

1 Gambling Control Board

2

3 Adopted Permanent Rules Relating to Lawful Purpose Expenditures
4 and Allowable Expenses

5

6 Rules as Adopted

7 7861.0010 DEFINITIONS.

8 [For text of subps 1 to 3, see M.R.]

9 Subp. 3a. Fund-raising costs. "Fund-raising costs" has
10 the meaning given it in Minnesota Statutes, section 309.50,
11 subdivision 12.

12 Subp. 3b. Gambling bank account. "Gambling bank account"
13 means all the accounts maintained by an organization at any bank
14 banks, savings and ~~loan~~ loans, or credit ~~union~~ unions located
15 within Minnesota in which the organization deposits all gambling
16 receipts and over which the organization has any control,
17 including checking and savings accounts, certificates of
18 deposit, and trust and escrow accounts.

19 [For text of subps 4 and 5, see M.R.]

20 Subp. 5a. Management and general costs. "Management and
21 general costs" has the meaning given it in Minnesota Statutes,
22 section 309.50, subdivision 11.

23 [For text of subps 6 to 13, see M.R.]

24 7861.0120 ORGANIZATION OPERATIONS, ACCOUNTS, AND REPORTS.

25 [For text of subps 1 and 2, see M.R.]

26 Subp. 3. Records and reports required. The following
27 items apply to records and reports:

28 [For text of items A to D, see M.R.]

29 E. When an organization has a fund loss by
30 questionable means of its inventory or cash, the organization
31 may apply to the board, on a form prescribed by the board, for
32 an adjustment of its gambling-bank-account profit carryover.
33 The organization shall file a fund loss report with the
34 Department of Revenue, which will make a recommendation to the
35 board. The fund loss report must include the following:

1 [For text of subitem (1), see M.R.]

2 (2) a completed fund loss report which includes
3 the following information:

4 (a) the name and address of the
5 organization;

6 (b) the license number, premises permit
7 numbers, and effective date of the premises permit;

8 (c) a description of the loss, including
9 amount, date, location, and a summary of how the loss occurred,
10 including if a safe was broken into or stolen;

11 (d) whether the current status of the law
12 enforcement investigation is closed, inactive, or active;

13 (e) whether reimbursement for the loss has
14 been or will be paid by insurance or criminal restitution;

15 (f) a description of how the loss was
16 verified using schedule B or B-2 if necessary;

17 (g) internal controls and personnel changes
18 that have been made to prevent future losses;

19 (h) when the organization received the
20 funds; and

21 (i) signatures of the chief executive
22 officer and the gambling manager; and

23 (3) all fund losses by questionable means must be
24 reimbursed to the gambling bank account from nongambling funds,
25 unless an adjustment to the ~~gambling-bank-account~~ organization's
26 profit carryover is approved by the board.

27 [For text of item F, see M.R.]

28 Subp. 4. **Bank accounts.** The following items apply to bank
29 accounts:

30 A. Each organization must maintain a separate
31 gambling bank account at ~~a-bank~~ banks, savings and ~~loan~~ loans,
32 or credit ~~union~~ unions located within Minnesota.

33 (1) All expenditures of gambling funds must be
34 made from the checking account or accounts included in the
35 separate gambling bank account, except in case of expenditures
36 previously approved by the organization's membership for

1 emergencies. For the purposes of this item, "emergencies" means
2 a financial obligation due and payable which if not met would
3 require the organization to cease gambling.

4 (2) The checking account or accounts included in
5 an organization's gambling bank account must consist of one of
6 the following:

7 (a) a checking account into which the
8 organization deposits all gambling receipts and from which the
9 organization makes all expenditures of gambling gross profits;

10 (b) a checking account for each of the
11 organization's permitted premises into which the organization
12 deposits all gambling receipts received at that premises and
13 from which the organization makes all expenditures of gambling
14 gross profits from that premises; or

15 (c) a checking account for each permitted
16 premises as described in unit (b) and one additional checking
17 account into which the organization transfers all or a portion
18 of its gambling receipts from the other checking accounts and
19 from which the organization makes all or a portion of its
20 expenditures of gambling gross profits. This ~~unit~~ subitem does
21 not prevent an organization from transferring gambling gross
22 profits to a nonchecking account included in its gambling bank
23 account in the period between the deposit and expenditure of the
24 gambling gross profits.

25 (3) Except for lawful purpose expenditures by a
26 501(c)(3) organization pursuant to subpart 5, item C, subitem
27 (2), gambling funds may not be transferred to the organization's
28 general bank accounts for any expenditures without prior board
29 approval.

30 (4) Nongambling funds shall not be deposited in
31 the gambling bank account unless the organization is required by
32 the board to deposit nongambling funds in the account to
33 reimburse the account for unlawful expenditures or expenses, to
34 otherwise bring the organization into compliance with Minnesota
35 Statutes, section 349.15, or to reimburse the account for
36 gambling receipts that the organization failed to deposit in the

1 account.

2 (5) All checks for expenditures from the gambling
3 bank account must contain two signatures of active members of
4 the organization. The treasurer of the organization may not
5 sign the checks.

6 (6) Interest income from gambling proceeds must
7 be included in gross receipts.

8 (7) Each organization shall furnish to the board
9 on a form prescribed by the board an "Authorization to Inspect
10 Bank Records," which authorizes the board and its agents, and
11 the commissioners of revenue and public safety and their agents,
12 to inspect the bank records of the organization's gambling bank
13 account.

14 [For text of item B, see M.R.]

15 Subp. 5. Expenditures. The following items apply to
16 expenditures of gambling funds:

17 [For text of item A, see M.R.]

18 B. Allowable expenses:

19 [For text of subitem (1), see M.R.]

20 ~~(2) For purposes of this subpart, an expense~~

21 ~~"directly related to the conduct of lawful gambling" means:~~

22 ~~(a) the percentage of the total cost of any~~

23 ~~good, service, or other item which corresponds to the actual use~~
24 ~~of the good, service, or other item in the conduct of lawful~~
25 ~~gambling;~~

26 ~~(b) interest on tax and interest on tax~~

27 ~~penalties for the taxes included within lawful purpose under~~
28 ~~this subpart, but not tax penalties; and~~

29 ~~(c) the cost of attendance by members of a~~

30 ~~licensed organization at a seminar or other meeting on a~~
31 ~~specified date which meets the following criteria for that date:~~

32 ~~i. the seminar's or meeting's primary~~

33 ~~purpose is to provide training or other information regarding~~
34 ~~the conduct of lawful gambling; and~~

35 ~~ii. training or information with this~~

36 ~~purpose is provided by either an official of a state, federal,~~

1 or-local-governmental-entity-responsible-for-the-regulation-of
2 lawful-gambling-or-a-person-authorized-by-the-board-to-provide
3 this-training-or-information;

4 For-purposes-of-this-subitem, the-"cost-of-attendance"
5 includes-the-cost-of-travel-to-and-from-the-location-where-the
6 seminar-or-meeting-is-being-held;

7 (3)-For-purposes-of-this-item, the-conduct-of
8 lawful-gambling-does-not-include:

9 (a)-advertising-of-the-conduct-of-lawful
10 gambling;

11 (b)-any-activity-intended-to-influence-an
12 election;-and

13 (c)-influencing-the-nomination-or-election
14 of-a-candidate-for-public-office;

15 The-exclusion-of-these-activities-does-not-mean-that-other
16 activities-are-necessarily-included-within-the-conduct-of-lawful
17 gambling-for-purposes-of-this-item;

18 (4)-The-board-shall-authorize-a-person-under-this
19 item-to-provide-training-or-information, other-than-that
20 required-by-Minnesota-Statutes, section-349.167, subdivision-4,
21 regarding-services, including-but-not-limited-to-accounting,
22 bookkeeping, and-computer-software, which-are-related-to-the
23 conduct-of-lawful-gambling-at-a-seminar-or-meeting-on-a
24 specified-date-if:

25 (a)-the-person-submits-to-the-board-a
26 curriculum-or-agenda-detailing-the-particular-subject-matter-of
27 the-training-or-information;

28 (b)-the-person-has-a-demonstrated-expertise
29 in-the-particular-subject-matter-identified-in-the-curriculum-or
30 agenda-submitted-to-the-board;-and

31 (c)-the-person-has-not-previously-violated
32 this-item-by-obtaining-board-authorization-to-provide-training
33 or-information-and-then-departing-from-the-particular-subject
34 matter-identified-in-the-curriculum-or-agenda-submitted-to-the
35 board;

36 Approval-of-the-curriculum-or-agenda-does-not-guarantee-the

1 ~~accuracy-of-the-subject-matter-or-constitute-endorsement-of-the~~
2 ~~product-or-services-by-the-board.~~

3 †5† (2) Percentage of profit to be used for
4 allowable expenses:

5 (a) Not more than 60 percent of the gross
6 profit, less the tax imposed by Minnesota Statutes, section
7 349.212, subdivision 1, from bingo, and not more than 50 percent
8 of the gross profit may be expended for allowable expenses
9 related to lawful gambling.

10 (b) Compliance with the maximum percentage
11 of profits expended for allowable expenses must be determined
12 annually, as provided in this item and part 7861.0020, subpart
13 8, for the organization as a whole based on the organization's
14 cumulative past expenditures for allowable expenses. Compliance
15 is not determined by each premises.

16 (c) A licensed organization must file with
17 the board an allowable expense calculation report, on a form
18 prescribed by the board, ~~every-12-months-from-the-start-of-the~~
19 ~~third-month-before-the-effective-date-of-the-organization's~~
20 ~~license~~ covering the period ending with the 12th month after the
21 effective date of the organization's current license. The
22 report must be filed on or before the 20th day following the
23 last day of the period. If the report shows that the
24 organization is not in compliance with the maximum percentage of
25 profits that may be expended for allowable expenses, then
26 beginning on the ~~first-day-of-the-organization's-next-12-month~~
27 ~~reporting-period~~ day the report is filed, the organization must
28 cease its conduct of lawful gambling until it has deposited
29 sufficient nongambling funds in its gambling bank account to
30 bring the organization into compliance with the percentage
31 limits on allowable expenses.

32 (d) The allowable expense calculation report
33 filed with an organization's license renewal application under
34 part 7861.0020, subpart 8, must cover the period ending with the
35 21st month after the effective date of the organization's
36 current license.

1 C. "Lawful purpose" means any one of the following:

2 (1) A contribution to an organization which:

3 (a) is classified as tax exempt under United
4 States Code, title 26, section 501(c)(3);

5 (b) spent in its most recently completed
6 calendar or fiscal year, whichever is the year basis on which
7 its books are kept, 30 percent or less of its total revenue on
8 fund-raising costs and management and general costs, provided
9 that for purposes of this subitem, total revenue shall not
10 include ~~that portion of~~ the organization's own gambling gross
11 profits, if any, ~~which it spent for allowable expenses;~~

12 [For text of units (c) to (e), see M.R.]

13 (2) Expenditures of gambling gross profits,
14 excluding allowable expenses, made by a licensed organization
15 which is classified as tax exempt under United States Code,
16 title 26, section 501(c)(3), to the extent that during the
17 calendar or fiscal year, whichever is the year basis on which
18 the organization's books are kept, in which the expenditures are
19 made, at least 70 percent of the expenditures are for program
20 services related to the organization's primary purpose and 30
21 percent or less of the expenditures are for fund-raising costs
22 and management and general costs, provided that for purposes of
23 this subitem, expenditures for program services shall include
24 expenditures that are otherwise lawful purpose under this
25 subpart.

26 (3) A contribution to an individual or family
27 suffering from poverty, homelessness, or physical or mental
28 disability, provided the contribution is reasonably calculated
29 to relieve the effects of that poverty, homelessness, or
30 disability, or a contribution to a nonprofit corporation that
31 exists exclusively for these relief purposes, provided the
32 corporation uses the entire amount of the contribution to
33 relieve one or more of these effects. Disability for purposes
34 of this subitem includes, but is not limited to, physical or
35 mental difficulties in accomplishing daily tasks and activities
36 such as personal care, meal preparation, cleaning,

1 transportation, or athletic activities.

2 [For text of subitems (4) and (5), see M.R.]

3 (6) A contribution to or an expenditure on a
4 public or private nonprofit educational institution registered
5 with or accredited in Minnesota or any other state provided the
6 contribution, if made to a public educational institution, is
7 documented on a form prescribed by the board showing the request
8 form or acknowledgment of the institution to expend gambling
9 funds and attached to the monthly schedule C report.

10 (7) A contribution to a scholarship fund for
11 defraying the cost of education to individuals, if:

12 (a) the funds are awarded through an open
13 and fair selection process that does not discriminate based on
14 race, gender, religion, national origin, marital status,
15 disability, or age;

16 [For text of units (b) and (c), see M.R.]

17 (d) the names of the individuals awarded
18 scholarships are public and communicated to all members of the
19 sponsoring organization.

20 (8) A contribution to an organization or
21 governmental entity, or an expenditure by an organization, for
22 the cost of activities recognizing humanitarian or military
23 service to the United States, the state of Minnesota, or a
24 community provided:

25 (a) the contribution or expenditure does not
26 result in any member of the organization making the contribution
27 or expenditure, or any person in the member's immediate family,
28 receiving any money or money equivalent, or receiving any goods
29 or services with:

30 i. a market value greater than \$10; or

31 ii. a market value greater than \$100

32 based on the aggregate of contributions and expenditures in any
33 12-month period; and

34 (b) the contribution, if made to a unit of
35 government, must be documented on a form prescribed by the board
36 showing the request from or acknowledgment of the unit of

1 government to expend gambling funds and attached to the monthly
2 schedule C report; and

3 (c) for purposes of this subitem, activities
4 recognizing humanitarian service include the provision of
5 transportation, food, and beverages to persons making blood
6 donations.

7 [For text of subitems (9) to (11), see M.R.]

8 (12) Taxes imposed by Minnesota Statutes, section
9 349.212, subdivisions 1, 4, and 6.

10 [For text of subitem (13), see M.R.]

11 (14) Real estate taxes and assessments on
12 permitted gambling premises wholly owned by the licensed
13 organization, provided the expenditure does not exceed:

14 (a) for organizations which conduct
15 pull-tabs, tipboards, raffles, and/or paddlewheels, \$15,000 per
16 year; or

17 [For text of unit (b), see M.R.]

18 (15) A contribution to the United States, the
19 state of Minnesota or any of its political subdivision, or any
20 agency or instrumentality thereof, provided the contribution is
21 documented on a form prescribed by the board showing the request
22 from or acknowledgment of the unit of government to expend
23 gambling funds and attached to the monthly schedule C report.

24 [For text of subitem (16), see M.R.]

25 (17) Repair or maintenance of real property of
26 capital assets when the property is or will be used extensively
27 as a meeting place or event location by other nonprofit
28 organizations or community or service groups and no rental fee
29 is charged for the use, provided:

30 (a) "extensively" must be demonstrated by
31 written documentation that the facility has been used free of
32 charge by at least one group as described in this subitem and
33 that the facility's availability for this purpose has been
34 communicated to the community at large; this documentation shall
35 include, but is not limited to, examples of public service
36 announcements, public notices printed in local newspapers, and

1 flyers displayed or distributed throughout the community;

2 [For text of units (b) and (c), see M.R.]

3 [For text of subitems (18) and (19), see M.R.]

4 (20) An organization that has received board
 5 approval to make an expenditure of gambling gross profits for
 6 debt service or other payments under subitem (17), (18), or (19)
 7 must obtain prior board approval for any increase in the
 8 expenditure, including any increase due to a refinancing or
 9 other restructuring of a debt that results in an increase in the
 10 present value of the balance of the debt. Any equity withdrawn
 11 from real property or a capital asset as part of the refinancing
 12 or other restructuring of the debt constitutes gambling gross
 13 profits and must be deposited in the organization's gambling
 14 bank account. No closing costs are included within subitem
 15 (17), (18), or (19).

16 (21) Payment of one-half of the reasonable costs
 17 of an audit required in Minnesota Statutes, section 349.19,
 18 subdivision 9.

19 D. Lawful purpose does not include any of the
 20 following:

21 [For text of subitems (1) to (3), see M.R.]

22 (4) a direct contribution to a law enforcement or
 23 prosecutorial agency;

24 (5) any contribution under item C, subitem (15),
 25 involving an environmental project or any contribution to or
 26 expenditure by a 501(c)(3) organization involving an
 27 environmental project, unless the contribution or expenditure is
 28 documented on a form prescribed by the board and attached to the
 29 monthly schedule C report showing prior review by the state
 30 agencies with authority over the project;

31 (6) interest on taxes, tax penalties, or interest
 32 on tax penalties;

33 (7) any expenditure, contribution, or other
 34 disposition of gambling gross profits by an organization after
 35 which the organization retains any control over the funds,
 36 except for expenditures by a 501(c)(3) organization pursuant to

1 item C, subitem (2);

2 (8) a contribution to a 501(c)(3) organization
3 that does not meet the criteria in item C, subitem (1);

4 (9) expenditures by a licensed organization that
5 is a 501(c)(3) organization if the expenditures do not meet the
6 criteria in item C, subitem (2);

7 (10) any contribution or expenditure to the
8 extent it results in any net monetary gain or other pecuniary
9 benefit to the organization making the contribution or
10 expenditure; and

11 (11) any contribution or expenditure that is void
12 or voidable under the conflict of interest provisions of the
13 Minnesota Nonprofit Corporation Act, Minnesota Statutes, section
14 317A.255.

15 [For text of item E, see M.R.]

16 F. Notwithstanding item E, a licensed organization
17 may contribute gambling gross profits to a parent organization
18 at the Minnesota state level provided:

19 (1) the parent organization has submitted to the
20 board a comprehensive list of the lawful purposes for which the
21 parent organization will use the contributions; and

22 (2) the parent organization uses the entire
23 amount of the contributions for one or more of the lawful
24 purposes listed in item C.

25 G. A licensed organization may not contribute gross
26 gambling profits to another licensed organization unless:

27 [For text of subitems (1) to (3), see M.R.]

28 H. An organization shall maintain documentation
29 sufficient to show that each of its expenditures of gambling
30 gross profits constitute either an allowable expense or a lawful
31 purpose under this subpart.

32 7865.0025 REIMBURSEMENT.

33 The board may require an organization to deposit
34 nongambling funds in the organization's gambling bank account to
35 reimburse the account for unlawful expenditures or expenses, to

1 otherwise bring the ~~account~~ organization into compliance with
2 Minnesota Statutes, section 349.15, or to reimburse the account
3 for gambling receipts that the organization failed to deposit in
4 the account. Subject to parts 7861.0020, subpart 8, and
5 7861.0120, subpart 5, item B, subitem (5), reimbursement is a
6 contested case under Minnesota Statutes, chapter 349 14. In
7 determining the extent of the reimbursement to be required after
8 a contested case hearing, the board shall consider ~~the factors~~
9 ~~in-part-7865-00307-subpart-1:~~

10 A. the severity of the conduct as indicated by the
11 potential harm to the integrity of lawful gambling;

12 B. the culpability of the violator;

13 C. the frequency of the violator's failure to comply
14 with laws or rules relating to the deposit and expenditure of
15 gambling receipts;

16 D. the actual harm caused to the integrity of lawful
17 gambling;

18 E. the likelihood that the violation will occur
19 again;

20 F. the degree of the violator's cooperation during
21 the course of the investigation into its activities; and

22 G. any other factor related to the violation that the
23 board considers crucial to its determination of the extent of
24 the reimbursement as long as the same factors are considered
25 with regard to all violators.