

MEMO

TO: Administrative Rules Committee

FROM: James P. Wang, Chairperson, State Gaming Commission

RE: N.D.A.C. Article 99-01.3 - Games of Chance

DATE: June 10, 2010

This is a reply to the North Dakota Legislative Council's May 26, 2010, letter. The procedures followed by the Gaming Commission in adopting the Games of Chance rules to be published in the July 2010, supplement to the North Dakota Administrative Code are:

1. **Question:** Whether the rules resulted from statutory changes made by the Legislative Assembly.

Response: The rules primarily resulted from addressing industry issues and clarifying the rules.

2. **Question:** Whether the rules related to federal statute or regulation.

Response: No.

3. **Question:** A description of the rulemaking procedures followed in adopting the rules.

Response: On behalf of the State Gaming Commission, the Gaming Division of the Office of Attorney General drafted a working document of proposed rule changes. The document reflected input from a variety of sources over the preceding few years, including specific input from four regional meeting held in Grand Forks, Fargo, Williston, and Bismarck in September 2009, and input from a 20 person volunteer Gaming Advisory Board representing all areas of the gaming industry. The Gaming Commission, Advisory Board, representatives of the Gaming Division, organizations, and distributors met to critique the working document. It was revised for public hearings.

A notice of public hearing was filed with the Legislative Council on January 6, 2010. The notice was published once in all official county newspapers.

A notice was sent on January 8, 2010 to all gaming organizations, distributors, manufacturers, Advisory Board members, Gaming Commission members, and other interest parties notifying them of scheduled public hearings. Copies of the proposed rules were available at the hearings and, on request, were sent free to any interested person. A copy of the proposed rules was also placed on the Office of Attorney General's web page.

Public hearings were held in Grand Forks, Fargo, and Bismarck on February 16-18, 2010. Fifty-one people attended the hearings and a written record was made of the comments. Five written comments were also received. Nineteen comments were expressed on the proposed rule changes. The State Gaming Commission, Gaming Advisory Board, and Gaming Division evaluated the comments. The Commission adopted many of the proposed rules without major change, adopted a few of the proposed rules after changing them by compromise or clarification, and did not adopt some of the proposed rules.

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

4. **Question:** Whether any person presented a written or oral concern, objection, or complaint for agency consideration with regards to these rules.

Response: Yes. Reference the attached March 18, 2010, document titled "**Public Comments on Proposed Gaming Rules**". This document includes a summary of all oral and written public comments, and the decision of the Gaming Commission on each comment.

5. **Question:** The approximate cost of giving public notice and holding public hearings on the rules and the approximate cost of developing and adopting the rules.

Response: The approximate cost is:

Publishing notices of public hearings.....	\$2,045
Mailing notice of the public hearings.....	\$ 175
Printing/copying proposed rules.....	\$ 75
Mailing proposed rules.....	\$ 20
Holding public hearings	<u>\$ 425</u>
Total.....	\$2,740

Note: The total amount excludes the cost of staff time of about 200 hours applied in drafting, typing, proofreading, and critiquing the proposed rules and participating in public hearings and meetings.

6. **Question:** An explanation of the subject matter of the rules and the reasons for adopting the rules.

Response: The rules address industry issues and clarify items.

The rules relate to organization licenses and permits; general rules; accounting rules; bingo; raffles; pull tabs; sports pools; twenty-one; poker; calcuttas; paddlewheels; pull tab and prize board dispensing devices; eligible uses; distributors; and manufacturers.

7. **Question:** Whether a regulatory analysis was required by North Dakota Century Code (NDCC) Section 28-32-08 and whether a regulatory analysis was issued.

Response: A regulatory analysis was not required or issued.

8. **Question:** Whether a regulatory analysis or economic impact statement of impact on small entities was prepared and issued as required by NDCC Section 28-32-08.1.

Response: Yes. Reference the attached December 30, 2009, document titled "**Small Entity Regulatory Analysis and Economic Impact Statement on Proposed Administrative Rules**". This document includes a summary of the regulatory analysis and economic impact statement concerning small entities.

9. **Question:** Whether a constitutional takings assessment was prepared as required by NDCC Section 28-32-09.

Response: A constitutional taking assessment was not required or prepared.

10. **Question:** If the rules were adopted as emergency (interim final) rules under NDCC Section 28-32-03.

Response: No.

STATE GAMING COMMISSION
c/o Office of Attorney General
600 E. Boulevard Ave., Dept.125
Bismarck, ND 58505-0040

Public Comments on Proposed Gaming Rules
March 18, 2010

LIST OF WRITTEN COMMENTS (ATTACHED) AND SUMMARY OF VERBAL PUBLIC COMMENTS ON PROPOSED NEW RULES, AMENDMENTS, AND REPEAL OF RULES RELATED TO NORTH DAKOTA ADMINISTRATIVE CODE ARTICLE 99-01.3, GAMES OF CHANCE ADMINISTRATIVE RULES.

Notification and Conduct of Public Hearings

1. Notification was sent to the North Dakota Newspaper Association for publication in the 52 county newspapers during the week of January 13-19, 2010.
2. Notifications were mailed to distributors, organizations, manufacturers, and members of the Gaming Advisory Board and State Gaming Commission on January 8, 2010.
3. The Office of Attorney General conducted three public hearings for the State Gaming Commission as follows:

<u>Date</u>	<u>City</u>	<u>Attendance</u>
February 16, 2010	Grand Forks	12
February 17, 2010	Fargo	27
February 18, 2010	Bismarck	12

Written Comments

1. North Dakota Association for the Disabled, Inc.(NDAD)/ Prairie Public Broadcasting, Inc. – Summary of Proposed Changes (no specific date listed on the identical letters received at the February 16 & 17, 2010, hearings).
2. E-mail letter received from Michelle Welder, Gaming Division Auditor, dated February 2, 2010.
3. Prairie Public Broadcasting, Inc. – Support for several changes to the Games of Chance Administrative Rules with one additional proposal for poker. Letter dated February 25, 2010.
4. Thirty-four identical letters from various poker players. Letters dated from February 19 - 25, 2010.
5. Plains Art Museum – Support for previous rule changes suggested by NDAD (See written comments number 1). Letter dated February 26, 2010.

Legend to Status – Decision by the Gaming Commission at its Meeting of March 18, 2010

- A – The proposed new rule, amendment, or repealed rule was adopted without major change.
- C – The proposed new rule, amendment, or repeal was partially changed by compromise or clarification.
- N – The proposed new rule, amendment, or repealed rule was not adopted or the rule was deleted.
- N/A – The comment, such as a question or remark, was not expressed to change a proposed new rule, amendment, or repealed rule, or the comment is moot because of other action taken on that or a related rule.

Public Comments

Chapter 99-01.3-02 – General Rules

<u>Number</u>	<u>Page</u>	<u>Citation</u>	<u>Comment</u>	<u>Status</u>
1.	5	99-01.3-02-01(11)	Question asked about whether or not the definition of "Gaming equipment" should exclude twenty-one and paddlewheel tables constructed by a carpenter. (See new subdivision d of subsection 1 on page 8).	N/A
2.	10	99-01.3-02-08(1)	Requested that organizations be allowed to designate a cash value amount for the purchase of additional bingo cards on a bingo card marking devices.	N/A

Chapter 99-01.3-03 – Accounting Rules

3.	13	99-01.3-03-02(3)	Concern expressed that this rule change is a major change from the current rule. Another question on why this rule was being changed. AG note: Separate handout with the old rule and the new language.	A
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Chapter 99-01.3-04 – Bingo

4.	21	99-01.3-04-01(1)	Requested that organizations be allowed to use Wi-Fi wireless network connections to the internet as well as the current radio frequency signal.	C
5.	24	99-01.3-04-03(11)	Comments in Grand Forks and Fargo in support of changes to the following subdivisions (a.) to allow floorwalkers to sell additional cards on bingo card marking devices; (e.) to allow an exception to play more than 72 single-faced cards per game and choose or reject downloaded bingo cards for games in which all of the bingo numbers are predrawn; (h.) to allow an exception for bonanza games or games	C

where all of the bingo numbers are predrawn to rent devices while a game is in progress; (j.) add Wi-Fi wireless network connections in addition to a radio frequency signal; (k.) allow an exception for players with a winning card when a game has all of the bingo numbers predrawn; and provide a new subdivision (p.) which allows players to use bingo card marking devices when all bingo numbers are predrawn and prizes are listed as a separate amount from the bingo cards purchased.

6.	25	99-01.3-04-03(18)	Requested an exception to verifying a winning card by an employee and one neutral player for games played on bingo card marking devices when all bingo numbers are predrawn.	N/A
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Chapter 99-01.3-08 – Twenty-One

7.	43	99-01.3-08-04(8)	Requested that the rule be changed from 48 hours of activity on the table to 72 hours of activity.	C
8.	50	99-01.3-08-10(16)	Requested that both the right and left hand be used to fan chips on a twenty-one table, depending on the betting spot, to eliminate the dealer's blind spot and the possibility of cheating by adding chips onto an original bet.	N/A

Chapter 99-01-09 – Poker

9.	56	99-01.3-09-02(1)	Letter from poker players indicated that only 2 occasions per year seemed low and at least once per quarter seemed more reasonable. AG note: This would require a law change.	N/A
10.	56	99-01.3-09-02(2)	Concern expressed that side games are considered nontournament play and restricted to the current \$1 bet limit and organization fees (\$2 for ½ hour of playing time) for nontournament play.	A
11.	56	99-01.3-09-02(3)(a)	Question asked why a satellite buy-in prize is non-transferable to another player. Letter from poker players and Prairie Public requested that a satellite	A

buy-in prize be transferable to another player, which was also a request at one of the public hearings.

- | | | | | |
|-----|----|---------------------|--|---|
| 12. | 56 | 99-01.3-09-02(3)(c) | <p>Questioned why satellite games are part of a tournament when applying the total player tournament fees. Requested that satellite entry fees and regular larger poker tournament fees have a separate \$300 per player limit. Several organizations agreed with this idea. A Concern was also expressed that tournaments are already restricted to two occasions per year and that the proposed \$300 tournament fee limit as it is proposed makes it difficult for organizations to make money.</p> | C |
|-----|----|---------------------|--|---|

Chapter 99-01.3-12 – Pull Tab Dispensing Devices

- | | | | | |
|-----|----|----------------------|--|-----|
| 13. | 66 | 99-01.3-12-02(14)(a) | <p>Requested that color of pull tabs be added back as an additional exception in this rule. AG note: Appears to be an oversight that needs to be corrected.</p> | C |
| 14. | 69 | 99-01.3-12-05(7) | <p>Question asked if the new requirement for test vends on the Interim Period Site Summary applied to dispensing devices that only test vend when the door is open and never record on the meters. AG note: This rule only applies to dispensing devices in which test vends affect the meter readings. (See subsection 8 on page 65.)</p> | N/A |

Chapter 99-01.-3-15 - Distributors

- | | | | | |
|-----|----|------------------|--|---|
| 15. | 84 | 99-01.3-15-06(4) | <p>Problem with the second sentence of the new language in this paragraph which restricts the use of some phrases on a flare. Comment that this could also affect pull tab games which are considered to be defective.</p> | C |
| 16. | 85 | 99-01.3-15-06(6) | <p>Requested that the quantity and face value of coins sold on a prize board be recorded on the game information sheet. (E-mail from Michelle Welder referenced the old subsection 7).</p> | C |

Chapter 99-01.3-16 – Manufacturers of Pull Tabs, Paper Bingo Cards, Pull Tab Dispensing Devices, Bingo Card Marking Devices, and Card Shuffling Devices

17.	95	99-01.3-16-09.1(5)	Requested adding an exception to the bingo card marking devices to allow more than 72 single-faced cards per game when all of the bingo numbers are predrawn.	N/A
18.	95	99-01.3-16-09.1(6)	Requested that organizations be allowed to use Wi-Fi wireless network connections to the internet as well as the current radio frequency signal.	C
19.	95	99-01.3-16-09.1(9)	Requested adding the phrase "or when additional cards are purchased" to the subsection which currently requires a device to be downloaded with new cards at the time of the sales transaction.	N/A

Proposed Rule Changes

99-01.3-02-08. Currency of play, credit play, and borrowing from gaming funds.

1. Play of a game must be in United States currency. Play of a game must be on a cash basis. An organization may, by policy, accept checks and allow the use of debit cards. No credit may be extended to a player. The consideration to play a game must be paid before play. An employee may not loan money to a player, accept a postdated check, allow a player to alter a check, permit a player to establish an account by depositing cash for making periodic withdrawals, or any similar practice.

Add: A player may designate a cash value portion on bingo marking devices for the purchase of bingo cards.

99-01.3-04-01

2. "Bingo" is when a player buys a card or uses a bingo card marking device and marks squares, or a radio frequency signal marks squares on a marking device.

Add: or Wi-Fi after radio frequency

99-01.3-04-03. Conduct and play. –

Subsection 11

A - a device cannot be reserved for a player unless a player is disabled. An organization shall provide each player an equal opportunity to use the available devices on a first-come, first-served basis. A device cannot be issued through a floorworker,

Change to: A floorwalker may not issue a device, however, additional cards may be purchased through a floorwalker.

E - No player can play more than seventy-two single-faced cards per game on a device and cannot choose or reject downloaded cards;

Add to the end: **"except on a game where all bingo numbers are pre-drawn.**

H - If a player rents a device while a game for that session is in progress, the player may not play that game and a cashier shall record on the player's receipt that the specific game number is void;

Add to the end: **except on a bonanza game or on a game where all of the bingo numbers are pre-drawn.**

J - A player may use an input function key on a device or an organization may use a radio frequency signal to mark each number as it is called. When a player inputs a number or an

Planes

organization sends a radio frequency signal, a device may automatically mark all the player's cards that contain that number;

Add following both occurrences of radio frequency: **Wi-Fi**.

K. If a player has a winning card, the player shall:

(1) Timely call bingo according to subdivision c of subsection 2 and it must be by a method other than through a device; and

(2) Provide the device with the winning card displayed to a floorworker to verify according to subsection 18

Add: **(3) Except on a game where all bingo numbers are pre drawn.**

Add a new subsection:

P - For games played on a bingo marking device where all bingo numbers are pre-drawn, the bingo prizes must be separate from bingo cards purchased.

Subsection 18

18. A winning card must be verified by an employee and one neutral player or person unless an electronic bingo card verifier is used and the display of electronic bingo card verifier is shown to all players on a monitor. A floorworker may not access a verifier. For a winning card on a bingo card marking device, an employee shall compare the serial number of the device to the receipt for the cards played on that device.

Add: **except for games where all bingo numbers are pre drawn and played on a bingo marking device.**

99-01.3-16-09.1. Manufacturing specifications – Bingo card marking devices.

5. No device can allow more than seventy-two single-faced cards per game;

Add: **"Except for games where all bingo numbers are pre-drawn.**

6. A device may require a player to manually enter each bingo number by using an input function key or may use a radio frequency to automatically daub the bingo numbers called;

Add the following after radio frequency: **Wi-Fi**

9. A device must be downloaded with new cards at the time of the sales transaction.

Add: or when additional cards are purchased.

Lauer, Keith G.

From: Welder, Michelle R.
Sent: Tuesday, February 02, 2010 9:33 AM
To: Lauer, Keith G.
Cc: Tschosik, Terry J.
Subject: Proposed rule change

Importance: High

Keith,

In the distributor's chapter, I propose we amend §99-01.3-15-06(7) to include the quantity and face value of the coins sold on a prize board to be recorded on the game information sheet. The reason for this change is that the administrative rules require an organization to prorate any unawarded coins according to its face value in relation to the face value of all the other coins. However, once those other coins are awarded an organization (or this office) may not know what the face value of those other coins were. I'm not so sure you can necessarily assess what a value was just based on the size of the hole on the coin board.

Let me know if you have any questions.

Thank you.

Michelle



RECEIVED
ATTY. GENERAL'S LICENSING DEPT.

FEB 26 2010

Prairie Public Broadcasting, Inc.

Television
Radio
Education Services
Enterprises

February 25, 2010

Keith Lauer
Director, Gaming Division
600 E Boulevard Ave, Dept 125
Bismarck, ND 58505-0040

Check _____
Draft _____
Cash _____ M.O. _____

Dear Keith,

Prairie Public Broadcasting, Inc supports the following proposed changes to the Games of Chance Rules.

General Rules

99-01.3-02-08. Currency of play, credit play, and borrowing from gaming funds.

1. Play of a game must be in United States currency. Play of a game must be on a cash basis. An organization may, by policy, accept checks and allow the use of debit cards. No credit may be extended to a player. The consideration to play a game must be paid before play. An employee may not loan money to a player, accept a postdated check, allow a player to alter a check, permit a player to establish an account by depositing cash for making periodic withdrawals, or any similar practice.

Add: A player may designate a cash value portion on bingo marking devices for the purchase of bingo cards.

Bingo

99-01.3-04-01

2. "Bingo" is when a player buys a card or uses a bingo card marking device and marks squares, or a radio frequency signal marks squares on a marking device,

Add: or Wi-Fi after radio frequency

99-01.3-04-03. Conduct and play. -

Subsection 11

A - a device cannot be reserved for a player unless a player is disabled. An organization shall provide each player an equal opportunity to use the available devices on a first-come, first-served basis. A device cannot be issued through a floorworker,

Change to: A floorwalker may not issue a device, however, additional cards may be purchased through a floorwalker.

E - No player can play more than seventy-two single-faced cards per game on a device and cannot choose or reject downloaded cards;

Add to the end: "except on a game where all bingo numbers are pre-drawn.

H - If a player rents a device while a game for that session is in progress, the player may not play that game and a cashier shall record on the player's receipt that the specific game number is void;

Add to the end: except on a bonanza game or on a game where all of the bingo numbers are pre-drawn.

J - A player may use an input function key on a device or an organization may use a radio frequency signal to mark each number as it is called. When a player inputs a number or an organization sends a radio frequency signal, a device may automatically mark all the player's cards that contain that number;

Add following both occurrences of radio frequency: Wi-Fi.

(2) Provide the device with the winning card displayed to a floorworker to verify according to subsection 18

Add: (3) Except on a game where all bingo numbers are pre drawn.

Add a new subsection:

P - For games played on a bingo marking device where all bingo numbers are pre-drawn, the bingo prizes must be separate from bingo cards purchased.

Subsection 18

18. A winning card must be verified by an employee and one neutral player or person unless an electronic bingo card verifier is used and the display of electronic bingo card verifier is shown to all players on a monitor. A floorworker may not access a verifier. For a winning card on a bingo card marking device, an employee shall compare the serial number of the device to the receipt for the cards played on that device.

Add: except for games where all bingo numbers are pre drawn and played on a bingo marking device.

99-01.3-16-09.1. Manufacturing specifications – Bingo card marking devices.

5. No device can allow more than seventy-two single-faced cards per game;

Add: "Except for games where all bingo numbers are pre-drawn.

6. A device may require a player to manually enter each bingo number by using an input function key or may use a radio frequency to automatically daub the bingo numbers called;

Add the following after radio frequency: Wi-Fi

9. A device must be downloaded with new cards at the time of the sales transaction.

Add: or when additional cards are purchased.

Poker

99-01.3-09-02.

Subsection 3

B-Use no-value chips. The cumulative entry fee, including rebuys or add-ons, for a tournament cannot exceed two hundred dollars per player.

Change to: The entry fee into satellite tournaments cannot exceed three hundred dollars. The entry fee, excluding satellites, including rebuys or add-ons, for a tournament cannot exceed three hundred dollars per player. The buy-in fee for a satellite is considered gross proceeds for a tournament.

Add: An organization may award a buy-in to a larger tournament to multiple winning players of each satellite, the buy-in prize is transferable to another player.

Blackjack

99-01.3-08-11 Playing

Subsection 16

16. If a player's hand wins against a dealer's hand and a table has a video surveillance system, the payoff of each winning hand must be done on a hand-by-hand basis. The payoff procedure is:

a. A dealer shall fan all of a player's wagered chips toward the dealer or side with only the dealer's left hand. A dealer may, at an organization's option that is consistently applied at a site, fan all of a player's wagered chips toward the dealer or side with only the dealer's right hand. However, for a site that has a pit boss on duty and the organization requires a double-down wager to equal the original wager, a dealer may, for a player who has placed a split bet or double-down bet, or both, fan only one of the player's stacks of wagered chips. A dealer shall reposition a tip bet chip in the inner table area with the dealer's left hand and fan the chips. A dealer may, at an organization's option that is consistently applied at a site, fan all the players' tip bets and double-down chips after the payoff procedure has been done on all winning players' hands. However, if a player's bet exceeds five dollars, the dealer shall separate the player's chips, by value, fan them in sets of five chips, and then

fan any remaining chips. A dealer shall, with the dealer's right hand, take a chip from a chip tray, equal in value to the player's wagered chips (not tip bet chips), place the payoff chip in a stacked manner beside the wagered fanned chips, fan the payoff chips toward the dealer or side, and move the dealer's hands away from the chips. However, if the prize payoff exceeds twenty casino chips of the same value, the dealer may use a rack to account for one or more sets of twenty chips and fan the remaining chips. A dealer shall repeat this procedure for each separate winning

ADD: For betting spaces 1 and 2 a dealer shall, at an organization's option that is consistently applied at a site, with the dealer's left hand, take a chip from a chip tray, equal in value to the player's wagered chips (not tip bet chips), place the payoff chip in a stacked manner beside the wagered fanned chips, fan the payoff chips toward the dealer or side, and move the dealer's hands away from the chips. For betting spaces 3 through 7 a dealer shall, with the dealer's right hand, take a chip from a chip tray, equal in value to the player's wagered chips (not tip bet chips), place the payoff chip in a stacked manner beside the wagered fanned chips, fan the payoff chips toward the dealer or side, and move the dealer's hands away from the chips.

Please contact me, 701-239-75715 or khaugen@prairiepublic.org, if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen Haugen", with a long horizontal flourish extending to the right.

Karen Haugen
PPB Gaming Manager

To Whom It May Concern:

As an avid poker player, and fan, I would like to express my thoughts on the current and proposed rules and laws as they pertain to poker. I understand that there are many factors that have to be considered, and just want to show how much support there is for poker. I believe that the current, and to a lesser extent, the proposed rules and laws make it very difficult for a nonprofit organization to make money running poker tournaments! I would like intern for them to be able to turn a profit, after all, they are there to better our communities.

The rules and laws that make it difficult to make money as I see it are: the proposed limit of \$300 for a tournament including satellites; the limit of two poker occasions per year; the non-transferability of the seats won through the satellites, and the lack of a clear answer as to whether side games can be run as small tournaments. I will go through these rules one at a time.

1. The \$300 per occasion limit seriously handicaps a charities ability to run a tournament that is fair and acceptable to players, while maintaining profitability. Currently this \$300 cap covers entry fee for both satellite games (one table events with a much less expensive entry fee, the prize being a seat in the main event) and the main event. Charities often make the bulk of their profit from these satellite games, as they withhold a higher % of the entry fee, and they are able to run more games in a shorter amount of time. A fair compromise to both players and charities would be a \$300 max on satellites, and a \$300 cap on the main event. This would allow charities to run enough satellites to turn a profit, while maintaining a main event pay back percentage that is fair to players.
2. The limit of two occasions per year would seem to be a little low if the state would like these tournaments to be run well. The more often that a charity could run these tournaments, the less it would cost to train dealers and the more efficient everyone involved could be. It would seem that at least once a quarter would work as it would only raise the number to four per year. This would be a fairly realistic expectation, without expanding poker too much.
3. The non-transferability of the seats, which is a new rule, could use some work! It would seem that if a person wants to win a seat for a friend or significant other that cannot be present for the satellites that should be encouraged. The goal is for the charity to be able to make money.
4. I have read and reread the rules and it does not clearly discern whether a "Side Game" is non-tournament activity, or if smaller "Consolation Tournaments" would be legal as long as the charity held the required 10%. Similar to satellites, here is a chance for the charity to make money in shorter consolation tournaments, as long as it did not go over the \$300 for an individual's satellite buy-ins.

Thank you for your time, and consideration of these thoughts.

Signed

Brian Nicklaus

Date

8/26/10

Printed Name

Brian Nicklaus

Street Address

1018 10th Ave S

City

Forza

ND

Zip

58103

PlainsArt Museum



RECEIVED
ATTY. GENERAL'S LICENSING DEPT.

MAR 02 2010

February 26, 2010

Mr. Keith G. Lauer, Director
Gaming Division
Office of the Attorney General
600 E Boulevard Ave Dept 125
Bismarck, ND 58505-0040

Check _____
Draft _____
Cash _____ M.O. _____

Re: Rule writing

Dear Mr. Lauer:

This is a response to your request for input during the current rule writing period. The Plains Art Museum would like to voice its support of the attached proposed rule changes set forth by the North Dakota Association for the Disabled (NDAD).

Sincerely,

Dan Bessler
General Manager
Big Top Bingo

Att.

Proposed Rule Changes

99-01.3-02-08. Currency of play, credit play, and borrowing from gaming funds.

*1. Play of a game must be in United States currency. Play of a game must be on a cash basis. An organization may, by policy, accept checks and allow the use of debit cards. No credit may be extended to a player. The consideration to play a game must be paid before play. An employee may not loan money to a player, accept a postdated check, allow a player to alter a check, **permit a player to establish an account by depositing cash for making periodic withdrawals, or any similar practice.***

Add: A player may designate a cash value portion on bingo marking devices for the purchase of bingo cards.

99-01.3-04-01

2. "Bingo" is when a player buys a card or uses a bingo card marking device and marks squares, or a radio frequency signal marks squares on a marking device,

Add: or Wi-Fi after radio frequency

99-01.3-04-03. Conduct and play. –

Subsection 11

A - a device cannot be reserved for a player unless a player is disabled. An organization shall provide each player an equal opportunity to use the available devices on a first-come, first-served basis. A device cannot be issued through a floorworker,

Change to: A floorwalker may not issue a device, however, additional cards may be purchased through a floorwalker.

E - No player can play more than seventy-two single-faced cards per game on a device and cannot choose or reject downloaded cards;

Add to the end: "except on a game where all bingo numbers are pre-drawn.

H - If a player rents a device while a game for that session is in progress, the player may not play that game and a cashier shall record on the player's receipt that the specific game number is void;

Add to the end: except on a bonanza game or on a game where all of the bingo numbers are pre-drawn.

J - A player may use an input function key on a device or an organization may use a radio frequency signal to mark each number as it is called. When a player inputs a number or an

organization sends a radio frequency signal, a device may automatically mark all the player's cards that contain that number;

Add following both occurrences of radio frequency: **Wi-Fi.**

K. If a player has a winning card, the player shall:

(1) Timely call bingo according to subdivision c of subsection 2 and it must be by a method other than through a device; and

(2) Provide the device with the winning card displayed to a floorworker to verify according to subsection 18

Add: **(3) Except on a game where all bingo numbers are pre drawn.**

Add a new subsection:

P - For games played on a bingo marking device where all bingo numbers are pre-drawn, the bingo prizes must be separate from bingo cards purchased.

Subsection 18

18. A winning card must be verified by an employee and one neutral player or person unless an electronic bingo card verifier is used and the display of electronic bingo card verifier is shown to all players on a monitor. A floorworker may not access a verifier. For a winning card on a bingo card marking device, an employee shall compare the serial number of the device to the receipt for the cards played on that device.

Add: **except for games where all bingo numbers are pre drawn and played on a bingo marking device.**

99-01.3-16-09.1. Manufacturing specifications – Bingo card marking devices.

5. No device can allow more than seventy-two single-faced cards per game;

Add: **"Except for games where all bingo numbers are pre-drawn.**

6. A device may require a player to manually enter each bingo number by using an input function key or may use a radio frequency to automatically daub the bingo numbers called;

Add the following after radio frequency: **Wi-Fi**

9. A device must be downloaded with new cards at the time of the sales transaction.

Add: **or when additional cards are purchased.**

Prepared by: Keith Lauer
December 30, 2009

State Gaming Commission
c/o Office of Attorney General
Gaming Division

Small Entity Regulatory Analysis and Economic Impact Statement on Proposed
Administrative Rules
North Dakota Administrative Code Article 99-01.3 Games of Chance

PURPOSE

In accordance with North Dakota Century Code (N.D.C.C.) § 28-32-08.1, this is a regulatory analysis and economic impact statement regarding the effect of proposed administrative rules on organizations and distributors (small entities) that operate games of chance or sell gaming equipment in the State of North Dakota.

The proposed rules that will affect organizations and distributors are:

Section 99-01.3-01	Organization Licenses and Permits
Section 99-01.3-02	General Rules
Section 99-01.3-03	Accounting Rules
Section 99-01.3-04	Bingo
Section 99-01.3-05	Raffles
Section 99-01.3-06	Pull Tabs, Club Special, Tip Board, Seal Board, Prize Board, and Punchboard
Section 99-01.3-07	Sports Pools
Section 99-01.3-08	Twenty-one
Section 99-01.3-09	Poker
Section 99-01.3-10	Caluttas
Section 99-01.3-11	Paddlewheels
Section 99-01.3-12	Pull Tab Dispensing Devices
Section 99-01.3-12.1	Prize Board Dispensing Devices
Section 99-01.3-13	Bingo Card Dispensing Devices
Section 99-01.3-14	Eligible Uses
Section 99-01.3-15	Distributors
Section 99-01.3-16	Manufacturers of Pull Tabs, Paper Bingo Cards, Pull Tab Dispensing Devices, Bingo Card Marking Devices, and Card Shuffling Devices

SMALL ENTITY REGULATORY ANALYSIS

The Office of Attorney General's Gaming Division prepared this 'Small Entity Regulatory Analysis' on behalf of the Sate Gaming Commission, before it adopted proposed rules on the law, N.D.C.C. chapter 53-06.1 (Games of Chance). Through this analysis, the

division considered the impact of the proposed rules on the public health, safety, and welfare in addressing the objectives of the law, and considered each of these methods for reducing the impact of the proposed rules on small entities by:

1. Establishing less stringent compliance or reporting requirements;
2. Establishing less stringent schedules or deadlines for compliance or reporting requirements;
3. Consolidating or simplifying compliance or reporting requirements;
4. Establishing performance standards for organizations and distributors to replace design or operational standards required by proposed rules; and
5. Exempting organizations and distributors from all or part of the requirements contained in proposed rules.

In regard to methods 1, 2, 4, and 5 above, the proposed rules do not unilaterally impose compliance or reporting requirements, schedules or deadlines, or performance standards on all organizations and distributors. Rather, organizations and distributors, as a condition of licensure to operate games of chance and sell gaming equipment, voluntarily agree to comply with certain compliance or reporting requirements, schedules or deadlines, or performance standards which would not otherwise apply to them. Nonprofit organizations comply with the proposed rules in exchange for financial support of eligible uses with net proceeds earned and distributors for financial gain (sales revenue) will, on an annual license renewal basis, make informed decisions whether this benefit exceeds their cost and or inconvenience of complying with the rules by renewing or not renewing their licenses.

In regard to method 3 above, the proposed rules implemented changes that allow select organizations to reduce the cost of conducting games by offering less stringent requirements while maintaining control over vulnerable assets.

The primary mission of the gaming industry is to maximize net proceeds earned for the benefit of charitable uses. The economic interests of the gaming organizations and distributors are basically linked – both apply high standards of administrative and operational controls to ensure the integrity of the gaming industry. The proposed rules reflect this commitment.

To be profitable, the gaming industry must maintain a positive public image, and players must be confident that the games are fair and honest. The success of the gaming industry is dependant on how well it is regulated, through rules, to maintain its public image and confidence. If a gaming organization or distributor is a small business, its size cannot be a discretionary factor for imposing less stringent compliance or reporting requirements, schedules or deadlines, performance standards, or exempting them from compliance. Otherwise, the gaming industry would fail its responsibility to protect the industry and its customer from crimes that could cause irreparable harm to the public

image and confidence, including a major reduction in net proceeds. This responsibility cannot be diminished, disclaimed, evaded, or ignored because a gaming organization or distributor is a small business.

Notwithstanding the above, the State Gaming Commission deleted and revised rules to reduce the impact of the rules on small and large organizations, including:

1. Deleting rules that would have required an organization to:
 - A. Maintain a separate lists of all employees on a site, including their name, address, and telephone numbers; and
 - B. Limit the required disclosure of quarterly information to governing board members and disclose how the general membership may obtain the information.
2. Revised the rules to:
 - A. Implement new law changes passed by the 2009 legislative assembly;
 - B. Clarify the intent of several rules to ensure that unnecessary procedures are not being performed;
 - C. Implement rules for the conduct and play of prize board dispensing devices; and
 - D. Assist in the success of poker tournaments.

The gaming rules are comprehensive, yet reasonable, and generally reflect reasonable internal controls to ensure the integrity, security, and fairness to gaming operations in the state.

SMALL ENTITY ECONOMIC IMPACT STATEMENT

The Office of Attorney General's Gaming Division prepared this 'Small Entity Economic Impact Statement' on behalf of the State Gaming Commission before it adopted proposed rules on the games of chance law. The office considered the impact of the proposed rules on each of these items:

1. Entities subject to proposed rules.

Statement: Only North Dakota based gaming organizations and distributors that are licensed by the Office of Attorney General will be subject to the proposed rules.

2. The administrative and other costs required for complying with the proposed rules.

Statement: The State Gaming Commission and Office of Attorney General appoints a 20 person Gaming Advisory Board with representation from the industry, legislature, and local law enforcement to review all proposed rules to assure that all requirements are not overly burdensome and are in the best interest of the gaming industry.

3. The probable cost and benefit to private persons and consumers who are affected by proposed rules.

Statement: There are no probable costs to private persons and consumers affected by the proposed rules. The benefit to private persons and consumers is the entertainment value of playing games of chance and having a fair and honest chance to win.

4. The probable effect of proposed rules on state revenues.

Statement: Bingo and pull tab excise taxes and gaming taxes forecast for the 2009-2011 biennium are \$16,800,000, which was reduced by \$3,683,000 due to a reduction in the pull tab excise tax from 4½% to 3% by the 2009 legislature. There is no probable effect on state revenue from the proposed rules.

5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules.

Statement: For the reasons expressed in the 'Regulatory Analysis,' less intrusive or less costly alternative methods of achieving the purpose of the proposed rules is generally not possible. The State Gaming Commission must apply a high level of regulatory control to minimize financial and criminal risk.