

Gaming Update



March 2008

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A copy of **GAMING UPDATE** is provided free of charge to all gaming distributors and organizations, and to the Gaming Commission and Advisory Board members. Please share this newsletter.

Judiciary Committee Meeting on Senate Concurrent Resolution No.4011

The interim Judiciary Committee held its second meeting on Senate Concurrent Resolution No. 4011 on Tuesday, January 8, 2008, at the State Capitol in Bismarck. The committee was presented with a potential bill draft that would repeal the current duties of the State Gaming Commission and replace it with a 5-member Gaming Advisory Commission similar to the current structure of the Lottery Advisory Commission.

Although the committee did not take formal action on the bill draft, if approved the bill would be introduced during the 2009 legislative session to transfer the administrative rulemaking authority to the Office of Attorney General.

For your convenience, the text of the bill draft can be viewed on page 2 of this issue. Please note: The bill draft formatting has been dropped so that the text will fit in the space available. An excerpt from the Minutes of the Judiciary Committee meeting held on January 8, 2008, is on page 7.

Out of State Records Check Enhancements

In an attempt to expedite the out of state records check process, the Gaming division has linked the background check forms from 18 states to our office's web page at: www.ag.nd.gov/gaming/gamingforms.htm. **Please review the enclosed letter from Colleen Braun for additional details on this process.**

For your convenience, we have **enclosed** the instructions, the North Dakota Request for Record Check form, Authorization and Release form, and new fee schedule for out of state record checks (effective April 1, 2008). If you have any questions, please contact Colleen Braun at (701) 328-4848 or 1-800-326-9240.

Sixty-first
Legislative Assembly
of North Dakota

January 2008

Introduced by

A BILL for an Act to create and enact two new sections to Chapter 53-06.1 of the North Dakota Century Code, relating to the creation of a gaming advisory commission and to the rulemaking authority of the attorney general; and to repeal section 53-06.1-01.1 of the North Dakota Century Code, relating to the gaming commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new sections to chapter 53-06.1 of the North Dakota Century Code are created and enacted as follows:

Attorney General to adopt rules. The attorney general shall adopt rules to administer and regulate the gaming industry, including methods of conduct, play, and promotion of games; minimum procedures and standards for recordkeeping and internal control; required tax returns and reports from organizations or distributors; methods of competition and doing business by distributors and manufacturers; acquisition and use of gaming equipment; quality standards or specifications for the manufacture of pull tabs, paper bingo cards, pull tab and bingo card dispensing devices, and bingo card marking devices; to ensure that net proceeds are used for educational, charitable, patriotic, fraternal, religious, or public-spirited uses; to protect and promote the public interest; to ensure fair and honest games; to ensure that fees and taxes are paid; and to prevent and detect unlawful gambling activity.

Gaming Advisory Commission.

1. There is created the gaming advisory commission composed of five members appointed by the attorney general. The term of office is three years, expiring on July thirty-first with no more than two terms expiring in any one year. Of the first members appointed, one must be appointed for a term of one year, two must be appointed for terms of two years, and two must be appointed for terms of three years. A member may not be appointed to more than two consecutive terms. Each member must be a citizen of the United States and a resident of this state for at least two years before the date of appointment. At the first meeting of the commission each fiscal year, a majority of the members of the commission shall elect a chairman from the membership of the commission. A member may serve as chairman for more than one year.



2. An individual is ineligible for appointment to the gaming advisory commission if that individual is not of a character and reputation as to promote public confidence in the administration of gaming in this state. An individual may not be a member of the commission if that individual has pled guilty or been found guilty of a felony criminal offense or has pled guilty or been found guilty of any violation of chapter 12.1-06, 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, 53-06.1, or 53-06.2, or has pled guilty or found guilty of any violation of section 6-08-16 or 6-08-16.2, or has pled guilty or been found guilty of any offense or violation that has a direct bearing on the person's fitness to be involved in gaming, or who has committed an equivalent offense or violation of the laws of another state or of the United States. An individual who has a financial interest in gaming or is an employee or member of the gaming committee of a licensed organization or distributor may not be a member of the commission. For the purpose of this subsection, a financial interest includes the receiving of any direct payment from an eligible organization for property, services, or facilities provided to that organization.
3. The gaming advisory commission shall meet at least once a quarter and any additional meetings as the chairman determines necessary. The chairman may call special meetings upon the written request of the attorney general or any three members of the commission.
4. The gaming advisory commission shall advise the attorney general on policy and general operation of gaming.
5. A member of the gaming advisory commission who is not a permanent full-time state employee is entitled to compensation at a rate of seventy-five dollars per day and entitled to mileage and expenses as provided by law for state employees. A state employee who is a member of the commission must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency.

SECTION 2. REPEAL. Section 53-06.1-01.1 of the North Dakota Century Code is repealed.

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Interim Judiciary Committee ~ Next Meeting

The next meeting of the Interim Judiciary Committee is scheduled for **April 15, 2008**, in the Roughrider Room at the State Capitol in Bismarck. According to Chairman Klemin, this proposed bill draft will be reviewed in further detail at the next meeting. If organizations have a concern with the proposed language they should consider attending the meeting and sharing those concerns.



Analysis of Gaming Activity

The amount of money wagered on charitable games of chance for the quarter ended September 30, 2007, was \$61,438,326. This represents a slight decrease of (\$84,032) from wagers made during the same quarter in 2006 when \$61,522,358 was wagered. Although bingo continued its decline with a decrease of 5.5% or (\$474,470), other game types nearly offset the total decrease. Raffles had an increase of 20% or \$126,802, Prize Boards increased 38.7% or \$103,894, Pull tabs increased .3% or \$68,873, Dispensing devices increased .3% or \$43,229, and Paddlewheels with a table and Twenty-one were up \$32,026 or 3% and \$31,396 or .2%, respectively.

Quarter Ended September 30, 2007

	Gross Proceeds	Prizes	Adjusted Gross Proceeds
Bingo	\$8,084,541	\$6,370,852	\$1,713,689
Raffles	634,869	230,091	404,778
Pull Tabs	20,339,452	16,022,838	4,316,614
Pull Tabs - Dispensing	13,124,772	10,147,292	2,977,480
Club Specials, Tip, Seal & Prize Boards	268,725	200,368	68,357
Punch Boards	5,200	3,637	1,563
Sports Pools	9,840	8,180	1,660
Twenty-One	17,693,905	14,887,474	2,806,431
Calcuttas	65,643	54,911	10,732
Paddlewheels	24,300	12,652	11,648
Paddlewheels – with Table	1,072,376	804,727	267,649
Poker	102,810	80,650	22,160
Other (Cash Long/Interest)	<u>11,893</u>	<u>0</u>	<u>11,893</u>
Totals:	\$61,438,326	\$48,823,672	\$12,614,654
Less: ND Pull Tab Excise Tax			\$1,453,582
Federal Excise Tax			23,374
ND Bingo Excise Tax			<u>235,262</u>
Total Adjusted Gross Proceeds			\$10,902,436
Less: Gaming Tax			\$716,094
Total Allowed Expenses			<u>6,354,230</u>
Total Deductible Expenses			\$7,070,324
Net Proceeds Earned			\$3,832,112
Eligible Use Contributions			\$3,694,014



Top Twenty Organizations

Quarter Ended September 30, 2007

Name	Active Sites	Gross Proceeds	Prizes	Adjusted Gross Proceeds
ND Association for the Disabled, Grand Forks	10	\$5,955,637	\$4,758,377	\$1,197,260
Plains Art Museum, Fargo	3	3,496,526	2,800,391	696,135
Prairie Public Broadcasting, Inc., Fargo	9	2,972,969	2,358,837	614,132
Development Homes, Inc., Grand Forks	9	1,763,969	1,434,962	329,007
Grand Forks Blue Line Club, Inc., Grand Forks	2	1,495,402	1,185,026	310,376
Minot Junior Golf Association, Inc., Minot	7	1,579,012	1,279,609	299,403
Bismarck-Mandan CVB, Bismarck	6	1,445,404	1,166,252	279,152
Minot Hockey Boosters, Inc., Minot	18	1,427,968	1,174,615	253,353
Fort Abraham Lincoln Foundation, Mandan	15	1,327,585	1,074,628	252,957
Knights of Columbus Council, Jamestown	17	1,160,505	912,548	247,957
West Fargo Hockey Assn., Inc., West Fargo	6	1,471,395	1,232,007	239,388
Northern Prairie Performing Arts, Fargo	9	1,133,421	899,079	234,342
Dickinson Youth Activities, Dickinson	5	1,055,062	824,628	230,434
VFW Post No. 7564, West Fargo	1	591,744	366,133	225,611
Listen Inc., Grand Forks	8	1,166,474	942,436	224,038
American Foundation for Wildlife, Bismarck	26	955,617	746,762	208,855
Red River Human Services FND, Fargo	5	1,344,910	1,138,982	205,928
Cystic Fibrosis Assn. of ND, Bismarck	8	824,417	645,666	178,751
Progress Enterprises, Inc., Jamestown	4	863,433	695,595	167,838
Share House, Inc., Fargo	<u>3</u>	<u>819,091</u>	<u>653,759</u>	<u>165,332</u>
Total:	171	32,850,541	26,290,292	6,560,249

Note: The organizations are listed in descending order by Adjusted Gross Proceeds prior to adjustments for Cash Long (+), Interest (+), Gaming Excise Tax (-), and Bingo Sales Tax (-).

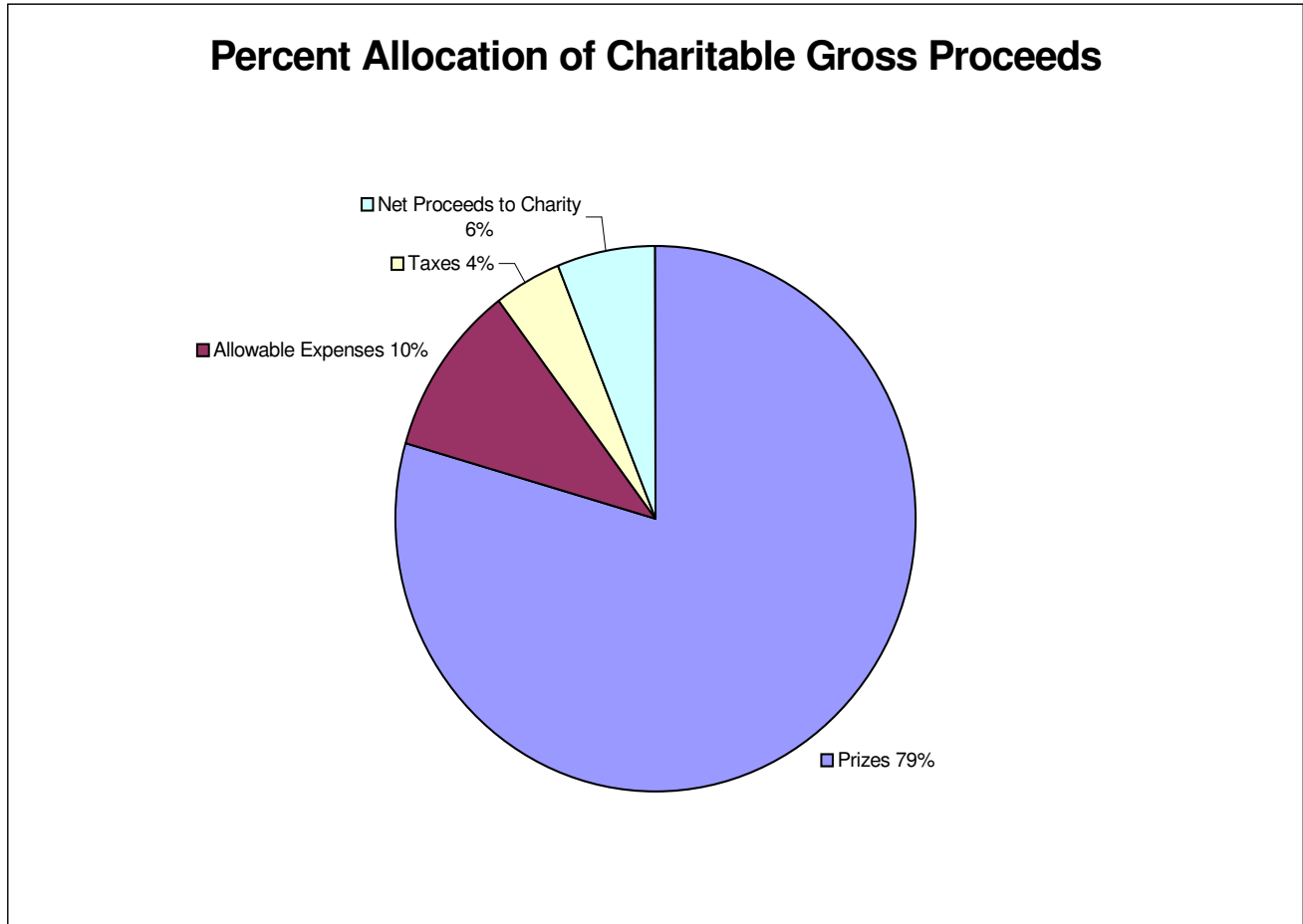
Electronic Pull Tab Rules

The Chairman of the State Gaming Commission has placed the administrative rulemaking process for electronic pull tabs on hold pending further analysis of current law.



Allocation of Charitable Gross Proceeds

Have you ever wondered where Gross Proceeds (total amount of money spent on charitable games by participants) from charitable games of chance go? The Office of Attorney General recently developed a pie chart of the Percent Allocation of Charitable Gross Proceeds. During the most recent fiscal year ended June 30, 2007, Gross Proceeds were allocated to four primary categories as follows:



Note: 1% rounding difference due to Federal Excise Tax paid and additional income earned from Cash Long/Interest.

Lottery Update

The North Dakota Lottery recently introduced the **Hot Lotto Triple Sizzler** feature. For an extra \$1, players triple all Hot Lotto non-jackpot prizes.

On February 22, 2008, the Lottery added three new features to its **2by2** game. Two of the features include increasing the jackpot from \$20,000 to \$22,000, and giving players the option to play every day of the week. A third feature – the Tuesday Double Prize feature – gives players the option to double all prizes won on Tuesdays with the purchase of a seven-day multi-draw ticket.



More information about the Lottery's games and new game features is at: www.lottery.nd.gov.



Minutes of the Judiciary Committee

Following is an excerpt of the Minutes of the meeting held on January 8, 2008, during which the Judiciary Committee discussed the Gaming Commission study:

At the request of Chairman Klemin, committee counsel distributed testimony provided by Mr. Chuck Keller, Director, North Dakota Lottery, regarding the regulatory differences among the different forms of gaming in the state. In his testimony, Mr. Keller said in principle, a single gaming commission has promise; however, based upon an analysis of the facts, the concept of such a commission is without merit. He said he recommends that the committee exclude the North Dakota Lottery from a combined commission for a number of reasons. He said the four gaming industries—lottery, charitable, horse racing, and tribal casino—are fundamentally different in almost all aspects. He said there are few similarities between the lottery and the other three industries. He said the lottery is evaluated on critical success factors relevant onto its industry. He said a single gaming commission that regulates all types of gaming would struggle, at best, to attempt to thoroughly understand the intricacies of each unique industry; apply due diligence in decisionmaking; achieve responsive results; or fairly, efficiently, and competently regulate four gaming industries. He said the Lottery Advisory Commission serves as policy advisor to the Attorney General and director of the lottery. He said this advisory commission is directly involved in all substantive policies, plans, issues, contracts, timelines, and activities of the lottery; has been instrumental in the lottery's accomplishments and financial success; and understands the opportunities and challenges facing the lottery. He said the Legislative Assembly, in creating this commission, got it right the first time. He said the Legislative Assembly in 2003 entrusted the Attorney General with the responsibility to develop, implement, and administer the lottery. He said the Attorney General should continue to be ultimately responsible. He said for the lottery to be successful, the lottery must prosper, have a favorable public image, and players must be confident that games are fair and honest. He said based on the guidance of the Lottery Advisory Commission, the lottery is prosperous, enjoys a favorable public image, and its games are trusted as being fair and honest. As required, he said, the lottery provides the executive and legislative branches of our government a full accounting of the

lottery's financial activity and operation. He said the lottery has not been the cause of any public or legislative alarm. He said if there is a particular gaming-related issue that the committee is attempting to address, he would recommend that it be addressed apart from the North Dakota Lottery. His testimony, together with information regarding the percent allocation of lottery ticket sales, the critical success factors of the North Dakota Lottery, and the regulatory differences of the four gaming industries, is on file in the Legislative Council office.

At the request of Chairman Klemin, committee counsel presented a bill draft [90024.0100] relating to the creation of a gaming advisory commission. Committee counsel said the bill draft would give the Attorney General the authority to adopt rules to administer and regulate the charitable gaming industry. She said the bill draft would create a gaming advisory commission composed of five members appointed by the Attorney General. She said the duties of the gaming advisory commission would be to advise the Attorney General on policy and general operation of charitable gaming. She said the bill draft would repeal North Dakota Century Code (NDCC) Section 53-06.1-01.1, which provides for the Gaming Commission.

In response to a question from Representative Delmore, Mr. Keith Lauer said the Gaming Commission is a part-time commission without any paid staff. He said the commission directs the staff of the Gaming Division to draft rules and conduct public hearings. He said the current practice could result in disagreement between the Gaming Division and the Gaming Commission on the rules that should be adopted.

Representative Koppelman expressed concerns about whether there would be a conflict of interest if the agency responsible for enforcing the gaming law—the Attorney General—were responsible for rulemaking. In response to a question from Representative Koppelman, Mr. Lauer said assistant attorneys general routinely advise agencies as well as draft rules for those same agencies.



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Training Sessions

The Gaming division will be conducting training sessions in Dickinson, Bismarck, and Fargo as part of its ongoing training program. **For your convenience, a Training Pre-Registration Form is enclosed.** These are full day sessions from 8:30 AM to 5:00 PM. If the organization has employees that are required to attend based on the rules or as a result of a compliance review or in-office audit, please register as soon as possible. If you have any questions, please contact the Gaming division at (701) 328-4848 or 1-800-326-9240.

New \$5 Bills Begin Circulation

As highlighted in the December 2007 Edition of the *Gaming Update* Newsletter, the US Treasury Department will begin circulation of newly redesigned \$5 bills this month. The new \$5 bill, which has been redesigned to help foil counterfeiters, includes two new watermarks and an enhanced security thread that will help businesses and consumers validate the new bills.

Organizations should inform their employees to expect to see the new \$5 bills after March 13, 2008. To view the newly redesigned \$5 bill, visit: www.moneyfactory.gov/newmoney/.