

**SENATE BILL NO. 2132**

Introduced by

Judiciary Committee

(At the request of the State Gaming Commission)

1 A BILL for an Act to amend and reenact sections 53-06.1-01, 53-06.1-01.1, 53-06.1-03,  
2 53-06.1-06, 53-06.1-07.2, 53-06.1-07.3, 53-06.1-07.4, 53-06.1-10, 53-06.1-11, 53-06.1-11.1,  
3 53-06.1-12.3, 53-06.1-14, 53-06.1-15.1, and 53-06.1-16 of the North Dakota Century Code,  
4 relating to games of chance.

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

6 **SECTION 1. AMENDMENT.** Section 53-06.1-01 of the 1997 Supplement to the North  
7 Dakota Century Code is amended and reenacted as follows:

8 **53-06.1-01. Definitions.** As used in this chapter:

- 9 1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of  
10 merchandise prizes, sales tax on bingo cards, pull tab excise tax, and federal  
11 excise tax ~~and interest~~ imposed under section 4401 of the Internal Revenue Code  
12 [26 U.S.C. 4401].
- 13 2. "Charitable organization" means an organization ~~incorporated as a nonprofit~~  
14 ~~corporation~~ whose primary purpose is for relief of poor, distressed, underprivileged,  
15 diseased, elderly, or abused persons, prevention of cruelty to children or animals,  
16 or similar condition of public concern, ~~which has been actively fulfilling its primary~~  
17 ~~purpose within this state for the two immediately preceding years.~~
- 18 3. "Civic and service organization" means an organization ~~incorporated as a nonprofit~~  
19 ~~corporation~~ whose primary purpose is to promote the common good and social  
20 welfare of a community as a sertoma, lion, rotary, jaycee, kiwanis, or similar  
21 organization, ~~and which has been actively fulfilling its primary purpose within this~~  
22 ~~state for the two immediately preceding years.~~
- 23 4. "Closely related organization" means an organization that controls, is controlled by,  
24 or is under common control with another organization. Control exists when an

1           organization has the authority or ability to elect, appoint, or remove a majority of  
2           the officers or directors of another organization or, by policy, contract, or otherwise,  
3           has the authority or ability to directly or indirectly direct or cause the direction of the  
4           management or policies of another organization.

5           5. "Compulsive gambler" means an individual who is chronically and progressively  
6           preoccupied with gambling and the urge to gamble and with gambling behavior that  
7           compromises, disrupts, or damages personal, family, or vocational pursuits.

8           ~~5-~~ 6. "Distributor" means a person that sells, markets, or distributes equipment usable in  
9           the conduct of games.

10          ~~6-~~ 7. "Educational organization" means ~~any a~~ a nonprofit public or private elementary or  
11          secondary school, two-year or four-year college, or university ~~in this state which~~  
12          ~~has been active for the two immediately preceding years.~~

13          ~~7-~~ 8. "Eligible organization" means veterans, charitable, educational, religious, fraternal,  
14          civic and service, public safety, or public-spirited organization domiciled in North  
15          Dakota, incorporated as a nonprofit organization, and which has been actively  
16          fulfilling its primary purpose within this state during the two immediately preceding  
17          years. However, an educational organization does not need to be incorporated.  
18          An organization's primary purpose may not involve the conduct of games. The  
19          organization may be issued a license by the attorney general.

20          ~~8-~~ 9. "Fraternal organization" means an organization, except a ~~college or high school~~  
21          fraternity, which is ~~incorporated as a nonprofit corporation and which is~~ a branch,  
22          lodge, or chapter of a national or state organization and exists for the common  
23          business, brotherhood, or other interests of its members. The organization must  
24          ~~have been actively fulfilling its primary purpose within this state for the two~~  
25          ~~immediately preceding years, and must have obtained an advance ruling or final~~  
26          ~~determination from the internal revenue service as qualifying~~ qualified for  
27          exemption from federal income tax under section 501(c)(8) or 501(c)(10) of the  
28          Internal Revenue Code.

29          ~~9-~~ 10. "Games" means games of chance.

30          ~~10-~~ 11. "Gross proceeds" means all cash and checks received from conducting games,  
31          sales tax on bingo cards, and admissions.



1 prevention, awareness, crisis intervention, rehabilitation, and financial counseling  
2 and mental health treatment services as defined by the department of human  
3 services.

4 ~~49.~~ 20. "Religious organization" means a ~~nonprofit organization~~, church, body of  
5 communicants, or group gathered in common membership ~~incorporated as a~~  
6 ~~nonprofit corporation~~ whose primary purpose is for advancement of religion, mutual  
7 support and edification in piety, worship, and religious observances ~~which has~~  
8 ~~been actively gathered or united in this state for the two immediately preceding~~  
9 ~~years.~~

10 ~~20.~~ 21. "Veterans organization" means any congressionally chartered post organization  
11 ~~within this state~~, or any branch or lodge or chapter of a nonprofit national or state  
12 organization whose membership consists of individuals who are or were members  
13 of the armed services or forces of the United States. ~~An~~ The organization must  
14 ~~have been actively fulfilling its primary purpose in this state for the two immediately~~  
15 ~~preceding years and must have obtained an advance ruling or final determination~~  
16 ~~from the internal revenue service as qualifying~~ qualified for exemption from federal  
17 income tax under section 501(c)(19) of the Internal Revenue Code.

18 **SECTION 2. AMENDMENT.** Section 53-06.1-01.1 of the 1997 Supplement to the  
19 North Dakota Century Code is amended and reenacted as follows:

20 **53-06.1-01.1. Gaming commission.**

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

1 A person is also ineligible if that person is not of such character and reputation as  
2 to promote public confidence in the administration of gaming in this state. A  
3 person is also ineligible if that person has been convicted of a felony criminal  
4 offense or has pled guilty or been found guilty of any violation of chapter 12.1-06,  
5 12.1-08, 12.1-09, 12.1-10, 12.1-11, 12.1-12, 12.1-22, 12.1-23, 12.1-24, 12.1-28,  
6 53-06.1, or 53-06.2, or has pled guilty or been found guilty of any violation of  
7 section 6-08-16 or 6-08-16.2, or has pled guilty or been found guilty of any offense  
8 or violation that has a direct bearing on the person's fitness to be involved in  
9 gaming, or who has committed an equivalent offense or violation of the laws of  
10 another state or of the United States. A person who has a financial interest in  
11 gaming cannot be a member or employee of the commission. For the purpose of  
12 this subsection, a financial interest includes the receiving of any direct payment  
13 from an eligible organization for property, services, or facilities provided to that  
14 organization.

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

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

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

1           **SECTION 3. AMENDMENT.** Section 53-06.1-03 of the 1997 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **53-06.1-03. Local permits, site authorization, and licenses.**

4           1. ~~An~~ Except as authorized by the attorney general, an organization that has its  
5 license suspended or revoked, or has relinquished or not renewed its license and  
6 not disbursed its net proceeds, is ineligible for a license or local permit. Only one  
7 of two or more closely related organizations may have a license or local permit at  
8 one time. A college or university fraternity, sorority, or club is not closely related to  
9 an educational organization. An organization shall apply for a local permit as  
10 follows:

11           a. ~~A nonprofit~~ An organization recognized as a public-spirited organization by  
12 the governing body of a city or county may apply for a local permit to conduct  
13 only raffles, bingo, or sports pools ~~in which.~~ The organization or closely  
14 related organizations as a whole may only award a primary prize that does  
15 not exceed one thousand dollars; and the total prizes of all games that do not  
16 exceed six thousand dollars per year. The determination of what is a  
17 "public-spirited organization" is within the sole discretion of the governing  
18 body which should in its determination consider the definition of a  
19 public-spirited organization under subsection 18 of section 53-06.1-01 and  
20 eligible uses of net proceeds under subsection 2 of section 53-06.1-11.1. A  
21 governing body may issue a local permit for the games to be held at  
22 designated times and places.

23           b. An ~~eligible~~ organization shall apply to the governing body of the city or county  
24 in which the proposed site where the gaming activity to be conducted is  
25 located. Application for a local permit must be made on a form prescribed by  
26 the attorney general. If the nonprofit organization is a North Dakota college or  
27 university fraternity, sorority, or club, the organization shall provide a signed  
28 acknowledgment by the administration of the college or university that the  
29 applicant is a recognized fraternity, sorority, or club. Approval may be granted  
30 at the discretion of the governing body. A governing body may establish a fee  
31 not to exceed twenty-five dollars for each local permit. A local permit must be

1                   on a fiscal year basis from July first to June thirtieth or on a calendar-year  
2                   basis.

3                   c. Except for the restriction of subsection 1 of section 53-06.1-11.1, an  
4                   organization that has a local permit may use gaming proceeds for any  
5                   purpose that does not violate this chapter or gaming rules.

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

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

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

28                  3. A licensed organization ~~may~~ or organization that has a local permit shall conduct  
29                  games ~~only on an authorized site~~ as follows:

30                  a. Only one licensed organization or organization that has a local permit ~~at a~~  
31                  ~~time~~ may conduct games at an authorized site on a day, except that a raffle

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

1                   that has a local permit, or the game's prize structure does not exceed that  
2                   allowed for a local permit.

3           4.   A local permit; or site authorization; and license, and rules relating to the conduct  
4           and play of games must ~~contain information prescribed by the attorney general or~~  
5           ~~local governing body and must~~ be displayed at a site.

6           5.   The attorney general ~~shall license an eligible organization that complies with this~~  
7           ~~chapter and~~ may issue a conditional license to an eligible organization whose  
8           regularly issued license has expired or been suspended, revoked, or relinquished.  
9           The attorney general shall designate the time period for which the conditional  
10          license is valid and may impose any conditions.

11          6.   A governing body or local law enforcement official may inspect a site's gaming  
12          equipment, and examine or cause to be examined the books and records of a  
13          licensed organization or organization that has a local permit to the extent that the  
14          books and records relate to any transaction involving the direct or indirect conduct  
15          of games.

16           **SECTION 4. AMENDMENT.** Section 53-06.1-06 of the 1997 Supplement to the North  
17   Dakota Century Code is amended and reenacted as follows:

18           **53-06.1-06. Persons permitted to conduct games - Equipment.**

19          1.   No person, except a member, volunteer, an employee of a licensed organization or  
20          an organization that has a local permit, or an employee of a temporary employment  
21          agency who provides services to a licensed organization, may conduct any game.

22          "Member" includes a member of an auxiliary organization. In conducting pull tabs  
23          or bingo through a dispensing device, the attorney general may allow an employee  
24          of an alcoholic beverage establishment to provide limited assistance to an  
25          organization.

26          2.   Except when authorized by the attorney general or allowed by the gaming rules, an  
27          eligible organization shall procure gaming equipment only from a licensed  
28          distributor. No equipment or prizes may be purchased at an excessive price.

29          3.   An organization shall maintain complete, accurate, and legible accounting records  
30          in North Dakota for all gaming activity and establish an adequate system of internal  
31          control. The governing board of an eligible organization is primarily responsible

- 1 and may be held accountable for the proper determination and distribution of net  
2 proceeds. If an organization does not renew its license or its license is denied,  
3 relinquished, or revoked and it has not disbursed all of its net proceeds, the  
4 organization shall file an action plan as prescribed by the gaming rules with the  
5 attorney general.
- 6 4. The value of a merchandise prize awarded in a game is its retail price.
- 7 5. A person is restricted from being involved in gaming and the attorney general shall  
8 conduct criminal history record check as follows:
- 9 a. A person who has pled guilty to or been found guilty of a felony offense as  
10 defined by the laws of this state, other states, or the federal government, or  
11 has pled guilty to or been found guilty of a violation of this chapter, a gaming  
12 rule, chapter 12.1-28 or 53-06.2, or offenses of other states or the federal  
13 government equivalent to offenses defined in these chapters may not be a  
14 licensed distributor, may not be employed by a licensed distributor to sell or  
15 distribute gaming equipment, and may not be employed by a licensed  
16 organization to conduct games on a site for five years from the date of  
17 conviction, release from incarceration, or expiration of parole or probation,  
18 whichever is the latest.
- 19 b. A person who has pled guilty to or been found guilty of a misdemeanor  
20 offense in violation of section ~~6-08-16.2~~ 6-08-16.1 or chapter 12.1-06,  
21 12.1-23, or 12.1-24 or offenses of other states, the federal government, or a  
22 municipality equivalent to these offenses may not be a licensed distributor,  
23 may not be employed by a licensed distributor to sell or distribute gaming  
24 equipment, and may not be employed by a licensed organization to conduct  
25 games on a site for two years from the date of conviction, release from  
26 incarceration, or expiration of parole or probation, whichever is the latest.
- 27 c. ~~The~~ Unless an employee is exempt by the gaming rules or attorney general,  
28 the attorney general shall conduct a criminal history record check of each  
29 potential employee of a licensed organization or distributor and charge a fee  
30 of twenty dollars per record check in accord with section ~~12-60-16.9~~. The fee  
31 may be waived ~~in part or in whole~~ by the attorney general if a federal agency

1 or local law enforcement agency has done a record check. The attorney  
2 general may require advance payment of any additional fee necessary to  
3 ~~defray pay the actual~~ cost of a ~~background~~ record check of a person for  
4 whom adequate background information sources are not readily available;  
5 ~~including a person who has not resided in North Dakota for the previous five~~  
6 ~~years. The attorney general may require payment of the estimated additional~~  
7 ~~fee in advance as a condition precedent to beginning the background check.~~  
8 ~~The attorney general shall notify the person when a determination is made~~  
9 ~~that an additional fee is necessary and shall notify the person of the best~~  
10 ~~estimate of the amount of the additional fee. In lieu~~ Instead of paying the  
11 ~~additional cost~~ fee, a person may cancel the ~~background~~ record check. The  
12 ~~estimated cost~~ advance payment must be placed in the attorney general's  
13 refund fund ~~for use to defray the actual expenses of the background check.~~  
14 ~~The remainder of the~~ unused funds must be returned to the person within  
15 thirty days of the conclusion of the ~~background~~ record check. The attorney  
16 general shall notify the organization or distributor and ~~the~~ person of the result  
17 ~~of the background check.~~ The attorney general shall ~~hold~~ keep the  
18 information confidential except in the proper administration of this chapter or  
19 any gaming rule, or to provide to an authorized law enforcement agency.

20 6. A For a site where bingo is the primary game or a site that is leased by a licensed  
21 organization, the organization may not pay bingo prizes in which the total bingo  
22 prizes ~~exceeds~~ exceed total bingo gross proceeds for a period prescribed by  
23 gaming rule. However, if bingo is the primary game at the site, a bingo prize that  
24 equals or exceeds ten thousand dollars is excluded from the total of the bingo  
25 prizes.

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

29 **SECTION 5. AMENDMENT.** Section 53-06.1-07.2 of the 1997 Supplement to the  
30 North Dakota Century Code is amended and reenacted as follows:

1           **53-06.1-07.2. Poker.** ~~A licensed organization may conduct poker~~ Poker may be  
2 conducted on not more than two occasions per year. An organization may supply the dealer.  
3 The maximum single bet is one dollar. Not more than three raises, of not more than one dollar  
4 each, may be made among all the players in each round of bets. ~~Otherwise the normal rules of~~  
5 ~~poker apply.~~ An organization shall assess each player a fee not to exceed two dollars per  
6 one-half hour of playing time, collected in advance. A fee may be charged each player for entry  
7 into a tournament for prizes and this fee may be in place of or in addition to the fee assessable  
8 at one-half hour intervals.

9           **SECTION 6. AMENDMENT.** Section 53-06.1-07.3 of the 1997 Supplement to the  
10 North Dakota Century Code is amended and reenacted as follows:

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

19           **SECTION 7. AMENDMENT.** Section 53-06.1-07.4 of the 1997 Supplement to the  
20 North Dakota Century Code is amended and reenacted as follows:

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

1           **SECTION 8. AMENDMENT.** Section 53-06.1-10 of the 1997 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **53-06.1-10. Twenty-one.** No money may be ~~allowed on the table~~ used as a wager.  
4 The organization shall provide playing chips of various denominations to players. ~~Chips must~~  
5 ~~be redeemed by the organization for their full value.~~ The maximum limit per wager may be set  
6 by the organization at not more than five dollars and wagers in increments of one dollar must be  
7 accepted up to the maximum limit. A player may not play more than two hands at the same  
8 time. Only the player actually playing a hand may place a wager on any hand. Each player  
9 plays the player's hand against the dealer's hand. ~~To remain in the hand being dealt, neither~~  
10 ~~the player nor the dealer may play a hand with a count greater than twenty one. A count of~~  
11 ~~twenty one obtained with two cards is a natural twenty one and is an automatic payout except~~  
12 ~~in a tie count with the dealer. Players may double down on a natural twenty one. For a tie~~  
13 ~~count between the player and the dealer, no winner is declared and the player keeps the~~  
14 ~~player's wager. An organization may allow pooling of tips received by dealers at a site. Any~~  
15 requirement to pool tips is within the sole discretion of each organization. ~~An organization shall~~  
16 ~~post rules relating to twenty one.~~ Except for a site that has twenty-one gross proceeds  
17 averaging less than ten thousand dollars per quarter, an organization may not conduct  
18 twenty-one at the site with wagers exceeding two dollars unless the organization has first  
19 installed video surveillance equipment as required by rules and the equipment is approved by  
20 the attorney general.

21           **SECTION 9. AMENDMENT.** Section 53-06.1-11 of the 1997 Supplement to the North  
22 Dakota Century Code is amended and reenacted as follows:

23           **53-06.1-11. Gross proceeds - Allowable expenses - Rent limits.**

24           1. All money received from games must be accounted for according to the gaming  
25 rules. Gaming activity for a quarter must be reported on a tax return form  
26 prescribed by the attorney general. ~~The~~ Unless otherwise authorized by the  
27 attorney general, the purchase price of a merchandise prize must be paid from a  
28 gaming bank account by check. No check drawn from a gaming or trust bank  
29 account may be payable to "cash" or a fictitious payee. A cash prize that exceeds  
30 an amount set by rule must be accounted for by a receipt prescribed by the gaming  
31 rules.

- 1           2. Allowable expenses may be deducted from adjusted gross proceeds. The
- 2           allowable expense limit is fifty percent of the first two hundred thousand dollars of
- 3           adjusted gross proceeds per quarter and forty-five percent of the adjusted gross
- 4           proceeds in excess of two hundred thousand dollars per quarter. In addition, an
- 5           organization may deduct as an allowable expense:
- 6           a. Two and one-half percent of the gross proceeds of pull tabs.
- 7           b. Capital expenditures for security or video surveillance equipment used for
- 8           controlling games if the equipment is required by section 53-06.1-10 or
- 9           authorized by rule, and it is approved by the attorney general.
- 10          3. Cash shorts incurred in games and interest and penalty are classified as expenses.
- 11          4. For a site where bingo is conducted:
- 12           a. Except under subdivision c, if bingo is the primary game, the monthly rent
- 13           must be reasonable.
- 14           b. If bingo is not the primary game, but is conducted with twenty-one,
- 15           paddlewheels, or pull tabs, no additional rent is allowed.
- 16           c. If bingo is conducted through a dispensing device and no other game is
- 17           conducted, the monthly rent may not exceed two hundred twenty-five dollars.
- 18          5. For a site where bingo is not the primary game:
- 19           a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed
- 20           two hundred dollars multiplied by the necessary number of tables based on
- 21           criteria prescribed by gaming rule. If pull tabs is also conducted, the monthly
- 22           rent for pull tabs may not exceed an additional one hundred twenty-five
- 23           dollars.
- 24           b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted,
- 25           the monthly rent may not exceed two hundred twenty-five dollars.

26           **SECTION 10. AMENDMENT.** Section 53-06.1-11.1 of the 1997 Supplement to the  
27 North Dakota Century Code is amended and reenacted as follows:

28           **53-06.1-11.1. Restricted use of money in certain political activities - Eligible uses**  
29 **of net proceeds.**

- 30          1. A licensed organization or an organization that has a local permit may not use
- 31          money from any source for placing an initiated or referred measure on a ballot or

- 1 for a political campaign to promote or oppose a person for public office. Except for  
2 a use related to an organization's primary purpose, a licensed organization or  
3 organization that has a local permit may not use net proceeds to influence  
4 legislation or promote or oppose referendums or initiatives. Any funds expended  
5 by ~~an~~ a licensed organization or an organization that has a local permit to promote  
6 or oppose an initiated or referred measure that is on the ballot or for any activities  
7 of a lobbyist under section 54-05.1-02, that are not compensation or expenses paid  
8 to a lobbyist, and that are not required to be reported under section 54-05.1-03  
9 must be reported to the attorney general as prescribed by the attorney general. A  
10 violation of this ~~section~~ subsection subjects an organization to a suspension of its  
11 license or local permit for up to one year.
- 12 2. A licensed organization shall disburse net proceeds within the period prescribed by  
13 rule and for only these educational, charitable, patriotic, fraternal, religious, or  
14 public-spirited uses:
- 15 a. Uses for stimulating and promoting state and community-based economic  
16 development programs within the state which improve the quality of life of  
17 community residents.
- 18 b. Uses for developing, promoting, and supporting tourism within a city, county,  
19 or the state.
- 20 c. Uses benefiting an indefinite number of persons by bringing them under the  
21 influence of education, cultural programs, or religion which include  
22 disbursements to provide:
- 23 (1) Scholarships for students, if the disbursement is deposited in a  
24 scholarship fund for defraying the cost of education to students and the  
25 scholarships are awarded through an open and fair selection process.
- 26 (2) Supplementary assistance to a public or private nonprofit educational  
27 institution registered with or accredited by any state.
- 28 (3) Assistance to libraries and museums.
- 29 (4) Assistance for the performing arts and humanities.
- 30 (5) Preservation of cultural heritage.
- 31 (6) Youth community, social welfare, and athletic activities.

- 1                   (7)    Adult amateur athletic activities within the state, ~~such as softball,~~  
2   including uniforms and equipment.
- 3                   (8)    Maintenance of places of public worship or support of a body of  
4   communicants, gathered in common membership for mutual support  
5   and edification in piety, worship, or religious observances.
- 6                   (9)    Scientific research.
- 7                   d.    Uses benefiting an indefinite number of persons by relieving them of disease,  
8   suffering, or constraint which include disbursements to provide:
- 9   (1)    Relief Assistance to an individual or family suffering from poverty or  
10   homelessness.
- 11   (2)    Encouragement and enhancement of the active participation of the  
12   elderly in our society.
- 13   (3)    Services to the abused.
- 14   (4)    Services to persons with an addicted behavior toward alcohol,  
15   gambling, or drugs.
- 16   (5)    Funds to combat juvenile delinquency and rehabilitate ex-offenders.
- 17   (6)    Relief for the sick, diseased, and terminally ill and their physical  
18   well-being.
- 19   (7)    Funds for emergency relief and volunteer services.
- 20   (8)    Funds to nonprofit nursing homes, nonprofit day care centers, and  
21   nonprofit medical facilities.
- 22   (9)    Social services and education programs aimed at aiding emotionally  
23   and physically distressed, handicapped, elderly, and underprivileged  
24   persons.
- 25   (10)   Funds for crime prevention, fire protection and prevention, and public  
26   safety.
- 27   (11)   Funds to relieve, improve, and advance the physical and mental  
28   conditions, care and medical treatment, and health and welfare of  
29   injured or disabled veterans.
- 30                   e.    Uses that perpetuate the memory and history of the dead.

- 1           f.    Uses increasing comprehension of and devotion to the principles upon which  
2           the nation was founded, not of direct benefit to the eligible organization or any  
3           member thereof which include disbursements to aid in teaching the principles  
4           of liberty, truth, justice, and equality. However, beauty pageants do not  
5           qualify.
- 6           g.    The erection or maintenance of public buildings, utilities, or waterworks.
- 7           h.    Uses lessening the burden of government which include disbursements to an  
8           entity that is normally funded by a city, county, state, or United States  
9           government and disbursements directly to a government entity or its agency.
- 10          i.    Uses benefiting a definite number of persons who are the victims of loss of  
11          home or household possessions through explosion, fire, flood, or storm and  
12          the loss is not covered by insurance.
- 13          j.    Uses benefiting a definite number of persons suffering from a seriously  
14          disabling disease or injury causing severe loss of income or incurring  
15          extraordinary medical expense which is not covered by insurance.
- 16          k.    Uses, for community service projects, by chambers of commerce exempt from  
17          federal income tax under section 501(c)(6) of the Internal Revenue Code. A  
18          project qualifies if it develops or promotes public services, including  
19          education, housing, transportation, recreation, crime prevention, fire  
20          protection and prevention, safety, tourism, and health. Uses that directly  
21          benefit a chamber of commerce do not qualify.
- 22          l.    Uses for or of benefit to efforts in support of the health, comfort, or well-being  
23          of the community which include disbursements to provide:
- 24           (1)   Funds for adult bands, including drum and bugle corps.
- 25           (2)   Funds for trade shows and conventions conducted in this state.
- 26           (3)   Funds for nonprofit organizations that operate a humane society, zoo,  
27           or fish or wildlife ~~propagation~~ reproduction and habitat enhancement  
28           program.
- 29           (4)   Funds for public transportation, community celebration, and recreation.
- 30           (5)   Funds for preservation and cleanup of the environment.

1 m. To the extent net proceeds are used toward the primary purpose of a  
2 charitable, educational, religious, public safety, or public-spirited organization,  
3 or are used for a veterans cemetery by a veterans organization, that has  
4 obtained a final determination from the internal revenue service as qualifying  
5 for exemption from federal income tax under section 501(c)(3) or 501(c)(19)  
6 of the Internal Revenue Code, the organization may establish a special trust  
7 fund as a contingency for funding or maintaining the organization's future  
8 program services should the organization discontinue conducting games or  
9 dissolve.

10 3. The uses in subsection 2 do not include the erection, acquisition, improvement,  
11 maintenance, or repair of real or personal property owned or leased by an  
12 organization unless it is used exclusively for an eligible use. ~~No part~~ A licensed  
13 organization or recipient of net proceeds ~~after they have been disbursed to an~~  
14 ~~eligible use recipient may be used by the donee to pay any person~~ not use net  
15 proceeds for ~~services rendered or materials purchased in connection with~~  
16 administrative or operating expenses involving the conduct of games ~~by the donor~~  
17 organization.

18 **SECTION 11. AMENDMENT.** Section 53-06.1-12.3 of the 1997 Supplement to the  
19 North Dakota Century Code is amended and reenacted as follows:

20 **53-06.1-12.3. Interest and, penalty, and estimated tax.** ~~The attorney general shall~~  
21 ~~assess a licensed organization interest and penalty as follows:~~

- 22 1. Assessment of interest. If an organization does not pay tax due by the original  
23 date of a tax return, or if additional tax is due based on an audit or math verification  
24 of the return and it is not paid by the original due date of the return, the  
25 organization shall pay interest on the tax at the rate of twelve percent per annum  
26 computed from the original due date of the return through the date the tax is paid.
- 27 2. Assessment of penalty. If an organization does not pay tax due on a tax return by  
28 the original or extended due date of the return, or if additional tax is due based on  
29 an audit or math verification of the return and it is not paid by the original or  
30 extended due date of the return, the organization shall pay a penalty of five percent  
31 of the tax, or twenty-five dollars, whichever is greater. If an organization does not

1 file a tax return by the original or extended due date of the return, the organization  
2 shall pay a penalty of five percent of the tax, or twenty-five dollars, whichever is  
3 greater, for each month or fraction of a month during which the return is not filed,  
4 not exceeding a total of twenty-five percent.

5 3. The attorney general may require a licensed organization to make monthly  
6 estimated gaming and excise tax payments if the attorney general determines that  
7 the organization is in poor financial condition. If an organization fails to pay any tax  
8 or estimated tax, interest, or penalty by the original due date or date set by the  
9 attorney general, the attorney general may bring court action to collect it and may  
10 immediately suspend the organization's license. The attorney general may for  
11 good cause waive all or part of any interest or penalty and may waive any minimal  
12 tax.

13 4. If an organization has failed to file a tax return, has been notified by the attorney  
14 general of the delinquency, and refuses or neglects within thirty days after the  
15 notice to file a proper return, the attorney general shall determine the adjusted  
16 gross proceeds and gaming and excise taxes due according to the best information  
17 available and assess the taxes at not more than double the amount. Interest and  
18 penalty also must be assessed.

19 **SECTION 12. AMENDMENT.** Section 53-06.1-14 of the 1997 Supplement to the North  
20 Dakota Century Code is amended and reenacted as follows:

21 **53-06.1-14. Distributors and manufacturers.**

22 1. A manufacturer of pull tabs, bingo cards, and or pull tab dispensing devices, and a  
23 distributor shall apply annually for a license upon a form prescribed by the attorney  
24 general before the first day of April in each year. The license fee for a distributor is  
25 one thousand five hundred dollars. The license fee for a manufacturer is four  
26 thousand dollars.

27 2. A licensed distributor may not sell, market, or distribute gaming equipment except  
28 to a licensed distributor, licensed organization, organization that has a local permit,  
29 or other person authorized by gaming rule or the attorney general. A manufacturer  
30 of a pull tab dispensing ~~devices~~ device, pull ~~tabs~~ tab, or bingo ~~cards~~ card may only  
31 sell, market, or distribute the manufacturer's pull tab dispensing ~~devices~~ device,

- 1 pull ~~tabs~~ tab , or bingo ~~cards~~ card to a licensed distributor. ~~A distributor may~~  
2 ~~purchase or acquire pull tabs or bingo cards only from a licensed manufacturer or~~  
3 ~~licensed distributor.~~ A licensed distributor may purchase or acquire a ~~new~~ pull tab  
4 dispensing device, pull tab, or bingo card only from a licensed manufacturer or  
5 licensed distributor. However, a distributor may purchase or acquire a used pull  
6 tab dispensing device from a licensed organization. No gaming equipment or  
7 prizes may be sold at an excessive price.
- 8 3. A licensed distributor shall affix a North Dakota gaming stamp to each deal of pull  
9 tabs and bingo cards, punchboard, sports pool board, calcutta board, and series of  
10 paddlewheel ticket cards sold and shall purchase the stamps from the attorney  
11 general for twenty-five cents each.
- 12 4. A licensed organization, organization that has a local permit, licensed  
13 manufacturer, or North Dakota wholesaler of liquor or alcoholic beverages may not  
14 be a distributor or stockholder of a distributor. ~~A licensed manufacturer may not~~  
15 ~~have any financial interest in a distributor.~~ A distributor may not ~~have any financial~~  
16 ~~interest in~~ be a stockholder of a licensed manufacturer.
- 17 5. In addition to the license fee, the attorney general may require advance payment of  
18 any ~~additional~~ fee necessary to ~~defray~~ pay the ~~actual~~ cost of a background record  
19 check of an applicant ~~by following the procedures prescribed by~~ according to  
20 subdivision c of subsection 5 of section 53-06.1-06.

21 **SECTION 13. AMENDMENT.** Section 53-06.1-15.1 of the 1997 Supplement to the  
22 North Dakota Century Code is amended and reenacted as follows:

23 **53-06.1-15.1. Authority of the attorney general.** The attorney general may:

- 24 1. Inspect all sites in which gaming is conducted or inspect all premises where  
25 gaming equipment is manufactured or distributed. The attorney general may  
26 require a licensed manufacturer to reimburse the attorney general for the  
27 reasonable actual cost of transportation, lodging, meals, and incidental expenses  
28 incurred in inspecting the manufacturer's facility.
- 29 2. Inspect all gaming equipment and supplies on a site or premises.
- 30 3. Seize and remove from a site or premises and impound any gaming equipment,  
31 supplies, games, or books and records for the purpose of examination and

- 1 inspection. When books or records are seized, the attorney general shall provide  
2 copies of those records or books within seventy-two hours of a specific request by  
3 the organization for a copy of the books or records seized.
- 4 4. Demand access to and inspect, examine, photocopy, and audit all books and  
5 records of applicants, organizations, lessors, manufacturers, ~~and~~ distributors,  
6 ~~including any~~ and affiliated companies on their premises concerning any income or  
7 expense resulting from any gaming activity, determine compliance with this chapter  
8 or gaming rules, and require verification of income, expense, or use of net  
9 proceeds, and all other matters affecting this chapter.
- 10 5. ~~The attorney general may permit~~ Permit the commissioner or proper representative  
11 of the internal revenue service of the United States to inspect a tax return or furnish  
12 a copy of the tax return, or information concerning any item contained in the return,  
13 or disclosed by any audit or investigation report of the gaming activity of any  
14 organization or player, or recordkeeping information. However, information cannot  
15 be disclosed to the extent that the attorney general determines that the disclosure  
16 would identify a confidential informant or seriously impair any civil or criminal  
17 investigation. Except when directed by judicial order, or for pursuing civil or  
18 criminal charges regarding a violation of this chapter or a gaming rule, or as is  
19 provided by law, the attorney general may not divulge nor make known, to any  
20 person, any income or expense item contained in any tax return or disclosed by an  
21 audit or investigative report of any taxpayer, provided to the attorney general by the  
22 internal revenue service.
- 23 6. Require a representative of a licensed organization or distributor to participate in  
24 training or for good cause prohibit the person from being involved in gaming as an  
25 employee or volunteer. The attorney general may for good cause prohibit a person  
26 from providing personal or business services to an organization or distributor.
- 27 7. Prohibit a person from playing games if the person violates this chapter, chapter  
28 12.1-28, or 53-06.2, or a gaming rule.
- 29 8. Require a licensed organization to pay a bingo or raffle prize to a player based on  
30 a factual determination or a hearing by the attorney general.

- 1           9. Based on reasonable ground or written complaint, suspend, deny, or revoke an  
2           organization's local permit or an organization's, distributor's, or manufacturer's  
3           application or license for violation, by the organization, distributor, or manufacturer  
4           or any officer, director, agent, member, or employee of the organization, distributor,  
5           or manufacturer, of this chapter or any gaming rule.
- 6           10. Impose a monetary fine on a licensed organization, organization that has a local  
7           permit, distributor, or manufacturer for failure to comply with this chapter or any  
8           gaming rule. The monetary fine for each violation by an organization is a minimum  
9           of twenty-five dollars and may not exceed two percent of the organization's  
10          average quarterly gross proceeds, or five thousand dollars, whichever is greater.  
11          The monetary fine for each violation by a distributor is a minimum of one hundred  
12          dollars and may not exceed five thousand dollars. The monetary fine for each  
13          violation by a manufacturer is a minimum of five hundred dollars and may not  
14          exceed two hundred fifty thousand dollars. This fine may be in addition to or in  
15          place of a license suspension or revocation.
- 16          11. At any time within three years after any amount of fees, monetary fine, interest,  
17          penalty, or tax required to be paid pursuant to this chapter becomes due, bring a  
18          civil action to collect the amount due. However, if for any reason there is a change  
19          in adjusted gross income or tax liability by an amount which is in excess of  
20          twenty-five percent of the amount of adjusted gross income or tax liability originally  
21          reported on the tax return, any additional tax determined to be due may be  
22          assessed within six years after the due date of the tax return, or six years after the  
23          tax return was filed, whichever period expires later. An action may be brought  
24          although the person owing the fees or tax is not presently licensed.
- 25          12. Institute an action in any district court for declaratory or injunctive relief against a  
26          person, whether or not the person is a gaming licensee, as the attorney general  
27          deems necessary to prevent noncompliance with this chapter or gaming rules.
- 28          13. For good cause, require a licensed organization to use the attorney general's  
29          recordkeeping system for any or all games.

30           **SECTION 14. AMENDMENT.** Section 53-06.1-16 of the 1997 Supplement to the North  
31   Dakota Century Code is amended and reenacted as follows:

1           **53-06.1-16. Violation of law or rule - Fraudulent scheme or technique to cheat or**  
2 **skim unlawful - Penalty.**

3           1. Except as otherwise provided by this chapter, a person who knowingly makes a  
4 false statement on a request for record check form or in any application for a local  
5 permit, or license, or in any accompanying statement, knowingly signs a false  
6 record or report, or who fails to maintain sufficient books and records or adequate  
7 internal control to substantiate gross proceeds, prizes, cash profits, expenses, or  
8 disbursement of net proceeds, or who falsifies any books or records relating to any  
9 transaction involving the direct or indirect conduct of games, or who violates this  
10 chapter, any gaming rule, or of any term of a local permit or license is guilty of a  
11 class A misdemeanor. If convicted, the person forfeits any gaming license or local  
12 permit issued to it and is ineligible to reapply for a gaming license or local permit  
13 for a period of time determined by the attorney general.

- 14           2. It is unlawful for a person playing or conducting a game, or otherwise:
- 15           a. To use bogus or counterfeit chips or pull tabs, or to substitute or use any  
16 game, cards, pull tabs, or game piece that have been marked or tampered  
17 with.
  - 18           b. To employ or have on one's person any cheating device to facilitate cheating  
19 in any game, or to attempt to commit or commit a theft, or to assist in  
20 committing any other fraudulent scheme.
  - 21           c. To willfully use any fraudulent scheme or technique, including when a person  
22 directly or indirectly solicits, provides, or receives inside information of the  
23 status of a game of pull tabs for the benefit of any person.
  - 24           d. To alter or counterfeit a site authorization, license, or North Dakota gaming  
25 stamp.
  - 26           e. To knowingly cause, aid, abet, or conspire with another person or to cause  
27 any person to violate this chapter or a gaming rule.

28 A person violating this subsection is guilty of a class A misdemeanor unless the total amount  
29 gained through the use of these items, schemes, or techniques resulted in a person obtaining  
30 over five hundred dollars, then the offense is a class C felony. However, if a person uses a  
31 fraudulent scheme regarding soliciting, providing, or receiving inside information involving the

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- 1 game of pull tabs or uses a fraudulent scheme or technique to cheat or skim involving pull tabs,
- 2 twenty-one, or bingo, regardless of the amount gained, the offense is a class C felony.