



MINNESOTA • REVENUE

June 1, 2016

Governor Dayton and Lt. Governor Smith  
Office of the Governor and Lt. Governor  
116 Veterans Service Building  
20 W. 12<sup>th</sup> St.  
St. Paul, MN 55155

Dear Governor Dayton and Lt. Governor Smith:

We are writing to advise you of the impacts of HF848, the Omnibus Tax Bill passed by the legislature on May 22, 2016, should it become law. The tax bill will have a greater impact on the general fund than previously estimated, will negatively impact our stadium-related revenue stream, and will result in a new gross receipts tax on stadium suite rentals.

Article 5, sections 17, 18, and 28, of HF 848 define "bingo hall" and change the tax rate on paper pull tabs sold at bingo halls. In particular, Section 17 reduces to 9% the tax paid on combined net receipts for paper pull tabs sold at a bingo hall. Section 18 changes the method by which the tax is calculated. Section 28 defines bingo hall as a premises where an organization "regularly conducts bingo" if: more than 50% of the organization's gross receipts from lawful gambling for that organization are from bingo; or no other organization conducts lawful gambling on the premises.

If the word "or" was "and", then "bingo hall" would include only locations where bingo is the primary lawful gambling activity. But by using "or" most locations that sell pull tabs are, or can become, a "bingo hall" simply by "regularly" conducting bingo, even if their bingo revenues are a small fraction of their overall lawful gambling revenues.

The Department of Revenue (DOR) has an obligation to administer the law as written. Here, where the law is not ambiguous, the Department cannot substitute "and" in the place of "or" in Section 28. Doing so would withhold a tax benefit created by the plain reading of the law and have the effect of imposing a higher a tax rate for some taxpayers. This is unlike situations where ambiguity in the statute as written can be administered with the assistance of legislative intent or, under certain circumstances, even where not ambiguous, legislative intent was to extend a benefit.

Accordingly, starting on the effective date of July 1, 2016, DOR will administer the Article as written. The provision imposes a 9% flat tax rate on paper pull tabs sold at bingo halls instead of the graduated rates in current law which range from 9% to 36%.

The language, as adopted, has a much greater cost than the revenue estimate for HF296, as carried on the spreadsheet adopted by the Conference Committee. The cost for this item on the Conference

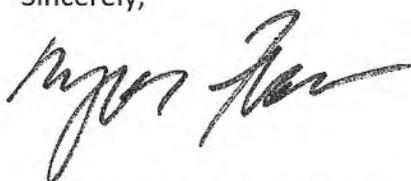
Committee spreadsheet was \$490,000 in fiscal year 2017 and \$1.1 million in fiscal years 2018 and 2019. The cost for the language as written is \$30.8 million in fiscal year 2017 and \$71.6 million in fiscal years 2018 and 2019.

As you recall, the stadium legislation that passed in 2012 identified new revenues to offset the stadium costs--the expansion of charitable gambling. In 2013, \$20 million per year of corporate tax revenue was added. We are currently projecting \$41 million of revenue from these two sources to offset \$41 million of stadium-related expenses in fiscal year 2017. The impact of the change in the 2016 tax bill will eliminate \$21 million per year of the revenues intended to cover stadium-related costs.

In fact, all of the revenue over the next three years from charitable gambling intended to offset stadium expenses would be lost as a result of the tax law change. Because stadium revenues will fall below stadium expenses, the statute provides that the authority to replace the lost revenues. Current law (M.S. 16A.727) authorizes MMB to 'blink on' a 10% gross receipts tax on stadium suite rental effective on July 1, 2016. In addition to the 10% gross receipts suite tax, MMB is authorized to implement an additional sports-themed lottery game.

MMB and DOR are working to determine the fiscal impact of these two additional backup revenues. If this bill is signed into law, we will also work with the Minnesota Sports Facility Authority, the Gambling Control Board, and the Minnesota Lottery in the coming weeks to plan for and implement a new lottery game and new suite rental tax.

Sincerely,



Myron Frans, Commissioner



Cynthia Bauerly, Commissioner