

A bill for an act

relating to gambling; establishing video lottery terminals; imposing a tax on lottery terminal revenue; modifying other lawful gambling taxes; providing powers and duties to the director of the State Lottery; making clarifying, technical, and conforming changes; amending Minnesota Statutes 2008, sections 297E.02, subdivision 1; 299L.02, subdivision 1; 299L.07, subdivisions 2, 2a; 340A.410, subdivision 5; 349A.01, subdivisions 10, 11, 12, by adding subdivisions; 349A.04; 349A.06, subdivisions 1, 5, 8, 10, by adding subdivisions; 349A.08, subdivisions 1, 5, 8; 349A.09, subdivision 1; 349A.10, subdivisions 2, 3, 4, 6; 349A.11, subdivision 1; 349A.12, subdivisions 1, 2; 349A.13; 541.20; 541.21; 609.651, subdivision 1; 609.75, subdivisions 3, 4; 609.761, subdivision 2; Minnesota Statutes 2009 Supplement, section 349.15, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 297A; 349A; repealing Minnesota Statutes 2008, sections 297E.01, subdivision 7; 297E.02, subdivisions 4, 6, 7.

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

Section 1. **[297A.652] LOTTERY GAMING MACHINES; IN-LIEU TAX.**

Net terminal income from the operation of video lottery terminals authorized under section 349A.071 is exempt from the tax imposed under section 297A.62. The State Lottery must, on or before the 20th day of each month, transmit to the commissioner an amount equal to the net terminal income from the operation of video lottery terminals as defined in section 349A.01, for the previous month multiplied by 28 percent. The commissioner shall deposit the money transmitted under this section in the state treasury to be credited to the general fund.

Sec. 2. Minnesota Statutes 2008, section 297E.02, subdivision 1, is amended to read:

Subdivision 1. **Imposition.** A tax is imposed on all lawful gambling ~~other than (1) pull-tab deals or games; (2) tipboard deals or games; and (3) items listed in section~~

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~~297E.01, subdivision 8, clauses (4) and (5),~~ at the rate of 8.5 percent on the gross receipts as defined in section 297E.01, subdivision 8, less prizes actually paid. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.62 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 8, or a tax authorized under subdivision 5.

The tax imposed under this subdivision is payable by the organization or party conducting, directly or indirectly, the gambling.

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 3. Minnesota Statutes 2008, section 299L.02, subdivision 1, is amended to read:

Subdivision 1. **Lottery.** (a) The director shall when required under chapter 349A or when requested by the director of the lottery conduct background checks on employees of the State Lottery, lottery retailers, and bidders of lottery procurement contracts.

(b) The director shall, when so requested by the director of the State Lottery or when the director believes it to be reasonable and necessary, conduct investigations of lottery retailers, applicants for lottery retailer contracts, suppliers of goods or services to the State Lottery, and persons bidding on contracts for goods or services with the State Lottery.

(c) The director shall conduct an annual security audit of the State Lottery, or arrange for such an audit by an outside agency or person, firm, or corporation. The director shall report to the director of the lottery on the results of the audit.

(d) The director shall deposit in a separate account in the state treasury all money received from the director of the State Lottery for charges for investigations and background checks relating to the owning and operating of video lottery terminals under chapter 349A. Money in the account is appropriated to the director for the purpose of carrying out the director's powers and duties under this subdivision.

Sec. 4. Minnesota Statutes 2008, section 299L.07, subdivision 2, is amended to read:

Subd. 2. **Exclusions.** Notwithstanding subdivision 1, a gambling device:

(1) may be sold by a person who is not licensed under this section, if the person (i) is not engaged in the trade or business of selling gambling devices, and (ii) does not sell more than one gambling device in any calendar year;

(2) may be sold by the governing body of a federally recognized Indian tribe described in subdivision 2a, paragraph (b), clause (1), which is not licensed under this section, if (i) the gambling device was operated by the Indian tribe, (ii) the sale is to a distributor licensed under this section, and (iii) the licensed distributor notifies the

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commissioner of the purchase, in the same manner as is required when the licensed distributor ships a gambling device into Minnesota;

(3) may be possessed by a person not licensed under this section if the person holds a permit issued under section 299L.08; ~~and~~

(4) may be possessed by a state agency, with the written authorization of the director, for display or evaluation purposes only and not for the conduct of gambling; and

(5) may be possessed by the State Lottery as authorized under chapter 349A.

Sec. 5. Minnesota Statutes 2008, section 299L.07, subdivision 2a, is amended to read:

Subd. 2a. **Restrictions.** (a) A manufacturer licensed under this section may sell, offer to sell, lease, or rent, in whole or in part, a gambling device only to a distributor licensed under this section or to the State Lottery as authorized under chapter 349A.

(b) A distributor licensed under this section may sell, offer to sell, market, rent, lease, or otherwise provide, in whole or in part, a gambling device only to:

(1) the governing body of a federally recognized Indian tribe that is authorized to operate the gambling device under a tribal state compact under the Indian Gaming Regulatory Act, Public Law 100-497, and future amendments to it;

(2) a person for use in the person's dwelling for display or amusement purposes in a manner that does not afford players an opportunity to obtain anything of value;

(3) another distributor licensed under this section; ~~or~~

(4) a person in another state who is authorized under the laws of that state to possess the gambling device; or

(5) the State Lottery as authorized under chapter 349A.

Sec. 6. Minnesota Statutes 2008, section 340A.410, subdivision 5, is amended to read:

Subd. 5. **Gambling prohibited.** (a) Except as otherwise provided in this subdivision, no retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in section 349.30, or permit gambling therein.

(b) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by (1) chapter 349, (2) a tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law 100-497, or (3) a tribal-state compact authorized under section 3.9221.

(c) Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under chapter 349A.

(d) Dice may be kept and used on licensed premises and adjoining rooms as authorized by section 609.761, subdivision 4.

(e) Gambling devices may be operated and gambling permitted as authorized by chapter 349A.

Sec. 7. Minnesota Statutes 2009 Supplement, section 349.15, subdivision 1, is amended to read:

Subdivision 1. Expenditure restrictions, requirements, and civil penalties.

(a) Gross profits from lawful gambling may be expended only for lawful purposes or allowable expenses as authorized by the membership of the conducting organization at a monthly meeting of the organization's membership.

~~(b) Provided that~~ Except as provided in paragraph (e), no more than 70 percent of the gross profit from bingo, and no more than 60 percent of the gross profit from other forms of lawful gambling, may be expended biennially during the term of the license for allowable expenses related to lawful gambling, except that for the period of July 1, 2008, to June 30, 2009, no more than 75 percent of the gross profit from bingo, and no more than 65 percent of the gross profit from other forms of lawful gambling, may be expended for allowable expenses related to lawful gambling. This provision expires June 30, 2009.

(c) For each 12-month period beginning July 1, 2009, a licensed organization will be evaluated by the board to determine a rating based on the percentage of annual lawful purpose expenditures when compared to available gross profits for the same period. The rating will be used to determine the organization's profitability percent and is not a rating of the organization's lawful gambling operation. An organization will be evaluated according to the following criteria:

(1) an organization that expends 50 percent or more of gross profits on lawful purposes will receive a five-star rating;

(2) an organization that expends 40 percent or more but less than 50 percent of gross profits on lawful purposes will receive a four-star rating;

(3) an organization that expends 30 percent or more but less than 40 percent of gross profits on lawful purposes will receive a three-star rating;

(4) an organization that expends 20 percent or more but less than 30 percent of gross profits on lawful purposes will receive a two-star rating; and

(5) an organization that expends less than 20 percent of gross profits on lawful purposes will receive a one-star rating.

(d) An organization that fails to expend a minimum of 30 percent annually of gross profits on lawful purposes is automatically on probation effective July 1 for a period of

one year. The organization must increase its rating to a minimum of 30 percent or be subject to sanctions by the board. If an organization fails to meet the minimum after a one-year probation, the board may suspend the organization's license or impose a civil penalty as follows:

(1) in determining any suspension or penalty for a violation of this paragraph, the board must consider any unique factors or extraordinary circumstances that caused the organization to not meet the minimum rate of profitability. Unique factors or extraordinary circumstances include, but are not limited to, the purchase of capital assets necessary to conduct lawful gambling; road or other construction causing impaired access to the lawful gambling premises; and flood, tornado, or other catastrophe that had a direct impact on the continuing lawful gambling operation; and

(2) notwithstanding section 349.151, subdivision 4, paragraph (a), clause (10), the board may impose a civil penalty under this subdivision up to \$10,000.

(e) Money received by an organization from net video lottery terminal income under section 349A.06, subdivision 6a, may be expended only for lawful purposes.

Sec. 8. Minnesota Statutes 2008, section 349A.01, is amended by adding a subdivision to read:

Subd. 9a. **Lottery game.** "Lottery game" means any game operated by the lottery where the prize is determined primarily by chance.

Sec. 9. Minnesota Statutes 2008, section 349A.01, subdivision 10, is amended to read:

Subd. 10. **Lottery procurement contract.** "Lottery procurement contract" means a contract to provide lottery products, computer hardware and software used to monitor sales of lottery tickets and sales on a video lottery terminal, and lottery tickets, video lottery terminals, and maintenance of video lottery terminals. "Lottery procurement contract" does not include a contract to provide an annuity or prize payment agreement or materials, supplies, equipment, or services common to the ordinary operation of a state agency.

Sec. 10. Minnesota Statutes 2008, section 349A.01, subdivision 11, is amended to read:

Subd. 11. **Lottery retailer.** "Lottery retailer" means a person with whom the director has contracted to sell lottery tickets to the public. A lottery retailer includes a person with whom the director has contracted to place a video lottery terminal within its premises where video lottery terminal plays are sold.

Sec. 11. Minnesota Statutes 2008, section 349A.01, subdivision 12, is amended to read:

6.1 Subd. 12. **Lottery ticket or ticket.** "Lottery ticket" or "ticket" means any tangible
6.2 evidence issued by the lottery to prove participation in a lottery game other than a video
6.3 lottery game.

6.4 Sec. 12. Minnesota Statutes 2008, section 349A.01, is amended by adding a
6.5 subdivision to read:

6.6 Subd. 14. **Net terminal income.** "Net terminal income" means the sum of all
6.7 money spent for video lottery terminal plays less the value of video lottery credit receipts.

6.8 Sec. 13. Minnesota Statutes 2008, section 349A.01, is amended by adding a
6.9 subdivision to read:

6.10 Subd. 15. **Video lottery credit.** "Video lottery credit" means the basic unit of
6.11 play for a video lottery terminal.

6.12 Sec. 14. Minnesota Statutes 2008, section 349A.01, is amended by adding a
6.13 subdivision to read:

6.14 Subd. 16. **Video lottery credit receipt.** "Video lottery credit receipt" means a
6.15 receipt generated by a video lottery terminal that provides evidence of cash payment due a
6.16 player from play on a video lottery terminal.

6.17 Sec. 15. Minnesota Statutes 2008, section 349A.01, is amended by adding a
6.18 subdivision to read:

6.19 Subd. 17. **Video lottery game.** "Video lottery game" means an electronically
6.20 simulated game authorized by the director that is displayed and played on a video lottery
6.21 terminal for consideration and with prizes awarded for designated results.

6.22 Sec. 16. Minnesota Statutes 2008, section 349A.01, is amended by adding a
6.23 subdivision to read:

6.24 Subd. 18. **Video lottery terminal.** "Video lottery terminal" means any machine,
6.25 system, or device which upon payment of consideration permits the play of a video
6.26 lottery game.

6.27 Sec. 17. Minnesota Statutes 2008, section 349A.01, is amended by adding a
6.28 subdivision to read:

6.29 Subd. 19. **Video lottery terminal play.** "Video lottery terminal play" means an
6.30 electronic record that proves participation in a video lottery game.

Sec. 18. Minnesota Statutes 2008, section 349A.01, is amended by adding a subdivision to read:

Subd. 20. **Win percentage.** "Win percentage" means the portion of the money wagered by players on a video lottery terminal that is available for the payment of prizes to winning players.

Sec. 19. Minnesota Statutes 2008, section 349A.04, is amended to read:

349A.04 LOTTERY GAME PROCEDURES.

The director may adopt game procedures governing the following elements of the lottery:

- (1) lottery games;
- (2) ticket prices;
- (3) number and size of prizes;
- (4) methods of selecting winning tickets; ~~and~~
- (5) frequency and method of drawings;
- (6) video lottery terminals; and
- (7) cost of video lottery plays.

The adoption of lottery game procedures is not subject to chapter 14.

Sec. 20. Minnesota Statutes 2008, section 349A.06, subdivision 1, is amended to read:

Subdivision 1. **Contracts.** The director shall sell tickets and operate video lottery terminals for the lottery through lottery retailers with whom the director contracts. Contracts under this section are not subject to the provisions of sections 16C.03, 16C.05, 16C.06, 16C.08, 16C.09, and 16C.10, and are valid for a period of one year. The director may permit a retailer to sell tickets and operate video lottery terminals at more than one business location under a contract entered into under this section.

Sec. 21. Minnesota Statutes 2008, section 349A.06, subdivision 5, is amended to read:

Subd. 5. **Restrictions on lottery retailers.** (a) A lottery retailer may sell lottery tickets or have a video lottery terminal placed only on the premises described in the contract.

(b) A lottery retailer must prominently display a certificate issued by the director on the premises where lottery tickets will be sold or where video lottery terminals are operated.

(c) A lottery retailer must keep a complete set of books of account, correspondence, and all other records necessary to show fully the retailer's lottery transactions, and make

8.1 them available for inspection by employees of the lottery at all times during business
8.2 hours. The director may require a lottery retailer to furnish information as the director
8.3 deems necessary to carry out the purposes of this chapter, and may require an audit to be
8.4 made of the books of account and records. The director may select an auditor to perform
8.5 the audit and may require the retailer to pay the cost of the audit. The auditor has the same
8.6 right of access to the books of account, correspondence, and other records as is given to
8.7 employees of the lottery.

8.8 (d) A contract issued under this section may not be transferred or assigned.

8.9 (e) The director shall require that lottery tickets may be sold by retailers only for
8.10 cash.

8.11 (f) A lottery retailer must prominently post at the point of sale of lottery tickets
8.12 and the area where video lottery terminals are located, in a manner approved by the
8.13 commissioner of human services, the toll-free telephone number established by the
8.14 commissioner of human services in connection with the compulsive gambling program
8.15 established under section 245.98.

8.16 Sec. 22. Minnesota Statutes 2008, section 349A.06, is amended by adding a
8.17 subdivision to read:

8.18 Subd. 5a. **Restrictions on lottery retailers; video lottery terminals.** (a) The
8.19 director may only enter into a lottery retailer contract for games operated by a video lottery
8.20 terminal with a retailer that has a license to sell alcoholic beverages for consumption on
8.21 the premises where sold. This does not include a retailer who has only a temporary on-sale
8.22 license or a retailer of 3.2 percent malt liquor whose total gross receipts from the premises
8.23 were less than 50 percent attributable to the sale of 3.2 percent malt liquor.

8.24 (b) The director may not contract with a retailer for games operated by a video
8.25 lottery terminal unless the retailer has an organization licensed under chapter 349
8.26 authorized and conducting lawful gambling on the premises.

8.27 (c) A lottery retailer authorized to sell games operated by a video lottery terminal
8.28 may not cancel or refuse to renew a lease with an organization licensed under chapter 349
8.29 authorized and conducting lawful gambling on its premises for three years following
8.30 the effective date of this act, unless the organization has failed to comply with its lease
8.31 with the retailer.

8.32 (d) A lottery retailer may have up to five video lottery terminals on the retailer's
8.33 premises, as determined by the director.

9.1 (e) A lottery retailer that is authorized to operate a video lottery terminal may not
9.2 make reference to the establishment being a "casino," or use the word "casino" in its name
9.3 or in any of its advertisements.

9.4 (f) The director, or any employee of the director, may inspect any video lottery
9.5 terminal at any time during the hours when alcoholic beverages may be sold at on-sale
9.6 under section 340A.504, subdivisions 1, 2, and 3, without notice, to ensure compliance
9.7 with this chapter and any rules adopted by the director.

9.8 Sec. 23. Minnesota Statutes 2008, section 349A.06, is amended by adding a
9.9 subdivision to read:

9.10 Subd. 6a. **Retention by retailers; video lottery terminals.** A lottery retailer who
9.11 has a contract for placement of video lottery terminals may retain 31 percent of the net
9.12 terminal income from the terminals located within its premises as commission. The lottery
9.13 retailer receiving commission under this subdivision shall transmit to an organization
9.14 licensed under chapter 349, and conducting lawful gambling on the premises of the
9.15 retailer, 29 percent of the lottery retailer's commission received under this subdivision.
9.16 If more than one organization conducts lawful gambling on the premises, the payment
9.17 must be reasonably allocated between the organizations, pro rata based on their respective
9.18 gross receipts.

9.19 Sec. 24. Minnesota Statutes 2008, section 349A.06, subdivision 8, is amended to read:

9.20 Subd. 8. **Proceeds of sales.** All proceeds from the sale of lottery tickets or proceeds
9.21 from the sale of video lottery terminal plays received by a lottery retailer constitute a trust
9.22 fund until paid to the director. The lottery retailer is personally liable for all proceeds.

9.23 Sec. 25. Minnesota Statutes 2008, section 349A.06, subdivision 10, is amended to read:

9.24 Subd. 10. **Local licenses.** No political subdivision may require a local license to
9.25 operate as a lottery retailer, restrict or regulate the placement of a video lottery terminal,
9.26 or impose a tax or fee on the business of operating as a lottery retailer.

9.27 Sec. 26. **[349A.071] VIDEO LOTTERY TERMINALS.**

9.28 Subdivision 1. **Operation.** (a) All video lottery terminals must be operated and
9.29 controlled by the director.

9.30 (b) Video lottery terminals must be owned or leased by the director.

9.31 (c) Video lottery terminals must be maintained by the lottery, or by a vendor that is
9.32 under the control and direction of the director.

(d) The director must have a central communications system that monitors activities and provides auditing program information on each video lottery terminal.

(e) The director must approve the general security arrangements associated with and relating to the operation of the video lottery terminal.

(f) Video lottery terminals must maintain on nonresettable meters, a permanent record, capable of being printed out, of all transactions by the terminal and all entries into the terminal.

(g) The director may implement other controls as are deemed necessary to ensure and maintain the integrity of video lottery terminals operated under this section.

Subd. 2. **Testing and examination of machines.** The director shall examine prototypes of video lottery terminals and require that the manufacturer of the terminal pay the cost of the examination. The director may contract for the examination of video lottery terminals. The director may require working models of a video lottery terminal transported to the locations the director designates for testing, examination, and analysis. The manufacturer shall pay all costs of any testing, examination, analysis, and transportation of the terminal model.

Subd. 3. **Deactivation of terminal.** The director may deactivate a video lottery terminal without notice if the lottery retailer has violated any provision of this chapter, rule, or provision of its contract with the director.

Subd. 4. **Airport.** The director shall enter into a lease with the Metropolitan Airports Commission for placement of video lottery terminals within the Lindbergh and Humphrey terminals of the Minneapolis-St. Paul International Airport at locations mutually agreed to by the director and the commission. The Metropolitan Airports Commission shall not unreasonably refuse to lease space within the terminals for this purpose. Video lottery terminals operated at the airport under this subdivision are exempt from the restrictions and requirements of section 349A.06, subdivisions 5a and 6.

Sec. 27. Minnesota Statutes 2008, section 349A.08, subdivision 1, is amended to read:

Subdivision 1. **Agreement by players.** A person who buys a lottery ticket or plays a video lottery game agrees to be bound by the rules and game procedures applicable to ~~the~~ that particular lottery game ~~for which the ticket is purchased~~. The player acknowledges that the determination of whether a ticket or video lottery credit receipt is ~~a valid winning ticket~~ is subject to under the rules of and game procedures adopted by the director, claims procedures established by the director for that game, and any confidential or public validation tests established by the director for that game.

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Sec. 28. Minnesota Statutes 2008, section 349A.08, subdivision 5, is amended to read:

Subd. 5. **Payment; unclaimed prizes.** (a) Except as provided in this subdivision, a prize in the State Lottery must be claimed by the winner within one year of the date of the drawing at which the prize was awarded or the last day sales were authorized for a game where a prize was determined in a manner other than by means of a drawing. If a valid claim is not made for a prize payable directly by the lottery by the end of this period, the prize money is considered unclaimed and the winner of the prize shall have no further claim to the prize.

(b) A video lottery credit receipt from a video lottery terminal must be presented for payment within 60 days of the date the video lottery credit receipt was printed. If a valid claim for a video lottery credit receipt is not made by the end of this period, the video lottery credit receipt is considered unclaimed and the player shall have no further claim to the amount due from the video lottery credit receipt.

(c) A prize won by a person who purchased the winning ticket or played a video lottery game in violation of section 349A.12, subdivision 1, or won by a person ineligible to be awarded a prize under subdivision 7 must be treated as an unclaimed prize under this section. The director must transfer all unclaimed prize money at the end of each fiscal year from the lottery cash flow account to the general fund.

Sec. 29. Minnesota Statutes 2008, section 349A.08, subdivision 8, is amended to read:

Subd. 8. **Withholding of delinquent state taxes or other debts.** The director shall report the name, address, and Social Security number of each winner of a lottery prize of \$600 or more, or a video lottery prize of \$1,200 or more, to the Department of Revenue to determine whether the person who has won the prize is delinquent in payment of state taxes or owes a debt as defined in section 270A.03, subdivision 5. If the person is delinquent in payment of state taxes or owes a debt as defined in section 270A.03, subdivision 5, the director shall withhold the delinquent amount from the person's prize for remittance to the Department of Revenue for payment of the delinquent taxes or distribution to a claimant agency in accordance with chapter 270A. Section 270A.10 applies to the priority of claims.

Sec. 30. Minnesota Statutes 2008, section 349A.09, subdivision 1, is amended to read:

Subdivision 1. **Odds; required information.** (a) The director shall include on each brochure, pamphlet, booklet, or other similar material the director publishes to promote or explain any lottery game, a prominent and clear statement of the approximate odds of winning each prize offered in that lottery game.

12.1 (b) Except for the operation of a video lottery terminal, each lottery retailer must
12.2 post prominently at or near the point of ticket sale a notice or notices printed and provided
12.3 by the director of the approximate odds of winning each prize in each game for which
12.4 the lottery retailer sells tickets.

12.5 (c) The approximate odds of winning a prize from a video lottery terminal must be
12.6 displayed on the face or screen of the video lottery terminal.

12.7 Sec. 31. Minnesota Statutes 2008, section 349A.10, subdivision 2, is amended to read:

12.8 Subd. 2. **Deposit in Prize fund.** (a) The director shall establish a lottery prize
12.9 fund outside the state treasury. The fund consists of all money deposited in it under this
12.10 subdivision and all interest earned thereon.

12.11 (b) The director shall deposit in the lottery prize fund, from gross receipts from the
12.12 sale of lottery tickets, an amount sufficient to pay lottery prizes from the lottery prize
12.13 fund according to the following provisions:

12.14 (1) for games which require online terminal connections, the prizes paid in any fiscal
12.15 year must be at least 45 percent of gross receipts from those games in that fiscal year;

12.16 (2) for games which do not require online terminal connections, the prizes paid in any
12.17 fiscal year must be at least ~~the following percentages of gross receipts from those games:~~

12.18 ~~(i) 50 percent through fiscal year 1991;~~

12.19 ~~(ii) 55 percent from July 1, 1991, to June 30, 1992; and~~

12.20 ~~(iii) 60 percent thereafter~~ of gross receipts from those games in that fiscal year.

12.21 (c) For lottery games played on a video lottery terminal, the win percentage in any
12.22 fiscal year will be the win percentage established by the game procedures adopted for the
12.23 game, but shall be at least 80 percent but not more than 95 percent.

12.24 Sec. 32. Minnesota Statutes 2008, section 349A.10, subdivision 3, is amended to read:

12.25 Subd. 3. **Lottery operations.** (a) The director shall establish a lottery operations
12.26 account in the lottery fund. The director shall pay all costs of operating the lottery,
12.27 including payroll costs or amounts transferred to the state treasury for payroll costs, but
12.28 not including lottery prizes, from the lottery operating account. The director shall credit to
12.29 the lottery operations account amounts sufficient to pay the operating costs of the lottery.

12.30 (b) Except as provided in paragraph (e), the director may not credit in any fiscal year
12.31 ~~thereafter~~ amounts to the lottery operations account which when totaled exceed nine
12.32 percent of gross revenue, exclusive of net terminal income, and 12 percent of net terminal
12.33 income to the lottery fund in that fiscal year. In computing total amounts credited to

13.1 the lottery operations account under this paragraph the director shall disregard amounts
13.2 transferred to or retained by lottery retailers as sales commissions or other compensation.

13.3 (c) The director of the lottery may not expend ~~after July 1, 1991,~~ more than 2-3/4
13.4 percent of gross revenues in a fiscal year for contracts for the preparation, publication, and
13.5 placement of advertising.

13.6 (d) Except as the director determines, the lottery is not subject to chapter 16A
13.7 relating to budgeting, payroll, and the purchase of goods and services.

13.8 (e) In addition to the amounts credited to the lottery operations account under
13.9 paragraph (b), the director is authorized, if necessary, to meet the current obligations of
13.10 the lottery and to credit up to 25 percent of an amount equal to the average annual amount
13.11 which was authorized to be credited to the lottery operations account for the previous three
13.12 fiscal years but was not needed to meet the obligations of the lottery.

13.13 Sec. 33. Minnesota Statutes 2008, section 349A.10, subdivision 4, is amended to read:

13.14 Subd. 4. **Deposit of receipts.** (a) The director may require lottery retailers to:

13.15 (1) deposit in a separate account to the credit of the lottery fund, in banks designated
13.16 by the director, all money received by the lottery retailer from the sale of lottery tickets
13.17 and video lottery terminal plays, less money retained as the lottery retailer's commission
13.18 and for payment of prizes;

13.19 (2) file with the director reports of the lottery retailer's receipts and transactions in
13.20 ticket sales and video lottery terminal plays in a form that the director prescribes; and

13.21 (3) allow money deposited by the lottery retailer from the sale of lottery tickets and
13.22 video lottery terminal plays to be transferred to the lottery through electronic fund transfer.

13.23 (b) The director may make arrangements for any person, including a financial
13.24 institution, to perform functions, activities, or services in connection with the receipt and
13.25 distribution of lottery revenues.

13.26 (c) A lottery retailer who fails to pay any money due to the director within the time
13.27 prescribed by the director shall pay interest on the amount owed at the rate determined by
13.28 rule.

13.29 Sec. 34. Minnesota Statutes 2008, section 349A.10, subdivision 6, is amended to read:

13.30 Subd. 6. **Budget; plans.** The director shall prepare and submit a biennial budget
13.31 plan to the commissioner of management and budget. The governor shall recommend
13.32 the maximum amount available for the lottery in the budget the governor submits to
13.33 the legislature under section 16A.11. The maximum amount available to the lottery for
13.34 operating expenses and capital expenditures shall be determined by law. Operating

14.1 expenses shall not include expenses that are a direct function of lottery sales, which
14.2 include the cost of lottery prizes, amounts paid to lottery retailers as sales commissions
14.3 or other compensation, amounts paid to produce and deliver scratch lottery games, ~~and~~
14.4 amounts paid to an outside vendor to operate and maintain an online gaming system,
14.5 amounts paid to an outside vendor to operate and maintain a central system for video
14.6 lottery terminals, and amounts paid to acquire and maintain video lottery terminals. In
14.7 addition, the director shall appear at least once each fiscal year before the senate and house
14.8 of representatives committees having jurisdiction over gambling policy to present and
14.9 explain the lottery's plans for future games and the related advertising and promotions
14.10 and spending plans for the next fiscal year.

14.11 Sec. 35. Minnesota Statutes 2008, section 349A.11, subdivision 1, is amended to read:

14.12 Subdivision 1. **Lottery ticket; retailer.** The director, an employee of the lottery,
14.13 a member of the immediate family of the director or employee residing in the same
14.14 household may not:

- 14.15 (1) purchase a lottery ticket or play a game on a video lottery terminal; or
14.16 (2) have any personal pecuniary interest in any vendor holding a lottery procurement
14.17 contract, or in any lottery retailer; or
14.18 (3) receive any gift, gratuity, or other thing of value, excluding food or beverage,
14.19 from any lottery vendor or lottery retailer, or person applying to be a retailer or vendor, in
14.20 excess of \$100 in any calendar year.

14.21 Sec. 36. Minnesota Statutes 2008, section 349A.12, subdivision 1, is amended to read:

14.22 Subdivision 1. **Purchase by minors.** A person under the age of 18 years may not
14.23 buy or redeem for a prize a ticket in the state lottery and a person under the age of 21 years
14.24 may not play a game or redeem a video lottery credit receipt from a video lottery terminal.

14.25 Sec. 37. Minnesota Statutes 2008, section 349A.12, subdivision 2, is amended to read:

14.26 Subd. 2. **Sale to minors.** A lottery retailer may not sell and a lottery retailer or other
14.27 person may not furnish or redeem for a prize a ticket in the state lottery to any person
14.28 under the age of 18 years, or allow a person under the age of 21 years to play a game or
14.29 redeem a video lottery credit receipt from a video lottery terminal. It is an affirmative
14.30 defense to a charge under this subdivision for the lottery retailer or other person to prove
14.31 by a preponderance of the evidence that the lottery retailer or other person reasonably and
14.32 in good faith relied upon representation of proof of age described in section 340A.503,
14.33 subdivision 6, in making the sale or furnishing or redeeming the ticket or allowing the

15.1 play of a video lottery game or redeem a video lottery credit receipt from a video lottery
15.2 terminal.

15.3 Sec. 38. Minnesota Statutes 2008, section 349A.13, is amended to read:

15.4 **349A.13 RESTRICTIONS.**

15.5 Nothing in this chapter:

15.6 (1) authorizes the director to conduct a lottery game or contest the winner or winners
15.7 of which are determined by the result of a sporting event other than a horse race conducted
15.8 under chapter 240; or

15.9 ~~(2) authorizes the director to install or operate a lottery device operated by coin or~~
15.10 ~~currency which when operated determines the winner of a game; and~~

15.11 ~~(3)~~ authorizes the director to sell pull-tabs as defined under section 349.12,
15.12 subdivision 32.

15.13 Sec. 39. Minnesota Statutes 2008, section 541.20, is amended to read:

15.14 **541.20 RECOVERY OF MONEY LOST.**

15.15 Every person who, by playing at cards, dice, or other game, or by betting on the
15.16 hands or sides of such as are gambling, shall lose to any person so playing or betting
15.17 any sum of money or any goods, and pays or delivers the same, or any part thereof, to
15.18 the winner, may sue for and recover such money by a civil action, before any court
15.19 of competent jurisdiction. For purposes of this section, gambling shall not include
15.20 pari-mutuel wagering conducted under a license issued pursuant to chapter 240, purchase
15.21 or sale of tickets in the state lottery, purchase of video lottery plays as authorized under
15.22 chapter 349A, or gambling authorized under chapters 349 and 349A.

15.23 Sec. 40. Minnesota Statutes 2008, section 541.21, is amended to read:

15.24 **541.21 COMMITMENTS FOR GAMBLING DEBT VOID.**

15.25 Every note, bill, bond, mortgage, or other security or conveyance in which the whole
15.26 or any part of the consideration shall be for any money or goods won by gambling or
15.27 playing at cards, dice, or any other game whatever, or by betting on the sides or hands
15.28 of any person gambling, or for reimbursing or repaying any money knowingly lent or
15.29 advanced at the time and place of such gambling or betting, or lent and advanced for any
15.30 gambling or betting to any persons so gambling or betting, shall be void and of no effect
15.31 as between the parties to the same, and as to all persons except such as hold or claim
15.32 under them in good faith, without notice of the illegality of the consideration of such

16.1 contract or conveyance. The provisions of this section shall not apply to: (1) pari-mutuel
16.2 wagering conducted under a license issued pursuant to chapter 240; (2) purchase of tickets
16.3 in the state lottery or other wagering authorized under chapter 349A; (3) gaming activities
16.4 conducted pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.; or (4)
16.5 lawful gambling activities permitted under chapter 349.

16.6 Sec. 41. Minnesota Statutes 2008, section 609.651, subdivision 1, is amended to read:

16.7 Subdivision 1. **Felony Fraud**. A person is guilty of a felony and may be sentenced
16.8 under subdivision 4 if the person does any of the following with intent to defraud the
16.9 State Lottery:

16.10 (1) alters or counterfeits a state lottery ticket or a video lottery credit receipt from a
16.11 State Lottery video lottery terminal;

16.12 (2) knowingly presents an altered or counterfeited state lottery ticket or video lottery
16.13 credit receipt from a State Lottery video lottery terminal for payment;

16.14 (3) knowingly transfers an altered or counterfeited state lottery ticket or video lottery
16.15 credit receipt from a State Lottery video lottery terminal to another person; ~~or~~

16.16 (4) tampers with or manipulates the outcome, prize payable, or operation of a State
16.17 Lottery video lottery terminal; or

16.18 (5) otherwise claims a lottery prize by means of fraud, deceit, or misrepresentation.

16.19 Sec. 42. Minnesota Statutes 2008, section 609.75, subdivision 3, is amended to read:

16.20 Subd. 3. **What are not bets**. The following are not bets:

16.21 (1) a contract to insure, indemnify, guarantee or otherwise compensate another for a
16.22 harm or loss sustained, even though the loss depends upon chance;

16.23 (2) a contract for the purchase or sale at a future date of securities or other
16.24 commodities;

16.25 (3) offers of purses, prizes or premiums to the actual contestants in any bona fide
16.26 contest for the determination of skill, speed, strength, endurance, or quality or to the bona
16.27 fide owners of animals or other property entered in such a contest;

16.28 (4) the game of bingo when conducted in compliance with sections 349.11 to 349.23;

16.29 (5) a private social bet not part of or incidental to organized, commercialized, or
16.30 systematic gambling;

16.31 (6) the operation of equipment or the conduct of a raffle under sections 349.11 to
16.32 349.22, by an organization licensed by the Gambling Control Board or an organization
16.33 exempt from licensing under section 349.166;

17.1 (7) pari-mutuel betting on horse racing when the betting is conducted under chapter
17.2 240; and

17.3 (8) the purchase and sale of state lottery tickets and plays on a video lottery terminal
17.4 under chapter 349A.

17.5 Sec. 43. Minnesota Statutes 2008, section 609.75, subdivision 4, is amended to read:

17.6 Subd. 4. **Gambling device.** A gambling device is a contrivance the purpose of which
17.7 is that for a consideration a player is afforded an opportunity to obtain something of value,
17.8 other than free plays, automatically from the machine or otherwise, the award of which
17.9 is determined principally by chance, whether or not the contrivance is actually played.
17.10 "Gambling device" also includes a video game of chance, as defined in subdivision 8, but
17.11 does not include a video lottery terminal operated by the State Lottery under chapter 349A.

17.12 Sec. 44. Minnesota Statutes 2008, section 609.761, subdivision 2, is amended to read:

17.13 Subd. 2. **State lottery.** Sections 609.755 and 609.76 do not prohibit the operation
17.14 of the state lottery or; the sale, possession, or purchase of tickets for the state lottery; or
17.15 the manufacture, possession, or operation of a video lottery terminal for the state lottery
17.16 under chapter 349A.

17.17 Sec. 45. **LOTTERY BUDGET; VIDEO LOTTERY TERMINALS.**

17.18 The director of the State Lottery shall submit a budget for the operation of video
17.19 lottery terminals as authorized under Minnesota Statutes, section 349A.071, to the
17.20 commissioner of management and budget. Notwithstanding Minnesota Statutes, section
17.21 349A.10, subdivision 6, the director of the State Lottery may expend amounts necessary to
17.22 operate video lottery terminals. Amounts expended by the director of the State Lottery for
17.23 the conduct of video lottery terminals in fiscal year 2011 are not subject to the maximum
17.24 amount set in law for the operation of the lottery.

17.25 Sec. 46. **REPEALER.**

17.26 Minnesota Statutes 2008, sections 297E.01, subdivision 7; and 297E.02, subdivisions
17.27 4, 6, and 7, are repealed.

17.28 **EFFECTIVE DATE.** This section is effective July 1, 2010.

17.29 Sec. 47. **EFFECTIVE DATE.**

17.30 Except as otherwise provided, this act is effective the day following final enactment.

297E.01 DEFINITIONS.

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

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 \$10,000 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,	

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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

Subd. 7. **Untaxed gambling product.** (a) In addition to penalties or criminal sanctions imposed by this chapter, a person, organization, or business entity possessing or selling a pull-tab or tipboard upon which the tax imposed by subdivision 4 has not been paid is liable for a tax of six percent of the ideal gross of each pull-tab or tipboard. The tax on a partial deal must be assessed as if it were a full deal.

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

(c) The tax must be assessed by the commissioner. An assessment must be considered a jeopardy assessment or jeopardy collection as provided in section 270C.36. The commissioner shall assess the tax based on personal knowledge or information available to the commissioner. The commissioner shall mail to the taxpayer at the taxpayer's last known address, or serve in person, a written notice of the amount of tax, demand its immediate payment, and, if payment is not immediately made, collect the tax by any method described in chapter 270C, except that the commissioner need not await the expiration of the times specified in chapter 270C. The tax assessed by the commissioner is presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show its incorrectness or invalidity. The tax imposed under this subdivision does not apply to gambling that is exempt from taxation under subdivision 2.