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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 1406

March 9, 2009

 Authorized by Dill, Atkins, Zellers, Brown, Davids and others

 The bill was read for the first time and referred to the Committee on Commerce and Labor

March 19, 2009

 Committee Recommendation and Adoption of Report:

 To Pass as Amended and re-referred to the Committee on Civil Justice

March 25, 2009

 Committee Recommendation and Adoption of Report:

 To Pass as Amended and re-referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to gambling; providing for certain reimbursement relating to pari-mutuel
1.3 wagering; modifying provisions relating to lawful gambling taxes; amending
1.4 Minnesota Statutes 2008, sections 240.13, by adding a subdivision; 297E.01,
1.5 subdivisions 7, 8; 297E.02, subdivisions 1, 2, 3, 7, 10; 297E.13, subdivision 5;
1.6 349.12, subdivision 25; 349.166, subdivision 2; 349.19, subdivision 2; repealing
1.7 Minnesota Statutes 2008, sections 297E.02, subdivisions 4, 6, 11; 349.15,
1.8 subdivision 3; 349.19, subdivision 2a.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2008, section 240.13, is amended by adding a
1.11 subdivision to read:

1.12 Subd. 10. Reimbursement. The commission may permit a class B licensee who
1.13 conducts pari-mutuel wagering on horse races at a class A licensed racetrack to accept
1.14 compensation from an out-of-state vendor where the out-of-state vendor is accepting
1.15 wagers, that could have been placed at the class A racetrack, as a component of a system
1.16 that is operating in compliance with the Interstate Horse Racing Act of 1978, United States
1.17 Code, title 15, sections 3001 to 3007. If the compensation is in the form of payment of
1.18 cash, the receipts shall be treated as if they were simulcasting revenue for purposes of
1.19 purse set-aside and breeders fund contributions. An agreement by the class B licensee
1.20 to receive compensation in a form other than cash payment must be agreed to by the
1.21 horsepersons' association representing the majority of horsepersons racing at the class B
1.22 licensee's class A racetrack. In any case where an out-of-state vendor is not compensating
1.23 a class B licensee under this subdivision or pursuant to a simulcasting, or other agreement,
1.24 the licensee has a cause of action against the out-of-state vendor and may recover three
1.25 times the amount of damages incurred in addition to reasonable costs and attorney fees.

2.1 Damages shall be measured utilizing the highest established rate of compensation existing
2.2 in the industry as of the date of the event.

2.3 Sec. 2. Minnesota Statutes 2008, section 297E.01, subdivision 7, is amended to read:

2.4 Subd. 7. **Gambling product.** "Gambling product" means bingo hard cards, bingo
2.5 paper sheets, facsimiles of bingo paper sheets, or linked bingo paper sheets; pull-tabs;
2.6 tipboards; paddle tickets and paddle ticket cards; raffle tickets; or any other ticket, card,
2.7 board, placard, device, or token that represents a chance, for which consideration is paid,
2.8 to win a prize.

2.9 Sec. 3. Minnesota Statutes 2008, section 297E.01, subdivision 8, is amended to read:

2.10 Subd. 8. **Gross receipts.** "Gross receipts" means all receipts derived from lawful
2.11 gambling activity including, but not limited to, the following items:

2.12 (1) gross sales of bingo hard cards and paper sheets before reduction for prizes,
2.13 expenses, shortages, free plays, or any other charges or offsets;

2.14 (2) the ideal gross of pull-tab and tipboard deals or games less the value of unsold
2.15 and defective tickets and before reduction for prizes, expenses, shortages, free plays,
2.16 or any other charges or offsets;

2.17 (3) gross sales of raffle tickets and paddle tickets before reduction for prizes,
2.18 expenses, shortages, free plays, or any other charges or offsets;

2.19 (4) admission, commission, cover, or other charges imposed on participants in
2.20 lawful gambling activity as a condition for or cost of participation; and

2.21 (5) interest, dividends, annuities, profit from transactions, or other income derived
2.22 from the accumulation or use of gambling proceeds.

2.23 Gross receipts does not include rental proceeds from ~~rental under section 349.18,~~
2.24 ~~subdivision 3~~ premises owned by an organization and leased to one or more other
2.25 organizations for the purposes of conducting lawful gambling.

2.26 Sec. 4. Minnesota Statutes 2008, section 297E.02, subdivision 1, is amended to read:

2.27 Subdivision 1. **Imposition.** (a) A tax is imposed on all lawful gambling ~~other than~~
2.28 ~~(1) pull-tab deals or games; (2) tipboard deals or games; and (3) items listed in section~~
2.29 ~~297E.01, subdivision 8, clauses (4) and (5);~~ at the rate of ~~8.5~~ 9.8 percent on the gross
2.30 receipts as defined in section 297E.01, subdivision 8, less prizes actually paid.

2.31 (b) The tax under this subdivision is also imposed on all lawful gambling conducted
2.32 by an organization exempt from licensing under section 349.166, subdivision 2.

3.1 (c) The tax imposed by this subdivision is in lieu of the tax imposed by section
 3.2 297A.62 and all local taxes ~~and license fees~~, except a local investigation fee authorized
 3.3 under section 349.16, subdivision 8, or a tax authorized under subdivision 5 or a local
 3.4 gambling tax authorized under section 349.213, subdivision 3.

3.5 (d) The tax imposed under this subdivision is payable by the organization or party
 3.6 conducting, directly or indirectly, the gambling.

3.7 (e) The liability for the tax imposed by this section is incurred when the gambling
 3.8 product is received by a customer from a licensed distributor.

3.9 Sec. 5. Minnesota Statutes 2008, section 297E.02, subdivision 2, is amended to read:

3.10 Subd. 2. ~~Tax-exempt gambling~~ **Exemptions from tax.** The tax imposed by this
 3.11 section is not imposed on the following:

3.12 (1) an organization's receipts from lawful gambling that are excluded or exempt
 3.13 from licensing under section 349.166, subdivision 1, are not subject to the tax imposed
 3.14 by this section or section 297A.62. This exclusion from tax is only valid if at the time
 3.15 of the event giving rise to the tax the organization either has an exclusion under section
 3.16 349.166, subdivision 1, or has applied for and received a valid exemption from the lawful
 3.17 gambling control board;

3.18 (2) sales to the governing body of an Indian tribal organization for use on an Indian
 3.19 reservation;

3.20 (3) sales to distributors licensed under the laws of another state or of a province of
 3.21 Canada, as long as all statutory and regulatory requirements are met in the other state or
 3.22 province; and

3.23 (4) sales of promotional tickets as defined in section 349.12.

3.24 Sec. 6. Minnesota Statutes 2008, section 297E.02, subdivision 3, is amended to read:

3.25 Subd. 3. **Collection; disposition.** (a) Taxes imposed by this section other than in
 3.26 subdivision 4 and the monthly regulatory fee required under chapter 349 are due and
 3.27 payable to the commissioner when with the gambling tax return that is required to be
 3.28 filed. Taxes imposed by subdivision 4 are due and payable to the commissioner on or
 3.29 before the last business day of the month following the month in which the taxable sale
 3.30 was made. Returns covering the taxes imposed under this section must be filed with the
 3.31 commissioner on or before the 20th day of the month following the close of the previous
 3.32 calendar month or last sale of a lawful gambling game.

3.33 (b) The commissioner may require that the returns be filed via magnetic media or
 3.34 electronic data transfer.

4.1 (c) The proceeds, along with the revenue received from all license fees and other
4.2 fees under sections 349.11 to 349.191, 349.211, and 349.213, taxes received under this
4.3 section must be paid to the commissioner of finance for deposit in the general fund.

4.4 (d) The monthly regulatory fee received under this section must be deposited in the
4.5 lawful gambling regulation account in the special revenue fund according to section
4.6 349.151.

4.7 Sec. 7. Minnesota Statutes 2008, section 297E.02, subdivision 7, is amended to read:

4.8 Subd. 7. **Untaxed Tax on illegal or lost gambling product.** (a) In addition to
4.9 penalties or criminal sanctions imposed by this chapter, a person, organization, or business
4.10 entity possessing, playing, or selling a pull-tab or tipboard ~~upon which the tax imposed by~~
4.11 ~~subdivision 4 has not been paid~~ for which:

4.12 (1) they are not authorized under chapter 349 to have in their possession;

4.13 (2) they do not possess a valid invoice from a licensed distributor; or

4.14 (3) the game does not conform with the standards as set forth in chapter 349,
4.15 including the bar code information;

4.16 is liable for a tax of six percent of the ideal gross of each pull-tab or tipboard. The tax
4.17 on a partial deal must be assessed as if it were a full deal.

4.18 (b) In addition to penalties and criminal sanctions imposed by this chapter, a person
4.19 not licensed or exempt by the board who conducts bingo, raffles, or paddle wheel games is
4.20 liable for a tax of six percent of the gross receipts from that activity.

4.21 (c) In addition to penalties or criminal sanctions imposed by this chapter, a licensed
4.22 organization, an organization exempt from licensing under section 349.166, subdivision
4.23 2, or a lawful licensed distributor, is liable for a tax of 9.8 percent of the ideal gross
4.24 profits for gambling equipment registered with the state in inventory but later found to
4.25 be missing or lost.

4.26 (d) The tax must be assessed by the commissioner. An assessment must be
4.27 considered a jeopardy assessment or jeopardy collection as provided in section 270C.36.
4.28 The commissioner shall assess the tax based on personal knowledge or information
4.29 available to the commissioner. The commissioner shall mail to the taxpayer at the
4.30 taxpayer's last known address, or serve in person, a written notice of the amount of tax,
4.31 demand its immediate payment, and, if payment is not immediately made, collect the tax
4.32 by any method described in chapter 270C, except that the commissioner need not await the
4.33 expiration of the times specified in chapter 270C. The tax assessed by the commissioner
4.34 is presumed to be valid and correctly determined and assessed. The burden is upon the

5.1 taxpayer to show its incorrectness or invalidity. The tax imposed under this subdivision
5.2 does not apply to gambling that is exempt from taxation under subdivision 2.

5.3 Sec. 8. Minnesota Statutes 2008, section 297E.02, subdivision 10, is amended to read:

5.4 Subd. 10. **Refunds; appropriation.** (a) A person who has, under this chapter, paid
5.5 to the commissioner an amount of tax for a period in excess of the amount legally due for
5.6 that period, may file with the commissioner a claim for a refund of the excess.

5.7 (b) An organization licensed under section 349.16 may file with the commissioner
5.8 a claim for a refund or credit of taxes paid under subdivision 1 if the organization's
5.9 gross receipts for the previous calendar year were \$100,000 or less. The refund or credit
5.10 provided under this section must be filed as part of the organization's February monthly
5.11 tax return. This provision does not apply to organizations exempt from licensing under
5.12 section 349.166, subdivision 2.

5.13 (c) The amount necessary to pay the refunds under this subdivision and subdivision
5.14 4, paragraph (d), is appropriated from the general fund to the commissioner.

5.15 Sec. 9. Minnesota Statutes 2008, section 297E.13, subdivision 5, is amended to read:

5.16 Subd. 5. **Untaxed gambling equipment.** It is a gross misdemeanor for a person
5.17 to possess gambling equipment for resale in this state that has not been stamped or
5.18 bar-coded in accordance with this chapter and chapter 349 and in compliance with section
5.19 297E.02, subdivision 7, and upon which the taxes imposed by chapter 297A or section
5.20 297E.02, subdivision 4, have not been paid. The director of alcohol and gambling
5.21 enforcement or the commissioner or the designated inspectors and employees of the
5.22 director or commissioner may seize in the name of the state of Minnesota any unregistered
5.23 or untaxed gambling equipment.

5.24 Sec. 10. Minnesota Statutes 2008, section 349.12, subdivision 25, is amended to read:

5.25 Subd. 25. **Lawful purpose.** (a) "Lawful purpose" means one or more of the
5.26 following:

5.27 (1) any expenditure by or contribution to a 501(c)(3) or festival organization, as
5.28 defined in subdivision 15a, provided that the organization and expenditure or contribution
5.29 are in conformity with standards prescribed by the board under section 349.154, which
5.30 standards must apply to both types of organizations in the same manner and to the same
5.31 extent;

6.1 (2) a contribution to or expenditure for goods and services for an individual or
6.2 family suffering from poverty, homelessness, or disability, which is used to relieve the
6.3 effects of that suffering;

6.4 (3) a contribution to a program recognized by the Minnesota Department of Human
6.5 Services for the education, prevention, or treatment of problem gambling;

6.6 (4) a contribution to or expenditure on a public or private nonprofit educational
6.7 institution registered with or accredited by this state or any other state;

6.8 (5) a contribution to an individual, public or private nonprofit educational institution
6.9 registered with or accredited by this state or any other state, or to a scholarship fund of a
6.10 nonprofit organization whose primary mission is to award scholarships, for defraying the
6.11 cost of education to individuals where the funds are awarded through an open and fair
6.12 selection process;

6.13 (6) activities by an organization or a government entity which recognize military
6.14 service to the United States, the state of Minnesota, or a community, subject to rules
6.15 of the board, provided that the rules must not include mileage reimbursements in the
6.16 computation of the per diem reimbursement limit and must impose no aggregate annual
6.17 limit on the amount of reasonable and necessary expenditures made to support:

6.18 (i) members of a military marching or color guard unit for activities conducted
6.19 within the state;

6.20 (ii) members of an organization solely for services performed by the members at
6.21 funeral services;

6.22 (iii) members of military marching, color guard, or honor guard units may be
6.23 reimbursed for participating in color guard, honor guard, or marching unit events within
6.24 the state or states contiguous to Minnesota at a per participant rate of up to \$35 per diem; or

6.25 (iv) active military personnel and their immediate family members in need of
6.26 support services;

6.27 (7) recreational, community, and athletic facilities and activities intended primarily
6.28 for persons under age 21, provided that such facilities and activities do not discriminate on
6.29 the basis of gender and the organization complies with section 349.154;

6.30 (8) payment of local taxes authorized under this chapter, taxes imposed by the
6.31 United States on receipts from lawful gambling, the taxes imposed by section 297E.02,
6.32 ~~subdivisions~~ subdivision 1, 4, 5, and 6, and the tax imposed on unrelated business income
6.33 by section 290.05, subdivision 3;

6.34 (9) payment of real estate taxes and assessments on permitted gambling premises
6.35 owned by the licensed organization paying the taxes, or wholly leased by a licensed

7.1 veterans organization under a national charter recognized under section 501(c)(19) of the
7.2 Internal Revenue Code;

7.3 (10) a contribution to the United States, this state or any of its political subdivisions,
7.4 or any agency or instrumentality thereof other than a direct contribution to a law
7.5 enforcement or prosecutorial agency;

7.6 (11) a contribution to or expenditure by a nonprofit organization which is a church
7.7 or body of communicants gathered in common membership for mutual support and
7.8 edification in piety, worship, or religious observances;

7.9 (12) payment of the reasonable costs of an audit required in section 297E.06,
7.10 subdivision 4, provided the annual audit is filed in a timely manner with the Department of
7.11 Revenue and paid prior to June 30, 2006;

7.12 (13) a contribution to or expenditure on projects or activities approved by the
7.13 commissioner of natural resources for:

7.14 (i) wildlife management projects that benefit the public at large;

7.15 (ii) grant-in-aid trail maintenance and grooming established under sections 84.83
7.16 and 84.927, and other trails open to public use, including purchase or lease of equipment
7.17 for this purpose; and

7.18 (iii) supplies and materials for safety training and educational programs coordinated
7.19 by the Department of Natural Resources, including the Enforcement Division;

7.20 (14) conducting nutritional programs, food shelves, and congregate dining programs
7.21 primarily for persons who are age 62 or older or disabled;

7.22 (15) a contribution to a community arts organization, or an expenditure to sponsor
7.23 arts programs in the community, including but not limited to visual, literary, performing,
7.24 or musical arts;

7.25 (16) an expenditure by a licensed fraternal organization or a licensed veterans
7.26 organization for payment of water, fuel for heating, electricity, and sewer costs for a
7.27 building wholly owned or wholly leased by and used as the primary headquarters of the
7.28 licensed veterans organization or fraternal organization;

7.29 (17) expenditure by a licensed veterans organization of up to \$5,000 in a calendar
7.30 year in net costs to the organization for meals and other membership events, limited to
7.31 members and spouses, held in recognition of military service. No more than \$5,000 can be
7.32 expended in total per calendar year under this clause by all licensed veterans organizations
7.33 sharing the same veterans post home;

7.34 (18) payment of fees authorized under this chapter imposed by the state of Minnesota
7.35 to conduct lawful gambling in Minnesota; or

8.1 (19) a contribution or expenditure to honor an individual's humanitarian service
8.2 as demonstrated through philanthropy or volunteerism to the United States, this state,
8.3 or local community.

8.4 (b) Notwithstanding paragraph (a), "lawful purpose" does not include:

8.5 (1) any expenditure made or incurred for the purpose of influencing the nomination
8.6 or election of a candidate for public office or for the purpose of promoting or defeating a
8.7 ballot question;

8.8 (2) any activity intended to influence an election or a governmental decision-making
8.9 process;

8.10 (3) the erection, acquisition, improvement, expansion, repair, or maintenance of real
8.11 property or capital assets owned or leased by an organization, unless the board has first
8.12 specifically authorized the expenditures after finding that (i) the real property or capital
8.13 assets will be used exclusively for one or more of the purposes in paragraph (a); (ii)
8.14 with respect to expenditures for repair or maintenance only, that the property is or will
8.15 be used extensively as a meeting place or event location by other nonprofit organizations
8.16 or community or service groups and that no rental fee is charged for the use; (iii) with
8.17 respect to expenditures, including a mortgage payment or other debt service payment,
8.18 for erection or acquisition only, that the erection or acquisition is necessary to replace
8.19 with a comparable building, a building owned by the organization and destroyed or
8.20 made uninhabitable by fire or catastrophe, provided that the expenditure may be only
8.21 for that part of the replacement cost not reimbursed by insurance; (iv) with respect to
8.22 expenditures, including a mortgage payment or other debt service payment, for erection or
8.23 acquisition only, that the erection or acquisition is necessary to replace with a comparable
8.24 building a building owned by the organization that was acquired from the organization by
8.25 eminent domain or sold by the organization to a purchaser that the organization reasonably
8.26 believed would otherwise have acquired the building by eminent domain, provided
8.27 that the expenditure may be only for that part of the replacement cost that exceeds the
8.28 compensation received by the organization for the building being replaced; or (v) with
8.29 respect to an expenditure to bring an existing building into compliance with the Americans
8.30 with Disabilities Act under item (ii), an organization has the option to apply the amount of
8.31 the board-approved expenditure to the erection or acquisition of a replacement building
8.32 that is in compliance with the Americans with Disabilities Act;

8.33 (4) an expenditure by an organization which is a contribution to a parent
8.34 organization, foundation, or affiliate of the contributing organization, if the parent
8.35 organization, foundation, or affiliate has provided to the contributing organization within
8.36 one year of the contribution any money, grants, property, or other thing of value;

9.1 (5) a contribution by a licensed organization to another licensed organization unless
 9.2 the board has specifically authorized the contribution. The board must authorize such a
 9.3 contribution when requested to do so by the contributing organization unless it makes an
 9.4 affirmative finding that the contribution will not be used by the recipient organization for
 9.5 one or more of the purposes in paragraph (a); or

9.6 (6) a contribution to a statutory or home rule charter city, county, or town by a
 9.7 licensed organization with the knowledge that the governmental unit intends to use the
 9.8 contribution for a pension or retirement fund.

9.9 Sec. 11. Minnesota Statutes 2008, section 349.166, subdivision 2, is amended to read:

9.10 Subd. 2. **Exemptions.** (a) Lawful gambling, with the exception of linked bingo
 9.11 games, may be conducted by an organization without a license and without complying
 9.12 with sections 349.168, subdivisions 1 and 2; 349.17, subdivisions 4 and 5; 349.18,
 9.13 subdivision 1; and 349.19 if:

9.14 (1) the organization conducts lawful gambling on five or fewer days in a calendar
 9.15 year;

9.16 (2) the organization does not award more than \$50,000 in prizes for lawful gambling
 9.17 in a calendar year;

9.18 (3) the organization pays a fee of \$50 to the board, notifies the board in writing
 9.19 not less than 30 days before each lawful gambling occasion of the date and location of
 9.20 the occasion, or 60 days for an occasion held in the case of a city of the first class, the
 9.21 types of lawful gambling to be conducted, the prizes to be awarded, and receives an
 9.22 exemption identification number;

9.23 (4) the organization notifies the local government unit 30 days before the lawful
 9.24 gambling occasion, or 60 days for an occasion held in a city of the first class;

9.25 (5) the organization purchases all gambling equipment and supplies from a licensed
 9.26 distributor; and

9.27 (6) the organization reports to the ~~board, on a single-page form~~ commissioner of
 9.28 revenue, in a format prescribed by the board, within 30 days commissioner, by the 20th
 9.29 day of the next month after each gambling occasion, ~~the gross receipts, prizes, expenses,~~
 9.30 ~~expenditures of net profits from the occasion, and the identification of the licensed~~
 9.31 ~~distributor from whom all gambling equipment was purchased~~ was conducted, and pays
 9.32 the tax imposed under section 297E.02, subdivision 1.

9.33 (b) If the organization fails to file a timely report and pay the tax as required by
 9.34 paragraph (a), clause ~~(3)~~ or (6), the board shall not issue any authorization, license, or
 9.35 permit to the organization to conduct lawful gambling on an exempt, excluded, or licensed

10.1 basis until the report has been filed and the tax paid, and the organization may be subject
 10.2 to penalty as determined by the board. The board may refuse to issue any authorization,
 10.3 license, or permit if a report or application is determined to be incomplete or knowingly
 10.4 contains false or inaccurate information.

10.5 (c) Merchandise prizes must be valued at their fair market value.

10.6 (d) Organizations that qualify to conduct exempt raffles under paragraph (a), are
 10.7 exempt from section 349.173, paragraph (b), clause (2), if the raffle tickets are sold
 10.8 only in combination with an organization's membership or a ticket for an organization's
 10.9 membership dinner and are not included with any other raffle conducted under the exempt
 10.10 permit.

10.11 (e) Unused pull-tab and tipboard deals must be returned to the distributor within
 10.12 seven working days after the end of the lawful gambling occasion. The distributor must
 10.13 accept and pay a refund for all returns of unopened and undamaged deals returned under
 10.14 this paragraph.

10.15 ~~(f) An organization that is exempt from taxation on purchases of pull-tabs and~~
 10.16 ~~tipboards under section 297E.02, subdivision 4, paragraph (b), clause (4), must return to~~
 10.17 ~~the distributor any tipboard or pull-tab deal no part of which is used at the lawful gambling~~
 10.18 ~~occasion for which it was purchased by the organization.~~

10.19 ~~(g)~~ (f) The organization must maintain all required records of exempt gambling
 10.20 activity for 3-1/2 years as required by section 297E.06.

10.21 Sec. 12. Minnesota Statutes 2008, section 349.19, subdivision 2, is amended to read:

10.22 Subd. 2. **Accounts.** Gross receipts from lawful gambling by each organization must
 10.23 be segregated from all other revenues of the conducting organization and placed in a
 10.24 separate account. All expenditures for expenses, taxes, and lawful purposes must be made
 10.25 from the separate account except (1) in the case of expenditures previously approved
 10.26 by the organization's membership for emergencies as defined by board rule, or (2) ~~as~~
 10.27 ~~provided in subdivision 2a, or (3)~~ when restricted to one electronic fund transaction for
 10.28 the payment of taxes for the organization as a whole, the organization may transfer the
 10.29 amount of taxes related to the conduct of gambling to the general account at the time when
 10.30 due and payable. The name and address of the bank, the account number for the separate
 10.31 account, and the names of organization members authorized as signatories on the separate
 10.32 account must be provided to the board when the application is submitted. Changes in the
 10.33 information must be submitted to the board at least ten days before the change is made.
 10.34 Gambling receipts must be deposited into the gambling bank account within four business
 10.35 days of completion of the bingo occasion, deal, or game from which they are received. A

11.1 deal of pull-tabs is considered complete when either the last pull-tab of the deal is sold or
11.2 the organization does not continue the play of the deal during the next scheduled period
11.3 of time in which the organization will conduct pull-tabs. A tipboard game is considered
11.4 complete when the seal on the game flare is uncovered. Deposit records must be sufficient
11.5 to allow determination of deposits made from each bingo occasion, deal, or game at each
11.6 permitted premises. The person who accounts for gambling gross receipts and profits may
11.7 not be the same person who accounts for other revenues of the organization.

11.8 Sec. 13. **REPEALER.**

11.9 Minnesota Statutes 2008, sections 297E.02, subdivisions 4, 6, and 11; 349.15,
11.10 subdivision 3; and 349.19, subdivision 2a, are repealed effective July 1, 2009.

11.11 Sec. 14. **EFFECTIVE DATE.**

11.12 Section 1 is effective the day following final enactment and sections 2 to 13 are
11.13 effective July 1, 2009.

297E.02 TAX IMPOSED.

Subd. 4. **Pull-tab and tipboard tax.** (a) A tax is imposed on the sale of each deal of pull-tabs and tipboards sold by a distributor. The rate of the tax is 1.7 percent of the ideal gross of the pull-tab or tipboard deal. The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the distributor is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs or tipboards by the organization is exempt from taxes imposed by chapter 297A and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 8.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs and tipboards are delivered by the distributor to the customer or to a common or contract carrier for delivery to the customer, or when received by the customer's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

- (1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;
- (2) sales to distributors licensed under the laws of another state or of a province of Canada, as long as all statutory and regulatory requirements are met in the other state or province;
- (3) sales of promotional tickets as defined in section 349.12; and
- (4) pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.166, subdivision 2. A distributor shall require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to the organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.

(c) A distributor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit all liabilities in the subsequent calendar year by electronic means.

(d) Any customer who purchases deals of pull-tabs or tipboards from a distributor may file an annual claim for a refund or credit of taxes paid pursuant to this subdivision for unsold pull-tab and tipboard tickets. The claim must be filed with the commissioner on a form prescribed by the commissioner by March 20 of the year following the calendar year for which the refund is claimed. The refund must be filed as part of the customer's February monthly return. The refund or credit is equal to 1.7 percent of the face value of the unsold pull-tab or tipboard tickets, provided that the refund or credit will be 1.75 percent of the face value of the unsold pull-tab or tipboard tickets for claims for a refund or credit of taxes filed on the February 2001 monthly return. The refund claimed will be applied as a credit against tax owing under this chapter on the February monthly return. If the refund claimed exceeds the tax owing on the February monthly return, that amount will be refunded. The amount refunded will bear interest pursuant to section 270C.405 from 90 days after the claim is filed.

Subd. 6. **Combined receipts tax.** In addition to the taxes imposed under subdivisions 1 and 4, a tax is imposed on the combined receipts of the organization. As used in this section, "combined receipts" is the sum of the organization's gross receipts from lawful gambling less gross receipts directly derived from the conduct of bingo, raffles, and paddle wheels, as defined in section 297E.01, subdivision 8, for the fiscal year. The combined receipts of an organization are subject to a tax computed according to the following schedule:

If the combined receipts for the fiscal year are:	The tax is:
Not over \$500,000	zero
Over \$500,000, but not over \$700,000	1.7 percent of the amount over \$500,000, but not over \$700,000
Over \$700,000, but not over \$900,000	\$3,400 plus 3.4 percent of the amount over \$700,000, but not over \$900,000
Over \$900,000	\$10,200 plus 5.1 percent of the amount over \$900,000

APPENDIX

Repealed Minnesota Statutes: H1406-2

Subd. 11. **Unplayed or defective pull-tabs or tipboards.** If a deal of pull-tabs or tipboards registered with the board or bar coded in accordance with this chapter and chapter 349 and upon which the tax imposed by subdivision 4 has been paid is returned unplayed to the distributor, the commissioner shall allow a refund of the tax paid.

If a defective deal registered with the board or bar coded in accordance with this chapter and chapter 349 and upon which the taxes have been paid is returned to the manufacturer, the distributor shall submit to the commissioner of revenue certification from the manufacturer that the deal was returned and in what respect it was defective. The certification must be on a form prescribed by the commissioner and must contain additional information the commissioner requires.

The commissioner may require that no refund under this subdivision be made unless the returned pull-tabs or tipboards have been set aside for inspection by the commissioner's employee.

Reductions in previously paid taxes authorized by this subdivision must be made when and in the manner prescribed by the commissioner.

349.15 USE OF GROSS PROFITS.

Subd. 3. **Refunds and credits.** For purposes of this section "gross profit" does not include any refund or credit received under section 297E.02, subdivision 4, paragraph (d).

349.19 RECORDS AND REPORTS.

Subd. 2a. **Tax refund or credit.** (a) Each organization that receives a refund or credit under section 297E.02, subdivision 4, paragraph (d), must within four business days of receiving a refund under that paragraph deposit the refund in the organization's gambling account.

(b) The organization may expend the tax refund or credit issued under section 297E.02, subdivision 4, paragraph (d), only for lawful purposes, other than lawful purposes described in section 349.12, subdivision 25, paragraph (a), clauses (8), (9), and (12). Amounts subject to this paragraph must be spent for qualifying lawful purposes no later than one year after the refund or credit is received.