

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 6

Introduced by Krist, 10.

Read first time January 10, 2013

Committee: General Affairs

A BILL

1 FOR AN ACT relating to gambling; to amend sections 9-1,101, 9-831,
 2 71-804, and 71-817, Reissue Revised Statutes of Nebraska;
 3 to create a commission and a program; to change
 4 provisions relating to a fund; to provide powers and
 5 duties as prescribed; to harmonize provisions; to
 6 eliminate a committee; to repeal the original sections;
 7 and to outright repeal section 71-816, Revised Statutes
 8 Cumulative Supplement, 2012.
 9 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds that the main sources of
2 funding for assistance to problem gamblers are the Charitable Gaming
3 Operations Fund as provided in section 9-1,101 and the State Lottery
4 Operation Trust Fund as provided in section 9-812. It is the intent
5 of the Legislature that such funding be used primarily for counseling
6 and treatment services for problem gamblers and their families who
7 are residents of Nebraska.

8 Sec. 2. For purposes of sections 1 to 7 of this act:

9 (1) Commission means the Nebraska Commission on Problem
10 Gambling;

11 (2) Division means the Charitable Gaming Division of the
12 Department of Revenue;

13 (3) Problem gambling means maladaptive gambling behavior
14 that disrupts personal, family, or vocational pursuits; and

15 (4) Program means the Gamblers Assistance Program.

16 Sec. 3. (1) The Nebraska Commission on Problem Gambling
17 is created. For administrative purposes only, the commission shall be
18 within the division. The commission shall have nine members appointed
19 by the Governor as provided in this section, subject to confirmation
20 by a majority of the members of the Legislature. The members of the
21 commission shall have no pecuniary interest, either directly or
22 indirectly, in a contract with the program providing services to
23 problem gamblers and shall not be employed by the commission or the
24 Department of Revenue.

25 (2) The Governor shall appoint members of the commission

1 as follows:

2 (a) One member from a list of at least three persons with
3 medical care or mental health expertise submitted by the General
4 Affairs Committee of the Legislature;

5 (b) One member from a list of at least three persons with
6 expertise in banking and finance submitted by the General Affairs
7 Committee of the Legislature;

8 (c) One member from a list of at least three persons with
9 legal expertise submitted by the General Affairs Committee of the
10 Legislature;

11 (d) One member from a list of at least three persons with
12 expertise in the field of education submitted by the General Affairs
13 Committee of the Legislature;

14 (e) Two members from a list of three consumers of problem
15 gambling services submitted by the General Affairs Committee of the
16 Legislature;

17 (f) One member from a list of at least three persons with
18 data analysis expertise submitted by the General Affairs Committee of
19 the Legislature;

20 (g) Two members from a list of at least six persons who
21 are residents of the state and are representative of the public at
22 large submitted by the General Affairs Committee of the Legislature.

23 (3) The initial members and members appointed while the
24 Legislature is not in session shall serve until the next session of
25 the Legislature, at which time a majority of the members of the

1 Legislature shall approve or disapprove of the appointments.

2 (4) Terms of the members shall be for three years. The
3 Governor shall make the initial appointments within thirty days after
4 the effective date of this act. The Governor shall appoint members to
5 fill vacancies in the same manner as the original appointments, and
6 such appointees shall serve for the remainder of the unexpired term.

7 (5) The commission shall adopt bylaws governing its
8 operation. The commission shall meet at least four times each
9 calendar year and may meet more often on the call of the chairperson.
10 Each member shall attend at least two meetings each calendar year and
11 shall be subject to removal for failure to attend at least two
12 meetings unless excused by a majority of the members of the
13 commission. Meetings of the commission are subject to the Open
14 Meetings Act.

15 Sec. 4. (1) The commission shall appoint one of its
16 members as chairperson and such other officers as it deems
17 appropriate. Members shall be reimbursed for their actual and
18 necessary expenses in carrying out their duties as members of the
19 commission as provided in sections 81-1174 to 81-1177.

20 (2) The commission shall develop guidelines and standards
21 for the operation of the Gamblers Assistance Program and shall direct
22 the distribution and disbursement of money in the Compulsive Gamblers
23 Assistance Fund.

24 (3) The commission shall appoint a director of the
25 Gamblers Assistance Program, provide for office space and equipment,

1 and support and facilitate the work of the program. The director may
2 hire, terminate, and supervise commission and program staff, shall be
3 responsible for the duties of the office and the administration of
4 the program, and shall provide an annual report to the General
5 Affairs Committee of the Legislature which includes issues and policy
6 concerns that relate to problem gambling in Nebraska. All documents,
7 files, and records belonging to the State Committee on Problem
8 Gambling on the effective date of this act shall become the property
9 of the commission on such date.

10 (4) The commission shall by rule and regulation (a)
11 provide for a process for the evaluation and approval of provider
12 applications and contracts for treatment and other services funded
13 from the Compulsive Gamblers Assistance Fund and (b) develop
14 standards and guidelines for training and certification of problem
15 gambling counselors.

16 (5) The commission shall provide for (a) the review and
17 use of evaluation data, (b) the use and expenditure of funds for
18 education regarding problem gambling and prevention of problem
19 gambling, and (c) the creation and implementation of outreach and
20 educational programs regarding problem gambling for Nebraska
21 residents.

22 (6) The commission may engage in other activities it
23 finds necessary to carry out its duties under sections 1 to 7 of this
24 act.

25 (7) The commission shall submit a report within sixty

1 days after the end of each fiscal year to the Governor and the Clerk
2 of the Legislature that provides details of the administration of the
3 Gamblers Assistance Program and distribution of funds from the
4 Compulsive Gamblers Assistance Fund. The report submitted to the
5 Legislature shall be submitted electronically.

6 Sec. 5. The Gamblers Assistance Program is created. The
7 program shall:

8 (1) Contract with providers of treatment services to
9 Nebraska consumers;

10 (2) Promote public awareness of the existence of problem
11 gambling and the availability of treatment services;

12 (3) Evaluate the existence and scope of problem gambling
13 in Nebraska and its consequences through means and methods determined
14 by the commission; and

15 (4) Perform such other duties and provide such other
16 services as the commission determines.

17 Sec. 6. Section 71-817, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-817~~ The Compulsive Gamblers Assistance Fund is
20 created. The fund shall include revenue transferred from the State
21 Lottery Operation Trust Fund under section 9-812 and the Charitable
22 Gaming Operations Fund under section 9-1,101 and any other revenue
23 received by the division for credit to the fund from any other public
24 or private source, including, but not limited to, appropriations,
25 grants, donations, gifts, devises, bequests, fees, or reimbursements.

1 The ~~division~~ commission shall administer the fund for the treatment
2 of ~~problem gamblers as recommended by the State Committee on Problem~~
3 ~~Gambling established under section 71-816 and shall spend no more~~
4 ~~than ten percent of the money appropriated to the fund for~~
5 ~~administrative costs.~~ operation of the Gamblers Assistance Program.
6 The Director of Administrative Services shall draw warrants upon the
7 Compulsive Gamblers Assistance Fund upon the presentation of proper
8 vouchers by the ~~division.~~ commission. Money from the Compulsive
9 Gamblers Assistance Fund shall be used exclusively for the purpose of
10 providing assistance to agencies, groups, organizations, and
11 individuals that provide education, assistance, and counseling to
12 individuals and families experiencing difficulty as a result of
13 problem gambling, to promote the awareness of problem gamblers
14 assistance programs, and to pay the costs and expenses of the
15 commission. ~~division and the committee with regard to problem~~
16 ~~gambling. The division shall not provide any direct services to~~
17 ~~problem gamblers or their families. Funds appropriated from the~~
18 ~~Compulsive Gamblers Assistance Fund shall not be granted or loaned to~~
19 ~~or administered by any regional behavioral health authority unless~~
20 ~~the authority is a direct provider of a problem gamblers assistance~~
21 ~~program.~~ Any money in the fund available for investment shall be
22 invested by the state investment officer pursuant to the Nebraska
23 Capital Expansion Act and the Nebraska State Funds Investment Act.

24 Sec. 7. (1) Except as otherwise provided in subsection
25 (2) of this section, no person acting on behalf of the Division of

1 Behavioral Health or the Department of Health and Human Services
2 shall make expenditures not required by contract obligations entered
3 into before the effective date of this act until the Gamblers
4 Assistance Program created in section 5 of this act commences its
5 duties.

6 (2) Any contract between the State of Nebraska and a
7 provider of problem gambling services in existence on the effective
8 date of this act shall remain in full force and effect and is binding
9 and effective upon the parties to the contract until the contract is
10 terminated upon thirty days' notice or renegotiated by the
11 commission.

12 (3) The Compulsive Gamblers Assistance Fund shall not be
13 subject to any nonstatutory expenditure limitation from any source
14 and shall be available for expenditure as provided in sections 1 to 6
15 of this act.

16 Sec. 8. Section 9-1,101, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 9-1,101 (1) The Nebraska Bingo Act, the Nebraska County
19 and City Lottery Act, the Nebraska Lottery and Raffle Act, the
20 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and
21 Raffle Act, and section 9-701 shall be administered and enforced by
22 the Charitable Gaming Division of the Department of Revenue, which
23 division is hereby created. The Department of Revenue shall make
24 annual reports to the Governor, Legislature, Auditor of Public
25 Accounts, and Attorney General on all tax revenue received, expenses

1 incurred, and other activities relating to the administration and
2 enforcement of such acts. The report submitted to the Legislature
3 shall be submitted electronically.

4 (2) The Charitable Gaming Operations Fund is hereby
5 created. Any money in the fund available for investment shall be
6 invested by the state investment officer pursuant to the Nebraska
7 Capital Expansion Act and the Nebraska State Funds Investment Act.

8 (3)(a) Forty percent of the taxes collected pursuant to
9 sections 9-239, 9-344, 9-429, and 9-648 shall be available to the
10 Charitable Gaming Division for administering and enforcing the acts
11 listed in subsection (1) of this section. The remaining sixty percent
12 shall be transferred to the General Fund. Any portion of the forty
13 percent not used by the division in the administration and
14 enforcement of such acts and section shall be distributed as provided
15 in this subsection.

16 (b) On or before November 1 each year, the State
17 Treasurer shall transfer fifty thousand dollars from the Charitable
18 Gaming Operations Fund to the Compulsive Gamblers Assistance Fund,
19 except that no transfer shall occur if the Charitable Gaming
20 Operations Fund contains less than fifty thousand dollars.

21 (c) Any money remaining in the Charitable Gaming
22 Operations Fund after the transfer pursuant to subdivision (b) of
23 this subsection not used by the Charitable Gaming Division in its
24 administration and enforcement duties pursuant to this section may be
25 transferred to the General Fund at the direction of the Legislature.

1 (4) The Tax Commissioner shall employ investigators who
2 shall be vested with the authority and power of a law enforcement
3 officer to carry out the laws of this state administered by the Tax
4 Commissioner or the Department of Revenue and to enforce sections
5 28-1101 to 28-1117 relating to possession of a gambling device. For
6 purposes of enforcing sections 28-1101 to 28-1117, the authority of
7 the investigators shall be limited to investigating possession of a
8 gambling device, notifying local law enforcement authorities, and
9 reporting suspected violations to the county attorney for
10 prosecution.

11 (5) The Charitable Gaming Division may charge a fee for
12 publications and listings it produces. The fee shall not exceed the
13 cost of publication and distribution of such items. The division may
14 also charge a fee for making a copy of any record in its possession
15 equal to the actual cost per page. The division shall remit the fees
16 to the State Treasurer for credit to the Charitable Gaming Operations
17 Fund.

18 (6) For administrative purposes only, the Nebraska
19 Commission on Problem Gambling shall be located within the division.
20 The division shall provide office space, furniture, equipment, and
21 stationery and other necessary supplies for the commission.
22 Commission staff shall be appointed, supervised, and terminated by
23 the director of the Gamblers Assistance Program pursuant to section 4
24 of this act.

25 Sec. 9. Section 9-831, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 9-831 The division shall spend not less than five percent
3 of the advertising budget for the state lottery on problem gambling
4 prevention, education, and awareness messages. The division shall
5 coordinate messages developed under this section with the prevention,
6 education, and awareness messages in use on July 14, 2006, by or
7 developed in conjunction with the ~~Compulsive~~ Gamblers Assistance
8 Program established pursuant to section ~~71-817.5~~ of this act. For
9 purposes of this section, the advertising budget for the state
10 lottery includes amounts budgeted and spent for advertising,
11 promotions, incentives, public relations, marketing, or contracts for
12 the purchase or lease of goods or services that include advertising,
13 promotions, incentives, public relations, or marketing, but does not
14 include in-kind contributions by media outlets.

15 Sec. 10. Section 71-804, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-804 For purposes of the Nebraska Behavioral Health
18 Services Act:

19 (1) Behavioral health disorder means mental illness or
20 alcoholism, drug abuse, ~~problem gambling,~~ or other addictive
21 disorder;

22 (2) Behavioral health region means a behavioral health
23 region established in section 71-807;

24 (3) Behavioral health services means services, including,
25 but not limited to, consumer-provided services, support services,

1 inpatient and outpatient services, and residential and nonresidential
2 services, provided for the prevention, diagnosis, and treatment of
3 behavioral health disorders and the rehabilitation and recovery of
4 persons with such disorders;

5 (4) Community-based behavioral health services or
6 community-based services means behavioral health services that are
7 not provided at a regional center;

8 (5) Department means the Department of Health and Human
9 Services;

10 (6) Director means the Director of Behavioral Health;

11 (7) Division means the Division of Behavioral Health of
12 the department;

13 (8) Medical assistance program means the program
14 established pursuant to the Medical Assistance Act;

15 (9) Public behavioral health system means the statewide
16 array of behavioral health services for children and adults provided
17 by the public sector or private sector and supported in whole or in
18 part with funding received and administered by the department,
19 including behavioral health services provided under the medical
20 assistance program;

21 (10) Regional center means one of the state hospitals for
22 the mentally ill designated in section 83-305; and

23 (11) Regional center behavioral health services or
24 regional center services means behavioral health services provided at
25 a regional center.

1 Sec. 11. Original sections 9-1,101, 9-831, 71-804, and
2 71-817, Reissue Revised Statutes of Nebraska, are repealed.

3 Sec. 12. The following section is outright repealed:
4 Section 71-816, Revised Statutes Cumulative Supplement, 2012.