Page 6, line 22, replace "202,427,377" with "202,540,893"  
Page 6, line 23, replace "448,684,677" with "453,500,236"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

DEPARTMENT 215 - NORTH DAKOTA UNIVERSITY SYSTEM

HOUSE - This amendment makes the following changes:

ANALYSIS OF GENERAL FUND CHANGES IN HOUSE BILL NO. 1519

INSTITUTION	BILL AS INTRODUCED	\$60 PER MONTH SALARY ADJUSTMENT	\$4,000,000 ALLOCATION	ISD ADJUSTMENT	HOUSE RECOMMENDATION
North Dakota University System	\$ 9,138,267	\$ (4,570)	\$ 0	\$(2,441)	\$ 9,131,256
Bismarck State College	8,615,633	18,328	178,753		8,812,714
UND-Lake Region	2,937,673	14,516	50,679		3,002,868
UND-Williston	2,801,491	10,157	58,539		2,870,187
University of North Dakota	74,256,374	252,079	1,265,406		75,773,859
North Dakota State University	58,413,031	93,662	1,003,447		59,510,140
State College of Science	18,825,580	96,048	264,185		19,185,813
Dickinson State University	9,540,943	40,892	158,644		9,740,479
Mayville State University	6,379,139	35,489	96,796		6,511,424
Minot State University	17,612,664	62,642	349,543		18,024,849
Valley City State University	8,550,986	47,020	126,517		8,724,523
NDSU-Bottineau	3,010,534	21,501	46,211		3,078,246
Forest Service	1,277,165	13,171	20,970		1,311,306
UND Medical Center	<u>24,897,820</u>	<u>3,549</u>	<u>380,310</u>		<u>25,281,679</u>
Total	\$246,257,300	\$704,484	\$4,000,000	\$(2,441)	\$250,959,343

## ANALYSIS OF OTHER FUND CHANGES IN HOUSE BILL NO. 1519

INSTITUTION	BILL AS INTRODUCED	\$60 PER MONTH SALARY ADJUSTMENT	HOUSE RECOMMENDATION
North Dakota University System	\$ 4,949,420		\$ 4,949,420
Bismarck State College	8,333,130		8,333,130
UND-Lake Region	2,039,656		2,039,656
UND-Williston	2,989,753		2,989,753
University of North Dakota	49,114,063		49,114,063
North Dakota State University	39,242,039		39,242,039
State College of Science Dickinson State University	7,015,638		7,015,638
Mayville State University	2,622,459		2,622,459
Minot State University	13,776,567		13,776,567
Valley City State University	3,466,540		3,466,540
NDSU-Bottineau	1,380,316		1,380,316
Forest Service	663,040		663,040
UND Medical Center	35,685,093	\$ 2,376	35,687,469
Medical Center Rehabilitation Hospital	<u>25,550,550</u>	<u>111,140</u>	<u>25,661,690</u>
Total	\$202,427,377	\$113,516	\$202,540,893

## REPORT OF CONFERENCE COMMITTEE

SB 2004, as engrossed: Your conference committee (Sens. Lindaas, Redlin, Naaden and Reps. Bateman, Gorman, Huether) recommends that the HOUSE RECEDE from the House amendments on HJ page 1078, adopt amendments as follows, and place SB 2004 on the Seventh order:

That the House recede from its amendments as printed on pages 1026-1027 of the Senate Journal and page 1078 of the House Journal and Engrossed Senate Bill No. 2004 be amended as follows:

Page 1, line 11, replace "2,164,431" with "2,140,436"

Page 1, line 16, replace "5,447,381" with "5,423,386"

Page 1, line 17, replace "5,039,771" with "5,022,015"

Page 1, line 18, replace "407,610" with "401,371"

Re-number accordingly

## STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 627 - TRANSPORTATION INSTITUTE

CONFERENCE COMMITTEE - The salaries and wages line item is decreased by \$23,995, \$6,239 of which is from the general fund to reflect the state employee salary increase provisions of House Bill No. 1018.

Engrossed SB 2004 was placed on the Seventh order of business on the calendar.

## REPORT OF CONFERENCE COMMITTEE

SB 2007: Your conference committee (Sens. Tallackson, DeMers, Thane and Reps. Byerly, Wentz, Pyle) recommends that the HOUSE RECEDE from the

House amendments on HJ pages 1059-1060, adopt amendments as follows, and place SB 2007 on the Seventh order:

That the House recede from its amendments as printed on page 987 of the Senate Journal and pages 1059-1060 of the House Journal and that Senate Bill No. 2007 be amended as follows:

Page 1, line 10, replace "166,653" with "184,754"

Page 1, line 11, replace "5,440" with "5,350"

Page 1, line 14, replace "385,000" with "385,000"

Page 1, remove line 15

Page 1, line 16, replace "597,857" with "614,386"

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

DEPARTMENT 316 - INDIAN AFFAIRS COMMISSION

CONFERENCE COMMITTEE - This amendment makes the following changes:

- The salaries and wages line item is increased by \$21,439 from the general fund for a salary increase for the executive director, decreased by \$1,152 from the general fund for reduced employee health insurance costs, and decreased by \$2,186 from the general fund to reflect the \$60 per month salary increase as provided in House Bill No. 1018 as compared to the funding contained in the bill, which provided for a three percent increase during each year of the biennium. The net general fund increase to the salaries and wages line item is \$18,101.
- The information services line item is decreased by \$90 from the general fund in accordance with the provisions of House Bill No. 1018.
- The interagency legal fees line item of \$1,482 is deleted to reflect Governor Schafer's recommendation regarding legal fees charged by the Attorney General.

In total, this amendment increases the appropriation to the Indian Affairs Commission by \$16,529 from the general fund.

SB 2007 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2008, as engrossed:** Your conference committee (Sens. DeMers, Redlin, Thane and Reps. Howard, Carlisle, Kroeber) recommends that the HOUSE RECEDE from the House amendments on HJ page 1293, adopt amendments as follows, and place SB 2008 on the Seventh order:

That the House recede from its amendments as printed on page 1163 of the Senate Journal and page 1293 of the House Journal and that Senate Bill 2008 be amended as follows:

Page 1, line 10, replace "479,194" with "468,731"

Page 1, line 11, replace "11,854" with "11,579"

Page 1, line 16, replace "3,311,515" with "3,300,777"

Page 1, line 17, replace "3,053,680" with "3,043,988"

Page 1, line 18, replace "257,835" with "256,789"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

DEPARTMENT 412 - AERONAUTICS COMMISSION

CONFERENCE COMMITTEE - This amendment makes the following changes:

- The salaries and wages line item is decreased by \$2,304, of which \$230 is from the general fund, for reduced employee health insurance costs and decreased by \$8,159, of which \$816 is from the general fund, to reflect the \$60 per month salary increase plan in accordance with the provisions of House Bill No. 1018. In total, the salaries and wages line item is decreased by \$10,463, of which \$1,046 is from the general fund and \$9,417 is from other funds.
- The information services line item is decreased by \$275 from other funds in accordance with the provisions of House Bill No. 1018.

In total, this amendment decreases the appropriation to the Aeronautics Commission by \$10,738, of which \$1,046 is from the general fund and \$9,692 is from other funds.

Engrossed SB 2008 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2013, as engrossed:** Your conference committee (Sens. Lindaas, DeMers, Goetz and Reps. Carlisle, Howard, Kroeber) recommends that the HOUSE RECEDE from the House amendments on HJ page 1379, adopt amendments as follows, and place SB 2013 on the Seventh order:

That the House recede from its amendments as printed on pages 1243-1244 of the Senate Journal and page 1379 of the House Journal and that Engrossed Senate Bill No. 2013 be amended as follows:

Page 1, line 10, replace "15,214,978" with "15,287,051"

Page 1, line 11, replace "203,294" with "193,228"

Page 1, line 16, replace "19,126,746" with "19,188,753"

Page 1, line 18, replace "\$17,971,485" with "\$18,046,139"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

DEPARTMENT 504 - HIGHWAY PATROL

CONFERENCE COMMITTEE - This amendment makes the following changes to the salaries and wages line item:

	HIGHWAY FUND	FEDERAL FUNDS	TOTAL
Decrease reflecting state employee salary increase provisions of House Bill No. 1018 (the engrossed bill included funding at the 3/3 salary increase recommendation funding level)	\$(240,280)	\$(12,647)	\$(252,927)

Increase relating to projecting fewer position vacancies during the 1993-95 biennium (the Senate reduced salaries and wages by \$725,000 from the highway fund for 1993-95 projected position vacancies and the House restored \$325,000 of the reduction)	<u>325,000</u>	_____	<u>325,000</u>
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Total	\$ 84,720	\$(12,647)	\$ 72,073
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The information services line item is reduced by \$10,066 from the highway fund in accordance with provisions of House Bill No. 1018.

In total, this amendment increases funding for the Highway Patrol by \$62,007 of special funds.

Engrossed SB 2013 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**SB 2448:** Your conference committee (Sens. Yockim, Kinnoin, Thane and Reps. Byerly, Clayburgh, Kroeber) recommends that the **SENATE ACCEDE** to the House amendments on HJ page 1141 and place SB 2448 on the Seventh order.

SB 2448 was placed on the Seventh order of business on the calendar.

#### FIRST READING OF SENATE CONCURRENT RESOLUTION

**SCR 4077:** A concurrent resolution directing the Legislative Council to study the feasibility and desirability of adopting and implementing a universal health care program in the state. Was read the first time and referred to the **Human Services Committee**.

The House stood adjourned pursuant to Representative Freier's motion.

**ROY GILBREATH, Chief Clerk**