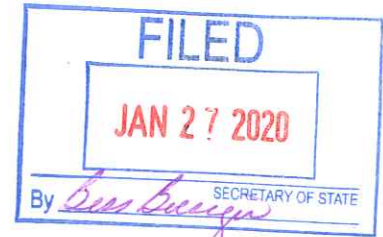


State of Nebraska

Nebraska Department of Revenue



NOTICE is given that the Nebraska Department of Revenue (Department) will hold a regulation hearing pursuant to Neb. Rev. Stat. § 84-907 on February 27, 2020, beginning at 1:00 PM, at the Nebraska State Office Building, 301 Centennial Mall South, Room Lower-level B. The purpose of this hearing is to take testimony and receive into evidence any documentation concerning the adoption of regulations within Title 316 of the Nebraska Administrative Code as identified below.

The proposed changes: (1) Adoption of Title 316, Neb. Admin. Code Ch. 54, Mechanical Amusement Device Cash Device Regulations to administer cash devices pursuant to the Mechanical Amusement Device Tax Act.

Title 316, Ch. 54, Mechanical Amusement Device Cash Device Regulations

The following regulations are adopted:

REG-54-100 AUTHORIZATION TO REGULATE CASH DEVICES
REG-54-101 DEFINITIONS
REG-54-102 GENERAL RESTRICTIONS
REG-54-103 DETERMINING WHEN A DEVICE IS A LEGAL CASH DEVICE
REG-54-104 CASH DEVICE STANDARDS
REG-54-105 APPLICATION
REG-54-106 INDEPENDENT TESTING LABORATORIES
REG-54-107 CONTRACTS BETWEEN DISTRIBUTORS AND OPERATORS
REG-54-108 REPORTING AND RECORD REQUIREMENTS OF DISTRIBUTORS AND OPERATORS
REG-54-109 PAYING WINNERS
REG-54-110 DISPUTES

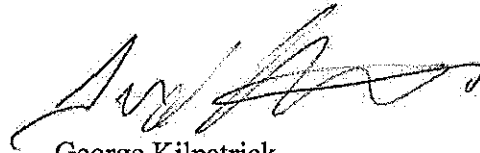
A complete copy of the regulations and the descriptions of fiscal impact are available in the office of the Tax Commissioner, 301 Centennial Mall South, Lincoln, NE, Second Floor, or may be viewed at the websites for the Nebraska Department of Revenue www.revenue.nebraska.gov or the Secretary of State (www.sos.ne.gov).

The opportunity to be heard will be offered to any interested person upon written request to Tony Fulton, Tax Commissioner, Nebraska Department of Revenue, PO Box 94818, Lincoln, NE 68509. Unscheduled testimony will be heard following the scheduled testimony at the hearing. Any interested party may submit a written statement by 5:00 PM on February 27, 2020 to be made part of the record. Individuals requiring physical or sensory accommodations, please

contact the Nebraska Department of Revenue at 301 Centennial Mall South, Lincoln, NE 68509 or by calling 402-471-2971 or TDD 402-471-5740, no later than February 20, 2020.

Dated this Jan. 24, 2020

For the Tax Commissioner

A handwritten signature in black ink, appearing to read "George Kilpatrick", written in a cursive style.

George Kilpatrick
Attorney and Manager, Policy Section

JAN 27 2020

PRELIMINARY FISCAL IMPACT STATEMENT

Agency: Revenue	
Title: Title 316	Prepared by: Jeneé Y. Saffold
Chapter: 54	Date prepared: January 7, 2020
Subject: Mechanical Amusement Device, Cash Device Regulations	Telephone: (402) 471-5924

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

There is no fiscal impact beyond that identified in the LB 538 (2019) fiscal note. See attached.

Provide an Estimated Cost & Description of Impact:

State Agency:

Political
Subdivision:

Regulated
Public:

If indeterminable, explain why:

JAN 27 2020

NEBRASKA DEPARTMENT OF REVENUE
PROPOSED MECHANICAL AMUSEMENT DEVICE
CASH DEVICE REGULATIONS

TITLE 316 NEB. ADMIN. CODE, CH. 54

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MECHANICAL AMUSEMENT DEVICE CASH DEVICE REGULATIONS

54-100 Authorization to Regulate Cash Devices

General Authorization

100.01 Cash Device Regulations 54-100 through 54-111 are adopted to carry out the provisions of the Mechanical Amusement Device Tax Act and LB 538 (2019).

100.02 DOR, based upon written justification, may elect to waive any of the requirements of 54-104 through 54-110 when it deems it appropriate.

54-101 Definitions

- 101.01 **Bill Acceptor** means the mechanical portion of the cash device that accepts and reads the cash placed into the device.
- 101.02 **Cash** means any object, including, but not limited to, coins, paper bills, tokens, vouchers, or other monetary substitutes, which are necessary for operating a cash device.
- 101.03 **Cash Device** has the meaning provided in Neb. Rev. Stat. § 77-3001.
- 101.04 **Cash out** refers to when a player has decided to withdraw their credits from the cash device and the device prints a voucher for the player to present to the operator to be paid.
- 101.05 **Cleanout** means the act and process of opening a cash device and removing the cash.
- 101.06 **Decal** for purposes of these regulations means the stamp issued by DOR denoting that DOR has approved the cash device as a game of skill after payment of the annual decal fee.
- 101.07 **DOR** means the Nebraska Department of Revenue and its representatives.
- 101.08 **Distributor** has the meaning provided in Neb. Rev. Stat. § 77-3001.
- 101.09 **Division** means DOR's Charitable Gaming Division, which is the division delegated by the Tax Commissioner to regulate cash devices.
- 101.10 **Electronic Accounting Meter** means the device or software involved with keeping track of all coins and bills accepted, as well as all vouchers printed.
- 101.11 **Game of Skill** means mechanical amusement devices which produce an outcome predominantly caused by skill and not chance.
- 101.12 **Independent Testing Laboratory** means any laboratory approved by DOR for use in testing whether cash devices comply with the standards set forth in these regulations.
- 101.13 **Mechanical Amusement Device** has the meaning provided in Neb. Rev. Stat. § 77-3001.
- 101.14 **Operator** has the meaning provided in Neb. Rev. Stat. § 77-3001. Additionally, for purposes of these regulations, the retail establishment in which any cash device is placed is considered an operator.
- 101.15 **Pending Payment Ticket** means the paper document printed by the operator and given to the player if the operator is unable to pay a prize presented on a voucher.
- 101.16 **Person** has the meaning provided in Neb. Rev. Stat. § 77-3001.
- 101.17 **Playing Station** means the cash device or the portion of a cash device that allows a player to operate the device independently of, or simultaneously with, another player. The number of playing stations may be different than the number of screens but each playing station must have a separate bill acceptor.
- 101.18 **Receipt** means the paper documentation provided by the operator to the player as proof of payment for one or more vouchers presented by the player for payment.
- 101.19 **Reasonable Player** means a player with an average level of intelligence, physical and mental skills, reaction time, and dexterity.

101.20 **Retailer or retail establishment** means any business location that is open to the public for the sale of goods other than cash devices and that possesses a valid sales tax permit.

101.21 **Skill** means the human attributes of a player such as knowledge, dexterity, visual recognition, logic, memory, reaction, strength, agility, athleticism, hand-to-eye coordination, numerical and/or lexical ability, or any other ability or expertise relevant to game play.

101.22 **Unclaimed prize** means any voucher printed and unclaimed by the winner or any credits on a cash device which expired and for which a voucher was never printed.

101.23 **Voucher** means the paper document printed from the cash device which the player presents to the operator, with an amount to be paid.

54-102 General Restrictions

102.01 Distributors are required to obtain an annual license in accordance with §77-3003. The application will be provided by DOR and no fee is required.

102.02 Operators are required to obtain an annual license in accordance with §77-3002. The application will be provided by DOR and no fee is required. Such license will be prominently displayed near the location of the cash devices.

102.03 Age Restrictions. Individuals under the age of nineteen (19) cannot play or participate in any way with a cash device.

102.03A A winning voucher that includes any plays by an individual under the age of 19 is void.

102.03B A winning voucher or voucher presented by an individual under the age of 19 or by the agent of the individual will not be paid.

102.03C A winning voucher will not be paid without the operator first verifying the age of the person claiming the win.

102.04 Time restriction. Devices may be operated during normal business hours of the location of the devices.

102.05 Cash Only.

102.05A The following are the only acceptable forms of payments to operate a cash device: United States currency in the form of cash, coins, or voucher.

102.05A(1) If the device accepts vouchers, it must only accept vouchers from devices within the establishment. Devices may not accept vouchers from a different operator;

102.05A(2) Devices cannot accept vouchers which are more than 24 hours old.

102.05B All other forms of payment are not acceptable. These unacceptable forms of payment include, but are not limited to:

102.05B(1) credit card;

102.05B(2) charge card;

102.05B(3) debit card;

102.05B(4) check;

102.05B(5) cryptocurrency;

102.05B(6) coupons;

102.05B(7) tickets; and

102.05B(8) any other form of payment not listed in the previous subsection.

102.06 Cash Removal

102.06A Any time a cleanout is performed, the device must print or generate a report which contains the following information:

102.06A(1) Date and Time of door opening;

102.06A(2) Date and Time of door closing;

102.06A(3) Amount of money removed;

102.06A(4) Device information (Serial Number and Decal Number, etc.).

102.06B Distributors and operators must have a written policy for the frequency in which cash will be removed from devices and cash deposited with the bank, and who is responsible for doing so.

102.07 Location Limitations

102.07A An operator may operate no more than four (4) cash devices in one retail location, unless the location meets the square footage thresholds set forth below. Devices are not permitted in mobile retail locations, or any location that can be made mobile in short order, or pop up retail locations.

102.07B An operator may be allowed to operate one (1) additional cash device for every 1,000 square feet over 4,000 square feet.

Square Feet	Number of Permissible Devices
0 to 4,999	4
5,000 to 5,999	1 (total of 5)
6,000 to 6,999	1 (total of 6)
7,000 to 7,999	1 (total of 7)
8,000 to 8,999	1 (total of 8)
9,000 to 9,999	1 (total of 9)
10,000 to 10,999	1 (total of 10)
11,000 to 11,999	1 (total of 11)
12,000 to 12,999	1 (total of 12)
13,000 to 13,999	1 (total of 13)
14,000 to 14,999	1 (total of 14)
15,000 or more	1 (maximum total of 15)

102.07C Square footage is calculated based on the amount of customer-accessible retail space. Square footage does not include bathrooms, closets, coolers, storage, employee-only areas, parking areas, outdoor patio areas or any other similar areas as determined by DOR.

102.07C(1) In situations where a single building holds multiple retail establishments, each separate retail establishment will be entitled to its allotment of devices. The establishments' separate space will be defined by physical walls, doors, or other partitions, or other visual indicators separating the establishments. The square footage will be based on its separate square footage in accordance with the limitations set forth in the regulations.

102.07D See all parts of 54-105 for further documentation required when submitting an application for a decal.

102.08 Decal and Placement

102.08A No device may be placed in operation without having a valid decal affixed prominently on the front of the device near the bill acceptor where it is visible at all times. After the first of the year, the previous year's decals must be

removed entirely, or covered entirely by placing the current year's decal over it. If a device has more than one playing station, each station must have a valid decal.

102.08B This decal must display the year-long period for which it is valid, and be distinct from any other decals provided by DOR through other programs.

102.08C Distributors and operators are responsible for reporting any occasion they discover where a decal has been defaced, removed, stolen, or otherwise tampered with to DOR within 24 hours after discovery. Distributors and operators may be subject to penalty if DOR is not notified and DOR discovers a missing, defaced, or otherwise tampered with decal. If DOR determines the decal requires replacement, the distributor is required to purchase a new decal at full cost.

102.09 The Cash Device Tip Line phone number must be placed prominently on the front of the device at or above the bill acceptor and be visible at all times. The phone number will be provided by DOR.

102.10 Investigations by DOR

102.10A DOR's investigators or other authorized personnel have the authority to enter any premises where cash devices are present.

102.10B All operators and distributors must comply with all requests for records, documentation, and all bank records associated with the cash device operation, made by DOR.

102.10C Failing to comply with a request for documentation or records by DOR; or altering, falsifying, or otherwise destroying any records of any cash device not otherwise permitted by these regulations is strictly prohibited. Failing to comply with requests by DOR may be grounds for not issuing a decal in the following year.

102.10D Investigations may result in administrative actions as allowable under the Act.

54-103 Determining When a Device is a Legal Cash Device

103.01 To be a legal cash device, the game must be a game of skill rather than a game of chance. When DOR is making a determination regarding whether a specific game meets the statutory definition of a game of skill (provided in Neb. Rev. Stat. § 77-3001(8)), it will consider the following regulations, applicable state statutes, as well as the physical operation of the game by a player of reasonable skill.

103.02 When reviewing a game, it is not a game of skill if one or more of the following apply:

103.02A The ability of any player to succeed at the game played on the device is impacted in any way by the number or ratio of prior wins to prior losses of players playing the device;

103.02B The ability of the player to succeed at the game played on the device is impacted in any way by the ability of any person to set a specified win-loss ratio for the device or by the device having a predetermined win loss percentage;

103.02C The outcome of the game played on the device can be controlled by a source other than the player playing the device;

103.02D The success of any player is or may be determined by a chance event which cannot be altered by player action;

103.02E There is no possibility for the player to win every game played on the device or there are unwinnable games or game modes on the device;

103.02F The ability of any player to succeed at the game played on the device requires the exercise of skill that no reasonable player could possess; or

103.02G The primary determination of the prize amount is the presentation or generation of a particular puzzle or group of symbols dealt to the player and the player does not have control over the puzzle or group of symbols presented. See 54-103.04D.

103.03 To be a game of skill, the prize may ultimately be determined by the player's skill, but a reasonable player is capable of winning every single play and the top prize for every single play.

103.04 When reviewing a game, DOR may consider the results of an analysis by any independent testing authority preapproved by the Tax Commissioner to evaluate the reaction time required for a player of a particular game on the device to perform the tasks required by the game to win.

103.05 When reviewing a game, the following factors are not, by themselves, sufficient indications that the device is a game of skill:

103.05A Whether a comprehensive list of prizes or outcomes is offered to the player or whether all outcomes are drawn from a finite pool of predetermined outcomes or starting positions;

103.05B Whether a player can increase his or her chance of winning based on knowledge of probabilities in general or the probabilities of any particular prize or outcome in a game or on a device;

103.05C Whether a player can simply choose not to play before committing money or credits; or

103.05D A game task consisting solely of moving a symbol up or down, replacing one symbol with another, or any similar action, with or without a timer.

54-104 Cash Device Standards

104.01 DOR adopts the GLI-11: Gaming Devices Version 3.0, released on September 21, 2016, by Gaming Laboratories International as the standards to which all cash devices must comply, with the exception of those items specifically listed in 54-104.01A. These standards are the product of collaboration among testing laboratories, various state regulatory bodies, tribal gaming bodies, and other industry entities.

104.01A The following sections of GLI-11: Gaming Devices Version 3.0 are not adopted by DOR, are hereby excluded from DOR's standards, and cannot be considered by an independent testing laboratory during its testing:

104.01A(1) The following portions of Chapter 1:

104.01(A)(1)(a) 1.1;

104.01(A)(1)(b) 1.2;

104.01(A)(1)(c) 1.4;

104.01(A)(1)(d) 1.5.

104.01A(2) The following portions of Chapter 4:

104.01A(2)(a) 4.5.4;

104.01A(2)(b) 4.6;

104.01A(2)(c) 4.7;

104.01A(2)(d) 4.8;

104.01A(2)(e) 4.10;

104.01A(2)(f) 4.11;

104.01A(2)(g) 4.12;

104.01A(2)(h) 4.14;

104.01A(2)(i) 4.18.1;

104.01A(2)(j) 4.19;

104.01A(2)(k) 4.20.1 through 4.20.3;

104.01A(2)(l) 4.20.6 through 4.20.12;

104.01A(2)(m) 4.21;

104.01A(2)(n) 4.23.

104.01B The GLI-11 standards adopted above do have standards regarding random number generators (RNGs). DOR understands that gaming software may require RNGs for various reasons that are not directly related to the skill required for a game. To this end, an RNG may be utilized by the device software so long as the skill aspect of the game is not affected by the RNG, and it is compliant with the GLI-11 standards to the extent possible.

104.01C If any item in these standards directly or indirectly conflicts with the Act or any other regulation, the Act and the Regulations take priority, and the testing laboratory must test accordingly.

104.01D If a laboratory is uncertain of what standard should apply, the laboratory should contact DOR directly to seek to clarification.

104.02 Game Limitations

104.02A No game may be placed on a device that has not been approved by DOR.

104.02B Once a game has been approved, the functionality of the game may not be changed in any way without prior approval from DOR.

104.02B(1) This approval process may require the game to be submitted for independent testing at the expense of the operator or distributor;

104.02B(2) Each game may have its functionality modified only once per decal year.

104.02C No game may function similarly to or bear any outward appearance to any game regulated by DOR, which includes lotteries, raffles, pickle cards, bingo, or keno.

104.02D No game may function similarly to or bear any outward appearance to any game regularly found in a casino. This includes, but is not limited to:

104.02D(1) slot machines;

104.02D(2) coin pushers;

104.02D(3) roulette;

104.02D(4) craps;

104.02D(5) dice games;

104.02D(6) wheel of fortune;

104.02D(7) poker;

104.02D(8) blackjack;

104.02D(9) twenty-one;

104.02D(10) faro;

104.02D(11) monte; or

104.02D(12) baccarat.

104.02E Progressively growing jackpots are permitted, but only on a per device, per game basis. Each game on each device may have its own progressively growing jackpot. Devices and games may not be linked.

104.02F If a device has more than one playing station, all playing stations must be functionally identical. This means that no advantage nor disadvantage may be given, nor can the play of the game be affected in any way by which playing station the player is using.

104.03 Internet Connectivity and Remote Access

104.03A Devices may be connected to the internet in accordance with the technical standards adopted in 54-104.01 and the laboratory report must reflect the device's compliance.

104.03B Remote access to the device may be permitted for limited functions. Anyone proposing to access their devices remotely must demonstrate to DOR through the laboratory report, or otherwise, that security measures are in place to prevent unauthorized access and to document all remote access attempts and security incidents.

104.03B(1) Remote access will be granted for only the following activities:

104.03B(1)(a) Monitoring the system;

104.03B(1)(b) Troubleshooting issues;

104.03B(1)(c) Scheduling system functions such as hours of operation;

104.03B(1)(d) Performing view-only functions such as generating reports and downloading system information;

104.03B(1)(e) Other activities if approved by DOR.

104.03B(2) No updates to the system may be initiated remotely without prior approval from DOR.

104.04 Devices must have the ability to restrict which users have access to certain functions on the devices.

104.04A Only distributors and their maintenance staff, or the owner-operator if the device is owned outright, may have access to modify any of the system settings.

104.04B Non-administrative operator employees may only have access to opening the device, performing basic maintenance tasks (such as refilling paper), and collecting money.

104.05 Devices must utilize electronic accounting and occurrence meters as defined by the GLI Standards or similar technology. In addition to the GLI Standards, devices must also log the following information-

104.05A For each device:

104.05A(1) Every bill or coin inserted into the device;

104.05A(2) Every voucher the device produced.

104.05B For each game on the device:

104.05B(1) Every wager;

104.05B(2) Every game result (win or loss);

104.05B(3) Prize won.

104.06 Device data must be backed up daily.

104.07 If there is a malfunction or defect of the device, DOR must be notified no later than 24 hours after the initial detection of the issue by the operator.

54-105 Application

105.01 Device Approval Application and Fee

105.01A A decal cannot be issued for a cash device until that device has been evaluated and approved by DOR.

105.01B An application to have a cash device evaluated by DOR must be completed by the distributor, or if the operator is functioning independently it will be completed by the operator, using the form provided by DOR and as described in this section.

105.01C The application fee to have a cash device evaluated by DOR is \$500.00 per cash device to be paid by the distributor, or if an operator is operating independently it will be paid by the operator. This must be paid in a manner prescribed by DOR. This fee is nonrefundable.

105.01D In addition to the information on the application, a specimen device containing the game or games to be approved must be delivered to the Charitable Gaming Division or other location DOR designates, at the expense of the party seeking the approval. The device must be delivered with its settings matching the description in the independent testing lab report and all settings must be accessible to DOR. Return shipping must also be arranged and paid for by the party requesting approval and DOR will not share in the cost. DOR is not responsible for any damages to any device during shipment or delivery.

105.01E An application which does not provide all information requested by DOR on the form will be considered incomplete and may be rejected.

105.01F The time for DOR to issue a response to an application does not commence until the completed application is received by DOR.

105.01G DOR will issue a determination within 45 days after the date the completed application and device are received.

105.01G(1) If the application has been denied, DOR will state the reasons for the denial in writing and the applicant may appeal in accordance with Neb. Rev. Stat. §77-3003.01;

105.01G(2) If the application has been approved, the party seeking the decal may complete and file the form referenced in 54-105.02 for receiving a decal;

105.01G(3) Once a device has been approved, it is approved in that form until the party seeks to modify the device or it is otherwise rendered unapproved by DOR. This means a device approval will carry over year to year unless it is modified.

105.01H Device approvals are specific to the party seeking to have the device approved. This means that every party seeking to have a given device approved, is required to pay the device approval application fee.

105.01I A party seeking to have a specific device approved needs only to have one prototype device approved and pay one device approval application fee. Once one prototype device has been approved, the applicant need only pay for the number of decals sought for that type of device, that are all identical with respect

to systems, technical specifications, games, and functionality, regardless of where the party intends to place each device.

105.01J Upon request of DOR, the applicant must be able to articulate to DOR the skill or skills involved with each game on each device.

105.02 Decal Application and Fees

105.02A Once a device has been granted approval by DOR, an application to purchase a decal for a cash device must be completed by the distributor, or if an operator is operating independently it will be completed by the operator, using the form provided by DOR and as described in this section.

105.02B The application form may include, but is not limited to the following:

105.02B(1) Name of operator;

105.02B(2) Name of distributor, if applicable;

105.02B(3) Nebraska ID Number;

105.02B(4) Federal ID Number;

105.02B(5) Name of the cash device to be placed;

105.02B(6) Names of individual games on the cash device;

105.02B(7) Serial Number for the device software to be placed on the device;

105.02B(8) Contact information for the manufacturer of the cash device;

105.02B(9) Location of retailer where the cash device will be placed;

105.02B(10) Square footage of the location where the device will be placed;

105.02B(11) How many cash devices are already placed at the location; and

105.02B(12) Laboratory testing information.

105.02C Items to be included as attachments with the application may include, but not be limited to:

105.02C(1) Proof that the device in its current form has been approved by DOR. This may include a copy of the approval letter or other sufficient proof as determined by DOR;

105.02C(2) A signed affidavit from the manufacturer of the device attesting to the fact that the device to be placed is identical in all technical respects to a previously approved device, if applicable;

105.02C(3) An affidavit from the distributor affirming that after a decal is issued for the device, that no functional changes will be made to the device or its games without prior approval from DOR;

105.02C(4) A copy of contract between operator and distributor as described in 54-107, if applicable;

105.02C(5) Documentation from the county assessor or its website, the Nebraska Liquor Control Commission or its website, or a copy of the lease describing where the device will be placed, showing the square footage of the entire retail establishment. If none of these options is sufficient, then the applicant will contact DOR to determine suitable documentation;

105.02C(6) A diagram showing the dimensions of the areas to be included in the calculation of square footage per the requirements set forth in 54-102;

105.02C(7) If documentation provided to DOR in the application is later determined to be inaccurate, intentionally or unintentionally, and the square footage is incorrect, DOR has the opportunity to recalculate the square footage and adjust the maximum number of permissible cash devices at the location.

105.02D An application that does not provide all information requested by DOR will be considered incomplete and will be rejected.

105.02E The application fee is \$250.00 per decal to be paid by the distributor, or, if an operator is operating independently, it will be paid by the operator. This must be paid in a manner prescribed by DOR.

105.02F Once an application has been approved and a decal issued, the decal is only valid for the device and its software identified by its serial number on the application. If a decal is found to be placed on a device which does not match with the serial number on file, the device is subject to seizure.

105.02G Once an application has been approved and a decal issued, the device may only be placed at the location described on the application. If a device is found to be placed at a location which is not the location described on the application, the device is subject to seizure.

105.02H Once an application has been approved and a decal issued, the device may not be moved without prior approval of DOR. The application to move a device will be made available in a format set by DOR.

105.02H(1) A device may only be moved to a new location once per decal year;

105.02H(2) Exceptions may be made for good cause, including, but not limited to, if a location ceased operations or the location's ownership has changed hands.

105.02I If an operator owns a device outright, and transfers ownership of the business, and the new owner intends to continue to operate a cash device in the location, the new owner is required to purchase new decals. DOR may review the device and all reports prior to issuing a new decal. The requirement that a new owner-operator seek approval of the device may be waived by DOR. There is no grace period for a new owner of a business to apply for a decal. The new decals must be applied for, purchased, and placed on the device at the start of the first day of business under the new ownership.

105.02J If a distributor transfers ownership of the business or the devices individually, the new owner of the business or devices is required to purchase new decals. DOR may review the device and all reports prior to issuing a new decal. The requirement that a new distributor seek approval of the device may be waived by DOR.

54-106 Independent Testing Laboratories

106.01 All devices and games must be submitted to an independent testing laboratory approved by DOR to test for compliance with the regulations contained in 54-103 and 54-104.

106.02 Testing must be paid for by the individual or entity seeking to have the device approved.

106.03 The laboratory must produce a report detailing the testing performed, the analysis, and the testing results. The laboratory report includes samples of all documents required to be produced by the device as set forth in the regulations.

106.04 If a laboratory is unable to test any of the items required, then it must provide an explanation of why it was unable to do so and what the laboratory would need to complete testing of the item.

106.05 This report must be provided in full to DOR with no redactions at the time of device approval.

106.06 The laboratory is required to test the following aspects of a game in relation to skill involved:

106.06A Those listed in 54-103.02A-G. If testing reveals that any one of these seven items is present, then the game is not a skill game;

106.06B Reaction time required to complete all required tasks in order for a reasonable player to win the top prize for every single play;

106.06C Times reported for each step in completing the process to win; and

106.06D Times reported for completing each game as a whole.

106.07 The laboratory must test for the presence of those items listed in Reg-54-103.04A-D which are not by themselves sufficient indication of skill:

106.08 Other items that must be tested by the independent testing laboratory-

106.08A Maximum allowable wager of \$10.00 per play.

106.08B The device is not capable of being linked to any other device for interactive play.

106.08C With respect to progressive jackpots:

106.08C(1) Any jackpot accrual is based on the actual accrual of credits wagered on the individual game on the individual device (not linked); and

106.08C(2) That the jackpot resets upon winning.

106.08D That there is no switch, button, or other method for the distributor or operator to remove credits already on the device. This is also known as a “knock-off” switch. If a player leaves credits on the device, the credits must remain on the device until another player plays the credits or cashes them.

106.08E If power is interrupted, all information contained on the device and its various components is retained, including wagers, credits, and vouchers printed for the most recent 48-hour period.

106.08F The device has a counting mechanism:

106.08F(1) The mechanism counts all money and vouchers inserted into the device and dispensed or removed from the device; and

106.09F(2) The mechanism counts all vouchers issued by the device.

106.08G The vouchers and receipts comply with all requirements of 54-109. A sample of all types of vouchers and receipts shall accompany the laboratory report.

106.08H No free plays are awarded.

106.08I All information pertaining to game play and rules for all games are displayed accurately, in a non-misleading manner, and consistent with game functionality.

106.08J The serial number for the device is affixed to the front of the device.

106.09 In the event DOR determines that a second evaluation of a device is necessary, it may seek testing from a separate qualified laboratory.

54-107 Contracts between distributors and operators

107.01 A written contract, signed by the distributor and the operator, is required to be on file with DOR, prior to operating any cash device. The only exception to this is if an operator owns the cash device outright, in which case no contract is required.

107.02 The contract must include at least the following information:

107.02A Contact information for all parties;

107.02B The breakdown of profit sharing (whether it is a profit split, rent, lease, etc.);

107.02C Expected frequency of removing cash from devices, collections of profits by the distributor, or deposits of profits by the operator;

107.02D Policies for how player disputes will be handled and who will handle what aspects of the dispute process outlined in section 54-110;

107.02E Maintenance responsibilities;

107.02F Maintenance contact;

107.02G Procedures for maintaining records; and

107.02H Description of training to be provided by distributor to all employees of operator who will have contact, interaction, or involvement with the operation of cash devices.

107.03 If there is a change to any of the above items, it is the responsibility of the distributor to supply DOR with an updated contract.

107.04 DOR will not settle contractual disputes of any kind. The document is to be provided to DOR for the purpose of understanding the responsibility and relationship of the parties to the contract, and to ensure all monies are accounted for.

54-108 Reporting and record requirements of distributors and operators

108.01 Unless otherwise noted, distributors must maintain the following records in either hard copy or electronic form for a period of at least 3 years. If there is no distributor, then the operator must maintain all required records.

108.01A Daily records for each device as a whole to include:

- 108.01A(1) Total wagers;
- 108.01A(2) Total prizes paid;
- 108.01A(3) Total unclaimed prizes;
- 108.01A(4) Net;
- 108.01A(5) Copies of all vouchers printed, paid, void, or otherwise;
- 108.01A(6) Copies of all big win claim forms; and
- 108.01A(7) Copies of all checks paid to players.

108.01B For each game on a device:

- 108.01B(1) Total wagers;
- 108.01B(2) Total prizes paid;
- 108.01B(3) Total unclaimed prizes; and
- 108.01B(4) Net.

108.01C Maintenance records for each device at each location, which include:

- 108.01C(1) Every time the device is opened;
- 108.01C(2) Every time maintenance is performed on a device, what was done, and who performed the maintenance; and
- 108.01C(3) Every time the system is accessed in-person or remotely, who accessed the system, and the purpose of the access.

108.01D Proof that the distributor provided training for each employee of the operator on their responsibilities and duties with respect to the cash devices in the location.

108.02 The following records are to be compiled and submitted to DOR quarterly by the distributor or operator:

108.02A For each location:

- 108.02A(1) Total wagers for all devices;
- 108.02A(2) Total prizes paid for all devices;
- 108.02A(3) Total unclaimed prizes;
- 108.02A(4) Total net for all devices;
- 108.02A(5) How profits were split between the operator and distributor;
- 108.02A(6) A list of all prizes not paid within the 24 hour or 72 hour timeframe; and
- 108.03A(7) Copies of all big win claim forms.

108.02B For each device as a whole:

- 108.02B(1) Total wagers;
- 108.02B(2) Total prizes paid;
- 108.02B(3) Total unclaimed prizes;
- 108.02B(4) Net; and
- 108.02B(5) List of all disputed vouchers and the result of the dispute.

- 108.02C For each game on a device:
 - 108.02C(1) Total wagers;
 - 108.02C(2) Total prizes paid;
 - 108.02C(3) Total unclaimed prizes; and
 - 108.02C(4) Net.

108.03 The quarters are as follows with reports due 30 days after the last day of the quarter:

- 108.03A Quarter 1: January 1 through March 31;
- 108.03B Quarter 2: April 1 through June 30;
- 108.03C Quarter 3: July 1 through September 30;
- 108.03D Quarter 4: October 1 through December 31.

108.04 These records must be submitted electronically to cashdevice.reports@nebraska.gov and be on the form provided by DOR, unless another format is approved by DOR prior to filing. One document for each location where cash devices are placed must be submitted.

108.05 This information will be aggregated on a city, county, or state-wide level and may be published by DOR.

108.06 If any cash device is broken into or cash device money is discovered to be missing, the operator must notify local law enforcement and separately notify DOR within 24 hours of the discovery.

54-109 Paying winners

109.01 A player may cash out at any time. They may cash out the full number of credits they have without playing any games. There can be no restrictions on a player's ability to cash out and they must be paid the full amount (e.g. where rounding up or down is not permitted) in one transaction.

109.02 When a player decides to cash out and redeem their prize, the cash device must generate, print, and electronically store a voucher or receipt for the cash out. This voucher must contain at least the following information on the front of the voucher:

109.02A Date and time the voucher was printed;

109.02B Name of location of device;

109.02C Name and contact information for distributor;

109.02D Device name;

109.02E Device software serial number;

109.02F Unique identification code for the individual voucher;

109.02G Amount won and if cash is awarded directly, a notation of amount paid, and the amount still owed if not fully awarded in cash;

109.02H Expiration date and time of the voucher;

109.02I Signature line for the player; and

109.02J The following statement: "A maximum of \$100 cash may be paid out on a single voucher with the remainder to be paid by check. See the back side of this voucher for information regarding disputes."

109.03 The following statement must appear on the back of all vouchers and receipts generated as part of the prize payout process:

REQUIRED REGULATORY INFORMATION

You must be at least 19 years of age to play and claim a prize from a cash device. This device is regulated by the Nebraska Department of Revenue Charitable Gaming Division. This voucher is a bearer instrument. All cash device vouchers for prizes must be claimed within 24 hours after the voucher is printed as shown on the voucher and accepting the prize results in the forfeiture of any later claims of dispute. All vouchers under \$600 must be paid within 1 hour of being presented to the operator by the player. If the voucher is for a single win over \$600, then the prize must be paid within 72 hours after presentation to the operator by the player. It is the player's responsibility to verify the accuracy of the voucher, including the date, time, and prize amount and to notify the operator of inaccuracies immediately. In the event of voucher printing malfunctions, defects, or power interruptions, internal records of the device will ultimately determine the prize amount. If you dispute the value of the prize you are entitled to, you must notify the operator within 24 hours after printing this voucher. If you fail to notify the operator within this time frame you forfeit your right to dispute the prize amount. If your notification to the

operator is timely, the operator is required to resolve the dispute within 72 hours of receiving your request.

If you disagree with the operator's resolution to the dispute, you have 72 hours to file a complaint with the Nebraska Department of Revenue via email. Your complaint must be emailed to cashdevice.dispute@nebraska.gov.

SEE IRS GUIDELINES AND RULES FOR REPORTING OF THIS INCOME.

109.03A If any other text appears on the back of the voucher, it must be separated from the required text to distinguish it from the required regulatory statement.

109.04 It is the responsibility of the player to verify the accuracy of the voucher as printed. Circumstances may arise where, through no fault of the player, an error occurred, hindering their ability to collect their winnings.

109.04A The following are circumstances where, despite an error on the voucher or lack of voucher, the operator or distributor may use internal records to verify the correct prize amount and pay the prize:

109.04A(1) No voucher was printed at all;

109.04A(2) The printer was out of paper or jammed;

109.04A(3) The printer was out of ink;

109.04A(4) The printer caused damage to the voucher;

109.04A(5) The voucher was printed but is missing a portion of the voucher, as long as all of the information required by regulation is legible on the voucher; or

109.04A(6) The power to the device was interrupted or power is disrupted. See 54-104 for requirements on recovering of data after power interruption.

109.04B If the device software or system malfunctions, internal records control to determine what prize is owed to the player.

109.05 All vouchers must be signed and submitted to the operator for redemption within 24 hours after the voucher is printed. Distributors and operators may not limit the ability of a player to take a voucher out of the location before presenting it for payment.

109.05A Voucher redemption kiosks are not permitted.

109.05B Whenever an operator pays a player for a voucher, a receipt must be generated for the player and a duplicate for the operator.

109.054B(1) This receipt must have:

109.05B(1)(a) The date and time of the voucher;

109.05B(1)(b) The date and time of the receipt; and

109.05B(1)(c) A statement attesting that the winner's age was verified before payment.

109.05B(2) Receipts are to be kept physically on file at the location or in electronic format for a period of at least 60 days. This requirement is separate and distinct from the requirements in 54-108.01 for the distributor to maintain records for at least three years.

109.05B(3) If the receipts are kept in an electronic format, they must be readily accessible to DOR upon request.

109.06 All vouchers for prizes less than \$600.00 must be paid immediately upon request of the player, unless the amount won is in dispute. For purposes of this section, immediately means within one hour. If a player is not paid within the one-hour timeframe, then the 72-hour dispute resolution window begins. If there is no genuine dispute regarding the prize to be awarded, the operator, distributor, or both are in violation of 54-109.06.

109.07 All vouchers for prizes totaling more than \$100.00 may be paid up to a maximum of \$100.00 in cash, and the remainder must be paid by check. Devices that award cash directly are also limited to payouts of \$100.00 in cash, with the remainder to be paid by check. Any prize check written to a winner which is returned for insufficient funds, is a violation of this regulation.

109.08 Special Circumstance of a Single Game Win over \$600.00, (Big Win). All regulations for paying a winner remain applicable, but also include the following:

109.08A If a player submits a voucher for a single prize over \$600.00, that prize must be paid within 72 hours of the player submitting it for payment, unless the operator is closed, then an additional 24 hours is given for every day it is closed.

109.08B If a player claiming a single prize over \$600.00 is not paid immediately, a Pending Payment Ticket will be generated showing what time the ticket was printed and stating the deadline when the ticket must be paid by the operator.

109.08C The device must stop play and print a single voucher for the individual win.

109.08D The other remaining credits on the device remain, unless the player chooses to cash out completely. If the player cashes out, this cash out must be on a separate voucher.

109.08E The winnings cannot be paid without the winner completing a Big Win claim form provided by DOR.

109.08F These claim forms will be submitted to DOR along with the required quarterly reports.

109.09 If there is a dispute between the player and the operator on the amount of the prize, the dispute must be handled in accordance with 54-110 and the procedures outlined in the contract between the distributor and operator.

109.10 If any prizes are not paid within the time constraints, the operator must report to DOR basic information about the prize and why it was not paid on time.

109.11 In any instance where any instrument other than cash or voucher is awarded as a prize for winnings on a cash device, all of the appropriate regulations outlined above in regard to cash awards still apply.

109.12 Distributors and operators must follow all applicable IRS and DOR regulations and guidelines for reporting all business income related to cash devices.

109.13 Players must follow all applicable IRS regulations and guidelines for the reporting of all individual income related to the playing of cash devices.

54-110 Disputes

110.01 All disputes regarding proper payment to players are resolved between the player and the operator in conjunction with the distributor.

110.02 Procedures for handling player disputes must be developed between the operator and distributor so that all disputes are settled within 72 hours and such procedures will be outlined in the contract submitted to DOR.

110.03 Procedures for dispute resolution must be posted conspicuously near the cash devices in the location and the entirety must be visible to the player. These procedures must also be provided when requested by DOR.

110.04 If a dispute is not resolved within 72 hours, it may be reported by the operator or the player via email to cashdevice.dispute@nebraska.gov. If a report is not received within 72 hours after the player was notified of the operator's decision, DOR may consider the report untimely and the dispute resolved. DOR has the discretion to further investigate any dispute report it receives or close the dispute.

110.04A If DOR investigates the dispute, it will do so only to ensure that DOR regulations were followed, the operator's dispute procedures were reasonably adhered to under the circumstances, the device functioned in accordance with the system specifications, and that fraud did not occur.

110.04B Any determination by DOR is final with no administrative remedy. This does not preclude a player from seeking court action against the operator.

110.04C DOR may take administrative actions as allowed including action against an operator or distributor's license.