

## NORTH DAKOTA LOTTERY

Administrative Rules Committee Meeting  
March 11, 2009

Mr. Chairman, and members of the Administrative Rules Committee, my name is Randy Miller. I am the director of the North Dakota Lottery, a division of the Office of Attorney General. Today, I will be providing information describing the procedure followed by the North Dakota Lottery in adopting the rules published in the April 2009 supplement to the North Dakota Administrative Code.

I will begin by addressing the questions listed in the Legislative Council's February 25, 2009 letter. Please feel free to ask questions at any time.

1. The rules do not result from statutory changes made by the Legislative Assembly.
2. The rules do not relate to any federal statute or regulation.
3. The Lottery drafted rules which the Lottery Advisory Commission approved. A notice of public hearing was filed with the Legislative Council on October 15, 2008. Notifications on the public hearings and availability of the proposed rules were publicized in 52 county newspapers during October. The rules were available at the public hearing, Lottery's office, and to the public upon request.

The Lottery conducted one public hearing on November 19, 2008 in Bismarck - no one attended.

The Attorney General's Office examined and approved the final version of adopted rules as to their legality. The Lottery filed the rules with the Legislative Council.

4. There were no written or oral concerns, objections, or complaints for agency consideration with regard to these rules.
5. The approximate cost of giving public notice, holding a hearing, and developing and adopting the rules (excluding staff time) is:

Publishing notices of public hearings	\$1,375
Holding public hearings	0
Developing and adopting the rules	0
Total	<u>\$1,375</u>

6. The purpose of the rules is to address industry issues and update game rules. The rules address subscription payment methods for the games of Powerball, Hot Lotto, Wild Card 2, and 2by2; and update game description; expected prize pool percentages and odds; and power play option for Powerball.
7. A regulatory analysis was not required by NDCC Section 28-32-08.
8. A regulatory analysis or economic impact statement of impact on small entities was not required by NDCC Section 28-32-08.1.
9. A constitutional takings assessment was not required by NDCC Section 28-32-09.
10. The rules were adopted as emergency rules under NDCC Sections 28-32-03 and 53-12.1-13.

The subscription payment method emergency rule effective November 1, 2008 was necessary to continue the efficient operation of the lottery and provide convenience to the public. In late September 2008, the Unlawful Internet Gambling Enforcement Act (UIGEA) enacted by Congress caused the major credit card companies and many banks to deny payment of a North Dakota Lottery subscription with a credit card.

The Lottery's intent was to move quickly to other payment options, such as automated clearinghouse (ACH) to continue to offer our players the convenience they have come to expect. Unfortunately, the ACH process has experienced delays.

Due to the delay in implementing the ACH process, the Committee may want to consider changing the effective date of the rules for subscriptions to April 1, 2009, rather than November 1, 2008.

The Powerball emergency rules were directly related to Powerball game changes implemented by the Multi-State Lottery Association which re-launched Powerball on January 4, 2009.

This completes my testimony. Thank you for the opportunity to appear before the committee to describe the procedure followed by the Lottery in adopting the rules.

If there are any other questions, I would be happy to answer them at this time.