

LEGISLATURE OF NEBRASKA

NINETY-SIXTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 905

Introduced by Chambers, 11; Jensen, 20; Smith, 48; Bruning, 3

Read first time January 5, 2000

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the State Lottery Act; to amend sections
2 9-1,104, 9-204, 9-226, 9-227, 9-255.06, 9-255.09, 9-312,
3 9-315, 9-322, 9-323, 9-335, 9-402, 9-411, 9-415, 9-418,
4 9-419, 9-422, 9-502, 9-507, 9-509, 9-607, 9-620, 15-258,
5 16-226, 17-120, 28-1101, 28-1105, 28-1113, 77-2733,
6 81-15,174, 83-162.04, and 84-712.05, Reissue Revised
7 Statutes of Nebraska, sections 77-27,160, 77-27,161,
8 77-27,166 to 77-27,169, 77-27,171, 77-27,172, 79-757, and
9 79-761, Revised Statutes Supplement, 1998, and sections
10 14-102, 17-207, 79-758, 79-1018.01, and 79-1310, Revised
11 Statutes Supplement, 1999; to eliminate the State Lottery
12 Act; to provide powers and duties; to harmonize
13 provisions; to provide operative dates; to repeal the
14 original sections; and to outright repeal sections 9-801,
15 9-802, 9-804, 9-806 to 9-811.01, 9-813, 9-814, 9-816 to
16 9-830, 9-832 to 9-836, 9-837 to 9-841, 49-1469.01 to
17 49-1469.03, and 77-2704.38, Reissue Revised Statutes of

LB 905

LB 905

1 Nebraska, section 9-836.01, Revised Statutes Supplement,
2 1998, and sections 9-803, 9-805, and 9-812, Revised
3 Statutes Supplement, 1999.

4 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Lottery Division of the Department of
2 Revenue shall take the steps necessary to prepare for repeal of the
3 State Lottery Act which becomes effective on July 1, 2001. The
4 division shall comply with the requirements of all contracts
5 existing on the operative date of this section relating to the
6 lottery games in preparing for the repeal of the act. The lottery
7 division shall discontinue all lottery games by April 1, 2001, if
8 possible under existing contracts, and provide for redemption of
9 all prizes by June 1, 2001.

10 Sec. 2. Section 9-1,104, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 9-1,104. (1) Any person applying for or holding a
13 contract or license (a) as a distributor, gaming manager, or
14 manufacturer pursuant to the Nebraska Bingo Act, (b) as a
15 distributor, manufacturer, pickle card operator, or sales agent
16 pursuant to the Nebraska Pickle Card Lottery Act, or (c) as a
17 lottery operator, manufacturer-distributor, or sales outlet
18 location pursuant to the Nebraska County and City Lottery Act, ~~or~~
19 ~~(d) pursuant to the State Lottery Act~~ shall be subject to
20 fingerprinting and a check of his or her criminal history record
21 information maintained by the Identification Division of the
22 Federal Bureau of Investigation through the Nebraska State Patrol
23 for the purpose of determining whether the Department of Revenue
24 has a basis to deny the contract or license application or to
25 suspend, cancel, revoke, or terminate the person's contract or
26 license. Each applicant for or party holding a license as a
27 manufacturer, distributor, manufacturer-distributor, or lottery
28 operator shall also submit a personal history report to the

1 department on a form provided by the department and may be subject
2 to a background investigation, an inspection of the applicant's or
3 licensee's facilities, or both. If the applicant is an individual,
4 the application shall also include the applicant's social security
5 number.

6 (2)(a) If the applicant, party to the contract, or
7 licensee is a corporation, the persons subject to such requirements
8 shall include any officer or director of the corporation, his or
9 her spouse, any person or entity directly or indirectly associated
10 with such corporation in a consulting or other capacity which may
11 impair the security, honesty, or integrity of the operation or
12 conduct of the activities for which the application is made or
13 contract or license is held, and, if applicable, any person or
14 entity holding in the aggregate ten percent or more of the debt or
15 equity of the corporation. If any person or entity holding ten
16 percent or more of the debt or equity of the applicant, contractor,
17 or licensee corporation is a corporation, partnership, or limited
18 liability company, every partner of such partnership, every member
19 of such limited liability company, every officer or director of
20 such corporation or partnership, every person or entity holding ten
21 percent or more of the debt or equity of such corporation,
22 partnership, or limited liability company, and every person or
23 entity directly or indirectly associated with such corporation,
24 partnership, or limited liability company in a consulting or other
25 capacity which may impair the security, honesty, or integrity of
26 the operation or conduct of the activities for which the
27 application is made or contract or license is held may also be
28 subject to such requirements. If the applicant, party to the

1 contract, or licensee is a partnership, the persons subject to such
2 requirements shall include any partner, his or her spouse, any
3 officer or director of the partnership, or any person or entity
4 directly or indirectly associated with such partnership in a
5 consulting or other capacity which may impair the security,
6 honesty, or integrity of the operation or conduct of the activities
7 for which the application is made or contract or license is held.
8 If the applicant, party to the contract, or licensee is a limited
9 liability company, the persons subject to such requirement shall
10 include any member and his or her spouse. If the applicant, party
11 to the contract, or licensee is a nonprofit organization or
12 nonprofit corporation, the person subject to such requirement shall
13 be the person designated by such nonprofit organization or
14 nonprofit corporation as the manager.

15 (b) Notwithstanding the provisions of this section,
16 background investigations shall not be required of any debt holder
17 which is a financial institution organized or chartered under the
18 laws of this state, any other state, or the United States relating
19 to banks, savings institutions, trust companies, savings and loan
20 associations, credit unions, industrial loan and investment
21 companies, installment loan licensees, or similar associations
22 organized under the laws of this state and subject to supervision
23 by the Department of Banking and Finance.

24 (3) A person applying for or holding a license as a
25 pickle card operator, sales agent, gaming manager, lottery
26 operator, or sales outlet location shall be subject to
27 fingerprinting and a check of his or her criminal history record
28 information maintained by the Identification Division of the

1 Federal Bureau of Investigation through the Nebraska State Patrol
2 only if such an investigation has not been performed by the
3 Nebraska Liquor Control Commission.

4 (4)(a) The applicant, party to the contract, or licensee
5 shall pay the actual cost of any fingerprinting or check of his or
6 her criminal history record information.

7 (b) The Department of Revenue may require an applicant or
8 licensee subjected to a background investigation, a facilities
9 inspection, or both to pay the actual costs incurred by the
10 department in conducting the investigation or inspection. The
11 department may require payment of the estimated costs in advance of
12 beginning the investigation or inspection. If an applicant does
13 not wish to pay the estimated costs, it may withdraw its
14 application and its application fee will be refunded. After
15 completion of the investigation or inspection, the department shall
16 refund any overpayment or shall charge and collect an amount
17 sufficient to reimburse the department for any underpayment of
18 actual costs. The department may establish by rule and regulation
19 the conditions and procedures for payment of the costs.

20 (5) Refusal to comply with this section by any person
21 contracted with, licensed, or seeking a contract or license under
22 the Nebraska Bingo Act, the Nebraska County and City Lottery Act,
23 or the Nebraska Pickle Card Lottery Act, ~~or the State Lottery Act~~
24 shall be a violation of the act under which such person is
25 contracted with, licensed, or seeking a contract or license.

26 Sec. 3. Section 9-204, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 9-204. (1) Bingo shall mean that form of gambling in

1 which:

2 (a) The winning numbers are determined by random
3 selection from a pool of seventy-five or ninety numbered
4 designators; and

5 (b) Players mark those randomly selected numbers which
6 match on bingo cards which they have purchased or leased only at
7 the time and place of the bingo occasion.

8 (2) Bingo shall not mean or include:

9 (a) Any scheme which uses any mechanical gaming device,
10 computer gaming device, electronic gaming device, or video gaming
11 device which has the capability of awarding something of value,
12 free games redeemable for something of value, or tickets or stubs
13 redeemable for something of value;

14 (b) Any activity which is authorized or regulated under
15 the Nebraska County and City Lottery Act, the Nebraska Lottery and
16 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
17 Small Lottery and Raffle Act, ~~the State Lottery Act~~, section 9-701,
18 or Chapter 2, article 12; or

19 (c) Any activity which is prohibited under Chapter 28,
20 article 11.

21 Sec. 4. Section 9-226, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 9-226. The department shall have the following powers,
24 functions, and duties:

25 (1) To issue licenses, temporary licenses, and permits;

26 (2) To deny any license or permit application or renewal
27 license application for cause. Cause for denial of an application
28 or renewal of a license shall include instances in which the

1 applicant individually or, in the case of a business entity or a
2 nonprofit organization, any officer, director, employee, or limited
3 liability company member of the applicant, licensee, or permittee,
4 other than an employee whose duties are purely ministerial in
5 nature, any other person or entity directly or indirectly
6 associated with such applicant, licensee, or permittee which
7 directly or indirectly receives compensation other than
8 distributions from a bona fide retirement or pension plan
9 established pursuant to Chapter 1, subchapter D of the Internal
10 Revenue Code from such applicant for past or present services in a
11 consulting capacity or otherwise, the licensee, or any person with
12 a substantial interest in the applicant, licensee, or permittee:

13 (a) Violated the provisions, requirements, conditions,
14 limitations, or duties imposed by the Nebraska Bingo Act, the
15 Nebraska County and City Lottery Act, the Nebraska Lottery and
16 Raffle Act, the Nebraska Pickle Card Lottery Act, or the Nebraska
17 Small Lottery and Raffle Act, ~~or the State Lottery Act~~ or any rules
18 or regulations adopted and promulgated pursuant to the acts;

19 (b) Knowingly caused, aided, abetted, or conspired with
20 another to cause any person to violate any of the provisions of
21 such acts or any rules or regulations adopted and promulgated
22 pursuant to such acts;

23 (c) Obtained a license or permit pursuant to such acts by
24 fraud, misrepresentation, or concealment;

25 (d) Was convicted of, forfeited bond upon a charge of, or
26 pleaded guilty or nolo contendere to any offense or crime, whether
27 a felony or misdemeanor, involving any gambling activity or fraud,
28 theft, willful failure to make required payments or reports, or

1 filing false reports with a governmental agency at any level;

2 (e) Was convicted of, forfeited bond upon a charge of, or
3 pleaded guilty or nolo contendere to any felony other than those
4 described in subdivision (d) of this subdivision within the ten
5 years preceding the filing of the application;

6 (f) Denied the department or its authorized
7 representatives, including authorized law enforcement agencies,
8 access to any place where bingo activity required to be licensed or
9 for which a permit is required under the Nebraska Bingo Act is
10 being conducted or failed to produce for inspection or audit any
11 book, record, document, or item required by law, rule, or
12 regulation;

13 (g) Made a misrepresentation of or failed to disclose a
14 material fact to the department;

15 (h) Failed to prove by clear and convincing evidence his,
16 her, or its qualifications to be licensed or granted a permit in
17 accordance with the Nebraska Bingo Act;

18 (i) Failed to pay any taxes and additions to taxes,
19 including penalties and interest, required by the Nebraska Bingo
20 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery
21 and Raffle Act, or the Nebraska Pickle Card Lottery Act or any
22 other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

23 (j) Failed to pay an administrative fine levied pursuant
24 to the Nebraska Bingo Act, the Nebraska County and City Lottery
25 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle
26 Card Lottery Act;

27 (k) Failed to demonstrate good character, honesty, and
28 integrity; or

1 (1) Failed to demonstrate, either individually or, in the
2 case of a business entity or a nonprofit organization, through its
3 managers, employees, or agents, the ability, experience, or
4 financial responsibility necessary to establish or maintain the
5 activity for which the application is made.

6 No license renewal shall be issued when the applicant for
7 renewal would not be eligible for a license upon a first
8 application;

9 (3) To revoke, cancel, or suspend for cause any license
10 or permit. Cause for revocation, cancellation, or suspension of a
11 license or permit shall include instances in which the licensee or
12 permittee individually or, in the case of a business entity or a
13 nonprofit organization, any officer, director, employee, or limited
14 liability company member of the licensee or permittee, other than
15 an employee whose duties are purely ministerial in nature, any
16 other person or entity directly or indirectly associated with such
17 licensee or permittee which directly or indirectly receives
18 compensation other than distributions from a bona fide retirement
19 or pension plan established pursuant to Chapter 1, subchapter D of
20 the Internal Revenue Code from such licensee or permittee for past
21 or present services in a consulting capacity or otherwise, or any
22 person with a substantial interest in the licensee or permittee:

23 (a) Violated the provisions, requirements, conditions,
24 limitations, or duties imposed by the Nebraska Bingo Act, the
25 Nebraska County and City Lottery Act, the Nebraska Lottery and
26 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
27 Small Lottery and Raffle Act, ~~the State Lottery Act,~~ or any rules
28 or regulations adopted and promulgated pursuant to such acts;

1 (b) Knowingly caused, aided, abetted, or conspired with
2 another to cause any person to violate any of the provisions of the
3 Nebraska Bingo Act or any rules or regulations adopted and
4 promulgated pursuant to the act;

5 (c) Obtained a license or permit pursuant to the Nebraska
6 Bingo Act by fraud, misrepresentation, or concealment;

7 (d) Was convicted of, forfeited bond upon the charge of,
8 or pleaded guilty or nolo contendere to any offense or crime,
9 whether a felony or a misdemeanor, involving any gambling activity
10 or fraud, theft, willful failure to make required payments or
11 reports, or filing false reports with a governmental agency at any
12 level;

13 (e) Was convicted of, forfeited bond upon a charge of, or
14 pleaded guilty or nolo contendere to any felony other than those
15 described in subdivision (d) of this subdivision within the ten
16 years preceding the filing of the application;

17 (f) Denied the department or its authorized
18 representatives, including authorized law enforcement agencies,
19 access to any place where bingo activity required to be licensed or
20 for which a permit is required under the Nebraska Bingo Act is
21 being conducted or failed to produce for inspection or audit any
22 book, record, document, or item required by law, rule, or
23 regulation;

24 (g) Made a misrepresentation of or failed to disclose a
25 material fact to the department;

26 (h) Failed to pay any taxes and additions to taxes,
27 including penalties and interest, required by the Nebraska Bingo
28 Act;

1 (i) Failed to pay an administrative fine levied pursuant
2 to the Nebraska Bingo Act, the Nebraska County and City Lottery
3 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle
4 Card Lottery Act;

5 (j) Failed to demonstrate good character, honesty, and
6 integrity; or

7 (k) Failed to demonstrate, either individually or, in the
8 case of a business entity or a nonprofit organization, through its
9 managers, employees, or agents, the ability, experience, or
10 financial responsibility necessary to maintain the activity for
11 which the license was issued;

12 (4) To issue and cause to be served upon any licensee,
13 permittee, or other person an order requiring the licensee,
14 permittee, or other person to cease and desist from violations of
15 the Nebraska Bingo Act. The order shall give reasonable notice of
16 the rights of the licensee, permittee, or other person to request a
17 hearing and shall state the reason for the entry of the order. A
18 hearing shall be held not later than seven days after the request
19 for the hearing is received by the Tax Commissioner, and within
20 twenty days after the date of the hearing, the Tax Commissioner
21 shall issue an order vacating the cease and desist order or making
22 it permanent as the facts require. All hearings shall be held in
23 accordance with the rules and regulations adopted and promulgated
24 by the department. If the licensee, permittee, or other person to
25 whom a cease and desist order is issued fails to appear at the
26 hearing after being duly notified, the licensee, permittee, or
27 other person shall be deemed in default and the proceeding may be
28 determined against the licensee, permittee, or other person upon

1 consideration of the cease and desist order, the allegations of
2 which may be deemed to be true;

3 (5) To levy an administrative fine on an individual,
4 partnership, limited liability company, corporation, or
5 organization for cause. For purposes of this subdivision, cause
6 shall include instances in which the individual, partnership,
7 limited liability company, corporation, or organization violated
8 the provisions, requirements, conditions, limitations, or duties
9 imposed by the act or any rule or regulation adopted and
10 promulgated pursuant to the act. In determining whether to levy an
11 administrative fine and the amount of the fine if any fine is
12 levied, the department shall take into consideration the
13 seriousness of the violation, the intent of the violator, whether
14 the violator voluntarily reported the violation, whether the
15 violator derived financial gain as a result of the violation and
16 the extent thereof, and whether the violator has had previous
17 violations of the act, rules, or regulations. A fine levied on a
18 violator under this section shall not exceed one thousand dollars
19 for each violation of the act or any rule or regulation adopted and
20 promulgated pursuant to the act plus the financial benefit derived
21 by the violator as a result of each violation. If an
22 administrative fine is levied, the fine shall not be paid from
23 bingo gross receipts of an organization and shall be remitted by
24 the violator to the department within thirty days after the date of
25 the order issued by the department levying such fine;

26 (6) To enter or to authorize any law enforcement officer
27 to enter at any time upon any premises where bingo activity
28 required to be licensed or for which a permit is required under the

1 act is being conducted to determine whether any of the provisions
2 of the act or any rules or regulations adopted and promulgated
3 under the act have been or are being violated and at such time to
4 examine such premises;

5 (7) To require periodic reports of bingo activity from
6 licensees under the act as the department deems necessary to carry
7 out the act;

8 (8) To examine or to cause to have examined, by any agent
9 or representative designated by the department for such purpose,
10 any books, papers, records, or memoranda relating to bingo
11 activities of any licensee or permittee, to require by
12 administrative order or summons the production of such documents or
13 the attendance of any person having knowledge in the premises, to
14 take testimony under oath, and to acquire proof material for its
15 information. If any such person willfully refuses to make
16 documents available for examination by the department or its agent
17 or representative or willfully fails to attend and testify, the
18 department may apply to a judge of the district court of the county
19 in which such person resides for an order directing such person to
20 comply with the department's request. If any documents requested
21 by the department are in the custody of a corporation, the court
22 order may be directed to any principal officer of the corporation.
23 If the documents requested by the department are in the custody of
24 a limited liability company, the court order may be directed to any
25 member when management is reserved to the members or otherwise to
26 any manager. Any person who fails or refuses to obey such a court
27 order shall be guilty of contempt of court;

28 (9) Unless specifically provided otherwise, to compute,

1 determine, assess, and collect the amounts required to be paid to
2 the state as taxes imposed by the act in the same manner as
3 provided for sales and use taxes in the Nebraska Revenue Act of
4 1967;

5 (10) To confiscate and seize bingo supplies and equipment
6 pursuant to section 9-262.01; and

7 (11) To adopt and promulgate such rules and regulations,
8 prescribe such forms, and employ such staff, including inspectors,
9 as are necessary to carry out the Nebraska Bingo Act.

10 Sec. 5. Section 9-227, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 9-227. (1) The Tax Commissioner may suspend any license
13 or permit, except that no order to suspend any license or permit
14 shall be issued unless the department determines that the licensee
15 or permittee is not operating in accordance with the purposes and
16 intent of the Nebraska Bingo Act, the Nebraska County and City
17 Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska
18 Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act,
19 ~~the State Lottery Act,~~ or any rules or regulations adopted and
20 promulgated pursuant to such acts.

21 (2) Before any license or permit is suspended prior to a
22 hearing, notice of an order to suspend a license or permit shall be
23 mailed to or personally served upon the licensee or permittee at
24 least fifteen days before the order of suspension takes effect.

25 (3) The order of suspension may be withdrawn if the
26 licensee or permittee provides the department with evidence that
27 any prior findings or violations have been corrected and that the
28 licensee or permittee is now in full compliance, whether before or

1 after the effective date of the order of suspension.

2 (4) The Tax Commissioner may issue an order of suspension
3 pursuant to subsections (1) and (2) of this section when an action
4 for suspension, cancellation, or revocation is pending. The Tax
5 Commissioner may also issue an order of suspension after a hearing
6 for a limited time of up to one year without an action for
7 cancellation or revocation pending.

8 (5) The hearing for suspension, cancellation, or
9 revocation of the license or permit shall be held within twenty
10 days after the date the suspension takes effect. A request by the
11 licensee or permittee to hold the hearing after the end of the
12 twenty-day period shall extend the suspension until the hearing.

13 (6) The decision of the department shall be made within
14 twenty days after the conclusion of the hearing. The suspension
15 shall continue in effect until the decision is issued. If the
16 decision is that an order of suspension, revocation, or
17 cancellation is not appropriate, the suspension shall terminate
18 immediately by order of the Tax Commissioner. If the decision is
19 an order for the suspension, revocation, or cancellation of the
20 license or permit, the suspension shall continue pending an appeal
21 of the decision of the department.

22 (7) Any period of suspension prior to the issuance of an
23 order of suspension issued by the Tax Commissioner shall count
24 toward the total amount of time a licensee or permittee shall be
25 suspended from gaming activities under the Nebraska Bingo Act. Any
26 period of suspension prior to the issuance of an order of
27 cancellation shall not reduce the period of the cancellation. Any
28 period of suspension after the issuance of the order and during an

1 appeal shall be counted as a part of the period of cancellation.

2 Sec. 6. Section 9-255.06, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 9-255.06. (1) An individual, partnership, limited
5 liability company, corporation, or organization which will be
6 leasing a premises to one or more organizations for the conduct of
7 bingo and which will receive more than two hundred fifty dollars
8 per month as aggregate total rent from leasing such premises for
9 the conduct of bingo shall first obtain a commercial lessor's
10 license from the department. The license shall be applied for on a
11 form prescribed by the department and shall contain:

12 (a) The name and home address of the applicant;

13 (b) If the applicant is an individual, the applicant's
14 social security number;

15 (c) If the applicant is not a resident of this state or
16 is not a corporation, the full name, business address, and home
17 address of a natural person, at least nineteen years of age, who is
18 a resident of and living in this state designated by the applicant
19 as a resident agent for the purpose of receipt and acceptance of
20 service of process and other communications on behalf of the
21 applicant;

22 (d) A designated mailing address and legal description of
23 the premises intended to be covered by the license sought;

24 (e) The lawful capacity of the premises for public
25 assembly purposes;

26 (f) The names and mailing addresses of the officers of
27 the organization which is to conduct bingo at the premises and the
28 place and time the organization intends to conduct bingo;

1 (g) The amount of rent to be paid or other consideration
2 to be given directly or indirectly for each bingo occasion to be
3 conducted; and

4 (h) Any other information which the department deems
5 necessary.

6 (2) An application for a commercial lessor's license
7 shall be accompanied by a fee of one hundred dollars for each
8 premises the applicant is seeking to lease pursuant to subsection
9 (1) of this section. A commercial lessor who desires to lease more
10 than one premises for the conduct of bingo shall file a separate
11 application and pay a separate fee for each such premises.

12 (3) The information required by this section shall be
13 kept current. The commercial lessor shall notify the department
14 within thirty days of any changes to the information contained on
15 or with the application.

16 (4) A commercial lessor who will be leasing or renting
17 bingo equipment in conjunction with his or her premises shall
18 obtain such equipment only from a licensed distributor, except that
19 a commercial lessor shall not purchase or otherwise obtain
20 disposable paper bingo cards from any source.

21 (5) A commercial lessor, the owner of a premises, and all
22 parties who lease or sublease a premises which ultimately is leased
23 to an organization for the conduct of bingo shall not be involved
24 directly with the conduct of any bingo occasion regulated by the
25 Nebraska Bingo Act which may include, but not be limited to, the
26 managing, operating, promoting, advertising, or administering of
27 bingo. Such persons shall not derive any financial gain from any
28 gaming activities regulated by Chapter 9 except as provided in

1 subsection (4) of section 9-347 if the individual is licensed as a
2 pickle card operator, or if the individual is licensed as a lottery
3 operator or authorized sales outlet location pursuant to the
4 Nebraska County and City Lottery Act. ~~7 or if the individual is~~
5 ~~contracted with as a lottery game retailer pursuant to the State~~
6 ~~Lottery Act.~~

7 (6) A nonprofit organization owning its own premises
8 which in turn rents or leases its premises solely to its own
9 auxiliary shall be exempt from the licensing requirements contained
10 in this section.

11 Sec. 7. Section 9-255.09, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 9-255.09. (1) Any individual, partnership, limited
14 liability company, or corporation which desires to sell or
15 otherwise supply bingo equipment in this state to a licensed
16 distributor shall first apply for and obtain a manufacturer's
17 license from the department. Manufacturers' licenses may be
18 renewed biennially. The expiration date shall be September 30 of
19 every odd-numbered year or such other date as the department may
20 prescribe by rule and regulation. An application for license
21 renewal shall be submitted to the department at least forty-five
22 days prior to the expiration date of the license. The license
23 shall be applied for on a form prescribed by the department and
24 shall contain:

25 (a) The business name and address of the applicant and
26 the name and address of each of the applicant's separate locations
27 which manufacture or store bingo equipment and any location from
28 which the applicant distributes or promotes bingo equipment;

1 (b) The name and home address of the applicant;

2 (c) If the applicant is an individual, the applicant's
3 social security number;

4 (d) If the applicant is not a resident of this state or
5 is not a corporation, the full name, business address, and home
6 address of a natural person, at least nineteen years of age, who is
7 a resident of and living in this state designated by the applicant
8 as a resident agent for the purpose of receipt and acceptance of
9 service of process and other communications on behalf of the
10 applicant;

11 (e) A sworn statement by the applicant or appropriate
12 officer of the applicant that the applicant will comply with all
13 provisions of the Nebraska Bingo Act and all rules and regulations
14 adopted pursuant to the act; and

15 (f) Any other information which the department deems
16 necessary.

17 (2) The application shall be accompanied by a biennial
18 license fee of three thousand fifty dollars.

19 (3) The information required by this section shall be
20 kept current. The manufacturer shall notify the department within
21 thirty days of any changes to the information contained on or with
22 the application.

23 (4) Any person licensed as a manufacturer pursuant to
24 section 9-332 may act as a manufacturer pursuant to this section
25 without filing a separate application or submitting the license fee
26 required by this section.

27 (5) A licensed manufacturer shall not hold any other type
28 of license issued pursuant to Chapter 9 except as provided in

1 sections 9-332 and 9-632.

2 (6) No manufacturer or spouse or employee of the
3 manufacturer shall participate in the conduct or operation of any
4 bingo game or occasion or any other kind of gaming activity which
5 is authorized or regulated under Chapter 9 except to the exclusive
6 extent of his or her statutory duties as a licensed manufacturer or
7 employee thereof as provided by this section and except as provided
8 in sections 9-332 and 9-632. ~~and the State Lottery Act.~~ No
9 manufacturer or employee or spouse of any manufacturer shall have a
10 substantial interest in another manufacturer, a distributor, a
11 manufacturer-distributor as defined in section 9-616 other than
12 itself, a licensed organization, or any other licensee regulated
13 under Chapter 9.

14 Sec. 8. Section 9-312, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 9-312. Lottery by the sale of pickle cards shall mean
17 any gambling scheme in which participants pay or agree to pay
18 something of value for a pickle card. Any lottery by the sale of
19 pickle cards shall be conducted pursuant to and in accordance with
20 the Nebraska Pickle Card Lottery Act.

21 Lottery by the sale of pickle cards shall not mean or
22 include any activity authorized or regulated under the Nebraska
23 Bingo Act, the Nebraska County and City Lottery Act, the Nebraska
24 Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act,
25 ~~the State Lottery Act,~~ section 9-701, or Chapter 2, article 12, nor
26 shall lottery by the sale of pickle cards mean or include any
27 activity prohibited under Chapter 28, article 11.

28 Sec. 9. Section 9-315, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 9-315. Pickle card shall mean any disposable card,
3 board, or ticket which accords a person an opportunity to win a
4 cash prize by opening, pulling, detaching, or otherwise removing
5 one or more tabs from the card, board, or ticket to reveal a set of
6 numbers, letters, symbols, or configurations, or any combination
7 thereof, and shall include, but not be limited to, any card known
8 as a pickle ticket, pickle, break-open, pull-tab, pull-tab board,
9 punchboard, seal card, pull card, or any other similar card, board,
10 or ticket which is included under this section, whether referred to
11 by any other name.

12 Pickle card shall not mean or include any:

13 (1) Card used in connection with bingo conducted pursuant
14 to the Nebraska Bingo Act;

15 (2) Racing ticket or wager in connection with any
16 horserace conducted pursuant to Chapter 2, article 12;

17 (3) Scrape-off or rub-off ticket;

18 (4) Card, ticket, or other device used in connection with
19 any kind of gambling, lottery, raffle, or gift enterprise
20 authorized or regulated under the Nebraska County and City Lottery
21 Act, the Nebraska Lottery and Raffle Act, the Nebraska Small
22 Lottery and Raffle Act, ~~the State Lottery Act,~~ or section 9-701; or

23 (5) Card, ticket, or other device prohibited under
24 Chapter 28, article 11.

25 Sec. 10. Section 9-322, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 9-322. The department shall have the following powers,
28 functions, and duties:

1 (1) To issue licenses and temporary licenses;

2 (2) To deny any license application or renewal
3 application for cause. Cause for denial of an application for or
4 renewal of a license shall include instances in which the applicant
5 individually or, in the case of a business entity or a nonprofit
6 organization, any officer, director, employee, or limited liability
7 company member of the applicant or licensee, other than an employee
8 whose duties are purely ministerial in nature, any other person or
9 entity directly or indirectly associated with such applicant or
10 licensee which directly or indirectly receives compensation other
11 than distributions from a bona fide retirement or pension plan
12 established pursuant to Chapter 1, subchapter D of the Internal
13 Revenue Code, from such applicant or licensee for past or present
14 services in a consulting capacity or otherwise, the licensee, or
15 any person with a substantial interest in the applicant or
16 licensee:

17 (a) Violated the provisions, requirements, conditions,
18 limitations, or duties imposed by the Nebraska Bingo Act, the
19 Nebraska County and City Lottery Act, the Nebraska Lottery and
20 Raffle Act, the Nebraska Pickle Card Lottery Act, or the Nebraska
21 Small Lottery and Raffle Act, ~~or the State Lottery Act~~ or any rules
22 or regulations adopted and promulgated pursuant to such acts;

23 (b) Knowingly caused, aided, abetted, or conspired with
24 another to cause any person to violate any of the provisions of
25 such acts or any rules or regulations adopted and promulgated
26 pursuant to such acts;

27 (c) Obtained a license or permit pursuant to such acts by
28 fraud, misrepresentation, or concealment;

1 (d) Was convicted of, forfeited bond upon a charge of, or
2 pleaded guilty or nolo contendere to any offense or crime, whether
3 a felony or misdemeanor, involving any gambling activity or fraud,
4 theft, willful failure to make required payments or reports, or
5 filing false reports with a governmental agency at any level;

6 (e) Was convicted of, forfeited bond upon a charge of, or
7 pleaded guilty or nolo contendere to any felony other than those
8 described in subdivision (d) of this subdivision within the ten
9 years preceding the filing of the application;

10 (f) Denied the department or its authorized
11 representatives, including authorized law enforcement agencies,
12 access to any place where pickle card activity required to be
13 licensed under the Nebraska Pickle Card Lottery Act is being
14 conducted or failed to produce for inspection or audit any book,
15 record, document, or item required by law, rule, or regulation;

16 (g) Made a misrepresentation of or failed to disclose a
17 material fact to the department;

18 (h) Failed to prove by clear and convincing evidence his,
19 her, or its qualifications to be licensed in accordance with the
20 Nebraska Pickle Card Lottery Act;

21 (i) Failed to pay any taxes and additions to taxes,
22 including penalties and interest, required by the Nebraska Bingo
23 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery
24 and Raffle Act, or the Nebraska Pickle Card Lottery Act or any
25 other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

26 (j) Failed to pay an administrative fine levied pursuant
27 to the Nebraska Bingo Act, the Nebraska County and City Lottery
28 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle

1 Card Lottery Act;

2 (k) Failed to demonstrate good character, honesty, and
3 integrity; or

4 (1) Failed to demonstrate, either individually or, in the
5 case of a business entity or a nonprofit organization, through its
6 managers, employees, or agents, the ability, experience, or
7 financial responsibility necessary to establish or maintain the
8 activity for which the application is made.

9 No license renewal shall be issued when the applicant for
10 renewal would not be eligible for a license upon a first
11 application;

12 (3) To revoke, cancel, or suspend for cause any license.
13 Cause for revocation, cancellation, or suspension of a license
14 shall include instances in which the licensee individually or, in
15 the case of a business entity or a nonprofit organization, any
16 officer, director, employee, or limited liability company member of
17 the licensee, other than an employee whose duties are purely
18 ministerial in nature, any other person or entity directly or
19 indirectly associated with such licensee which directly or
20 indirectly receives compensation other than distributions from a
21 bona fide retirement or pension plan established pursuant to
22 Chapter 1, subchapter D of the Internal Revenue Code from such
23 licensee for past or present services in a consulting capacity or
24 otherwise, or any person with a substantial interest in the
25 licensee:

26 (a) Violated the provisions, requirements, conditions,
27 limitations, or duties imposed by the Nebraska Bingo Act, the
28 Nebraska County and City Lottery Act, the Nebraska Lottery and

1 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
2 Small Lottery and Raffle Act, ~~the State Lottery Act,~~ or any rules
3 or regulations adopted and promulgated pursuant to such acts;

4 (b) Knowingly caused, aided, abetted, or conspired with
5 another to cause any person to violate any of the provisions of the
6 Nebraska Pickle Card Lottery Act or any rules or regulations
7 adopted and promulgated pursuant to the act;

8 (c) Obtained a license pursuant to the Nebraska Pickle
9 Card Lottery Act by fraud, misrepresentation, or concealment;

10 (d) Was convicted of, forfeited bond upon a charge of, or
11 pleaded guilty or nolo contendere to any offense or crime, whether
12 a felony or misdemeanor, involving any gambling activity or fraud,
13 theft, willful failure to make required payments or reports, or
14 filing false reports with a governmental agency at any level;

15 (e) Was convicted of, forfeited bond upon a charge of, or
16 pleaded guilty or nolo contendere to any felony other than those
17 described in subdivision (d) of this subdivision within the ten
18 years preceding the filing of the application;

19 (f) Denied the department or its authorized
20 representatives, including authorized law enforcement agencies,
21 access to any place where pickle card activity required to be
22 licensed under the act is being conducted or failed to produce for
23 inspection or audit any book, record, document, or item required by
24 law, rule, or regulation;

25 (g) Made a misrepresentation of or failed to disclose a
26 material fact to the department;

27 (h) Failed to pay any taxes and additions to taxes,
28 including penalties and interest, required by the Nebraska Pickle

1 Card Lottery Act;

2 (i) Failed to pay an administrative fine levied pursuant
3 to the Nebraska Bingo Act, the Nebraska County and City Lottery
4 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle
5 Card Lottery Act;

6 (j) Failed to demonstrate good character, honesty, and
7 integrity; or

8 (k) Failed to demonstrate, either individually or, in the
9 case of a business entity or a nonprofit organization, through its
10 managers, employees, or agents, the ability, experience, or
11 financial responsibility necessary to maintain the activity for
12 which the license was issued;

13 (4) To issue and cause to be served upon any licensee or
14 other person an order requiring the licensee or other person to
15 cease and desist from violations of the Nebraska Pickle Card
16 Lottery Act. The order shall give reasonable notice of the rights
17 of the licensee or other person to request a hearing and shall
18 state the reason for the entry of the order. A hearing shall be
19 held not later than seven days after the request for the hearing is
20 received by the Tax Commissioner, and within twenty days after the
21 date of the hearing, the Tax Commissioner shall issue an order
22 vacating the cease and desist order or making it permanent as the
23 facts require. All hearings shall be held in accordance with the
24 rules and regulations adopted and promulgated by the department.
25 If the licensee or other person to whom a cease and desist order is
26 issued fails to appear at the hearing after being duly notified,
27 the licensee or other person shall be deemed in default and the
28 proceeding may be determined against the licensee or other person

1 upon consideration of the cease and desist order, the allegations
2 of which may be deemed to be true;

3 (5) To levy an administrative fine on an individual,
4 partnership, limited liability company, corporation, or
5 organization for cause. For purposes of this subdivision, cause
6 shall include instances in which the individual, partnership,
7 limited liability company, corporation, or organization violated
8 the provisions, requirements, conditions, limitations, or duties
9 imposed by the act or any rule or regulation adopted and
10 promulgated pursuant to the act. In determining whether to levy an
11 administrative fine and the amount of the fine if any fine is
12 levied, the department shall take into consideration the
13 seriousness of the violation, the intent of the violator, whether
14 the violator voluntarily reported the violation, whether the
15 violator derived financial gain as a result of the violation and
16 the extent thereof, and whether the violator has had previous
17 violations of the act, rules, or regulations. A fine levied on a
18 violator under this section shall not exceed one thousand dollars
19 for each violation of the act or any rule or regulation adopted and
20 promulgated pursuant to the act plus the financial benefit derived
21 by the violator as a result of each violation. If an
22 administrative fine is levied, the fine shall not be paid from
23 pickle card lottery gross proceeds of an organization and shall be
24 remitted by the violator to the department within thirty days after
25 the date of the order issued by the department levying such fine;

26 (6) To enter or to authorize any law enforcement officer
27 to enter at any time upon any premises where lottery by the sale of
28 pickle cards activity required to be licensed under the act is

1 being conducted to determine whether any of the provisions of such
2 act or any rules or regulations adopted and promulgated under such
3 act have been or are being violated and at such time to examine
4 such premises;

5 (7) To require periodic reports of lottery by the sale of
6 pickle cards activity from licensed manufacturers, distributors,
7 nonprofit organizations, sales agents, pickle card operators, and
8 any other persons, organizations, limited liability companies, or
9 corporations as the department deems necessary to carry out the
10 act;

11 (8) To require annual registration of coin-operated and
12 currency-operated devices used for the dispensing of pickle cards,
13 to issue registration decals for such devices, to prescribe all
14 forms necessary for the registration of such devices, and to impose
15 administrative penalties for failure to properly register such
16 devices;

17 (9) To examine or to cause to have examined, by any agent
18 or representative designated by the department for such purpose,
19 any books, papers, records, or memoranda relating to the conduct of
20 lottery by the sale of pickle cards of any licensee, to require by
21 administrative order or summons the production of such documents or
22 the attendance of any person having knowledge in the premises, to
23 take testimony under oath, and to require proof material for its
24 information. If any such person willfully refuses to make
25 documents available for examination by the department or its agent
26 or representative or willfully fails to attend and testify, the
27 department may apply to a judge of the district court of the county
28 in which such person resides for an order directing such person to

1 comply with the department's request. If any documents requested
2 by the department are in the custody of a corporation, the court
3 order may be directed to any principal officer of the corporation.
4 If the documents requested by the department are in the custody of
5 a limited liability company, the court order may be directed to any
6 member when management is reserved to the members or otherwise to
7 any manager. Any person who fails or refuses to obey such a court
8 order shall be guilty of contempt of court;

9 (10) Unless specifically provided otherwise, to compute,
10 determine, assess, and collect the amounts required to be paid as
11 taxes imposed by the act in the same manner as provided for sales
12 and use taxes in the Nebraska Revenue Act of 1967;

13 (11) To inspect pickle cards and pickle card units as
14 provided in section 9-339;

15 (12) To confiscate, seize, or seal pickle cards, pickle
16 card units, or coin-operated or currency-operated pickle card
17 dispensing devices pursuant to section 9-350;

18 (13) To adopt and promulgate such rules and regulations
19 and prescribe all forms as are necessary to carry out the Nebraska
20 Pickle Card Lottery Act; and

21 (14) To employ staff, including auditors and inspectors,
22 as necessary to carry out the act.

23 Sec. 11. Section 9-323, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 9-323. (1) The Tax Commissioner may suspend any license
26 issued pursuant to the Nebraska Pickle Card Lottery Act except a
27 license issued pursuant to section 9-326, except that no order to
28 suspend any license shall be issued unless the department

1 determines that the licensee is not operating in accordance with
2 the purposes and intent of the Nebraska Bingo Act, the Nebraska
3 County and City Lottery Act, the Nebraska Lottery and Raffle Act,
4 the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery
5 and Raffle Act, ~~the State Lottery Act,~~ or any rules or regulations
6 adopted and promulgated pursuant to such acts. The Tax
7 Commissioner may suspend a license issued pursuant to section 9-326
8 after a hearing upon a finding by the department that the licensee
9 is not operating in accordance with the purposes and intent of such
10 acts.

11 (2) Before any license is suspended prior to a hearing,
12 notice of an order to suspend a license shall be mailed to or
13 personally served upon the licensee at least fifteen days before
14 the order of suspension takes effect.

15 (3) The order of suspension may be withdrawn if the
16 licensee provides the department with evidence that any prior
17 findings or violations have been corrected and that the licensee is
18 now in full compliance, whether before or after the effective date
19 of the order of suspension.

20 (4) The Tax Commissioner may issue an order of suspension
21 pursuant to subsections (1) and (2) of this section when an action
22 for suspension, cancellation, or revocation is pending. The Tax
23 Commissioner may also issue an order of suspension after a hearing
24 for a limited time of up to one year without an action for
25 cancellation or revocation pending.

26 (5) The hearing for suspension, cancellation, or
27 revocation of the license shall be held within twenty days after
28 the date the suspension takes effect. A request by the licensee to

1 hold the hearing after the end of the twenty-day period shall
2 extend the suspension until the hearing.

3 (6) The decision of the department shall be made within
4 twenty days after the conclusion of the hearing. The suspension
5 shall continue in effect until the decision is issued. If the
6 decision is that an order of suspension, revocation, or
7 cancellation is not appropriate, the suspension shall terminate
8 immediately by order of the Tax Commissioner. If the decision is
9 an order for the suspension, revocation, or cancellation of the
10 license, the suspension shall continue pending an appeal of the
11 decision of the department.

12 (7) Any period of suspension prior to the issuance of an
13 order of suspension issued by the Tax Commissioner shall count
14 toward the total amount of time a licensee shall be suspended from
15 gaming activities under the Nebraska Pickle Card Lottery Act. Any
16 period of suspension prior to the issuance of an order of
17 cancellation shall not reduce the period of the cancellation. Any
18 period of suspension after the issuance of the order and during an
19 appeal shall be counted as a part of the period of cancellation.

20 Sec. 12. Section 9-335, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 9-335. No manufacturer shall be licensed to conduct any
23 other activity under the Nebraska Pickle Card Lottery Act. No
24 manufacturer shall hold a license to conduct any other kind of
25 gambling activity which is authorized or regulated under Chapter 9
26 except as provided in sections 9-255.09 and 9-632. No manufacturer
27 or employee or spouse of any manufacturer shall participate in the
28 conduct or operation of any lottery by the sale of pickle cards or

1 any other kind of gambling activity which is authorized or
2 regulated under Chapter 9 except to the exclusive extent of his or
3 her statutory duties as a licensed manufacturer or employee
4 thereof, as a lottery contractor pursuant to the State Lottery Act,
5 and as provided in sections 9-255.09 and 9-632. No manufacturer or
6 employee or spouse of any manufacturer shall have a substantial
7 interest in any other manufacturer, any distributor, any
8 manufacturer-distributor as defined in section 9-616 other than
9 itself, or any licensed organization or any other licensee
10 regulated under Chapter 9.

11 Sec. 13. Section 9-402, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 9-402. (1) The purpose of the Nebraska Lottery and
14 Raffle Act is to protect the health and welfare of the public, to
15 protect the economic welfare and interest in certain lotteries with
16 gross proceeds greater than one thousand dollars and certain
17 raffles with gross proceeds greater than five thousand dollars, to
18 insure that the profits derived from the operation of any such
19 lottery or raffle are accurately reported in order that their
20 revenue-raising potential be fully exposed, to insure that the
21 profits are used for legitimate purposes, and to prevent the
22 purposes for which the profits of any such lottery or raffle are to
23 be used from being subverted by improper elements.

24 (2) The purpose of the Nebraska Lottery and Raffle Act is
25 also to completely and fairly regulate each level of the
26 traditional marketing scheme of tickets or stubs for such lotteries
27 and raffles to insure fairness, quality, and compliance with the
28 Constitution of Nebraska. To accomplish such purpose, the

1 regulation and licensure of nonprofit organizations and any other
2 person involved in the marketing scheme are necessary.

3 (3) The Nebraska Lottery and Raffle Act shall apply to
4 all lotteries with gross proceeds in excess of one thousand
5 dollars, except for lotteries by the sale of pickle cards conducted
6 in accordance with the Nebraska Pickle Card Lottery Act, and
7 lotteries conducted by a county, city, or village in accordance
8 with the Nebraska County and City Lottery Act, and lottery games
9 conducted in accordance with the State Lottery Act, and to all
10 raffles with gross proceeds in excess of five thousand dollars.
11 All such lotteries and raffles shall be played and conducted only
12 by the methods permitted in the act. No other form, means of
13 selection, or method of play shall be allowed.

14 Sec. 14. Section 9-411, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 9-411. (1) Lottery shall mean a gambling scheme in which
17 (a) participants pay or agree to pay something of value for an
18 opportunity to win, (b) winning opportunities are represented by
19 tickets differentiated by sequential enumeration, and (c) winners
20 are determined by a random drawing of the tickets or by the method
21 set forth in section 9-426.01.

22 (2) Lottery shall not include (a) any raffle as defined
23 in section 9-415, (b) any gambling scheme which uses any
24 mechanical, computer, electronic, or video gaming device which has
25 the capability of awarding something of value, free games
26 redeemable for something of value, or tickets or stubs redeemable
27 for something of value, (c) any activity which is authorized or
28 regulated under the Nebraska Bingo Act, the Nebraska County and

1 City Lottery Act, the Nebraska Pickle Card Lottery Act, the
2 Nebraska Small Lottery and Raffle Act, ~~the State Lottery Act,~~
3 section 9-701, or Chapter 2, article 12, or (d) any activity which
4 is prohibited under Chapter 28, article 11.

5 Sec. 15. Section 9-415, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 9-415. (1) Raffle shall mean a gambling scheme in which
8 (a) participants pay or agree to pay something of value for an
9 opportunity to win, (b) winning opportunities are represented by
10 tickets differentiated by sequential enumeration, (c) winners are
11 determined by a random drawing of the tickets or by the method set
12 forth in section 9-426.01, and (d) at least eighty percent of all
13 of the prizes to be awarded are merchandise prizes which are not
14 directly or indirectly redeemable for cash by the licensed
15 organization conducting the raffle or any agent of the
16 organization.

17 (2) Raffle shall not include (a) any gambling scheme
18 which uses any mechanical, computer, electronic, or video gaming
19 device which has the capability of awarding something of value,
20 free games redeemable for something of value, or tickets or stubs
21 redeemable for something of value, (b) any activity which is
22 authorized or regulated under the Nebraska Bingo Act, the Nebraska
23 County and City Lottery Act, the Nebraska Pickle Card Lottery Act,
24 the Nebraska Small Lottery and Raffle Act, ~~the State Lottery Act,~~
25 section 9-701, or Chapter 2, article 12, or (c) activity which is
26 prohibited under Chapter 28, article 11.

27 Sec. 16. Section 9-418, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 9-418. The department shall have the following powers,
2 functions, and duties:

3 (1) To issue licenses, temporary licenses, and permits;

4 (2) To deny any license or permit application or renewal
5 application for cause. Cause for denial of an application or
6 renewal of a license or permit shall include instances in which the
7 applicant individually or, in the case of a nonprofit organization,
8 any officer, director, or employee of the applicant, licensee, or
9 permittee, other than an employee whose duties are purely
10 ministerial in nature, any other person or entity directly or
11 indirectly associated with such applicant, licensee, or permittee
12 which directly or indirectly receives compensation other than
13 distributions from a bona fide retirement plan established pursuant
14 to Chapter 1, subchapter D of the Internal Revenue Code from such
15 applicant, licensee, or permittee for past or present services in a
16 consulting capacity or otherwise, the licensee, the permittee, or
17 any person with a substantial interest in the applicant, licensee,
18 or permittee:

19 (a) Violated the provisions, requirements, conditions,
20 limitations, or duties imposed by the Nebraska Bingo Act, the
21 Nebraska County and City Lottery Act, the Nebraska Lottery and
22 Raffle Act, the Nebraska Pickle Card Lottery Act, or the Nebraska
23 Small Lottery and Raffle Act, ~~or the State Lottery Act~~ or any rules
24 or regulations adopted and promulgated pursuant to such acts;

25 (b) Knowingly caused, aided, abetted, or conspired with
26 another to cause any person to violate any of the provisions of
27 such acts or any rules or regulations adopted and promulgated
28 pursuant to such acts;

1 (c) Obtained a license or permit pursuant to the Nebraska
2 Bingo Act, the Nebraska County and City Lottery Act, the Nebraska
3 Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act by
4 fraud, misrepresentation, or concealment;

5 (d) Was convicted of, forfeited bond upon a charge of, or
6 pleaded guilty or nolo contendere to any offense or crime, whether
7 a felony or misdemeanor, involving any gambling activity or fraud,
8 theft, willful failure to make required payments or reports, or
9 filing false reports with a governmental agency at any level;

10 (e) Was convicted of, forfeited bond upon a charge of, or
11 pleaded guilty or nolo contendere to any felony other than those
12 described in subdivision (d) of this subdivision within the ten
13 years preceding the filing of the application;

14 (f) Denied the department or its authorized
15 representatives, including authorized law enforcement agencies,
16 access to any place where lottery or raffle activity required to be
17 licensed under the Nebraska Lottery and Raffle Act is being
18 conducted or failed to produce for inspection or audit any book,
19 record, document, or item required by law, rule, or regulation;

20 (g) Made a misrepresentation of or failed to disclose a
21 material fact to the department;

22 (h) Failed to prove by clear and convincing evidence his,
23 her, or its qualifications to be licensed in accordance with the
24 Nebraska Lottery and Raffle Act;

25 (i) Failed to pay any taxes and additions to taxes,
26 including penalties and interest, required by the Nebraska Bingo
27 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle
28 Card Lottery Act or any other taxes imposed pursuant to the

1 Nebraska Revenue Act of 1967;

2 (j) Failed to pay an administrative fine levied pursuant
3 to the Nebraska Bingo Act, the Nebraska County and City Lottery
4 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle
5 Card Lottery Act;

6 (k) Failed to demonstrate good character, honesty, and
7 integrity; or

8 (l) Failed to demonstrate, either individually or, in the
9 case of a nonprofit organization, through its managers or
10 employees, the ability, experience, or financial responsibility
11 necessary to establish or maintain the activity for which the
12 application is made.

13 No license renewal shall be issued when the applicant for
14 renewal would not be eligible for a license upon a first
15 application;

16 (3) To revoke, cancel, or suspend for cause any license
17 or permit. Cause for revocation, cancellation, or suspension of a
18 license or permit shall include instances in which the licensee or
19 permittee individually or, in the case of a nonprofit organization,
20 any officer, director, or employee of the licensee or permittee,
21 other than an employee whose duties are purely ministerial in
22 nature, any other person or entity directly or indirectly
23 associated with such licensee or permittee which directly or
24 indirectly receives compensation other than distributions from a
25 bona fide retirement plan established pursuant to Chapter 1,
26 subchapter D of the Internal Revenue Code from such licensee or
27 permittee for past or present services in a consulting capacity or
28 otherwise, or any person with a substantial interest in the

1 licensee or permittee:

2 (a) Violated the provisions, requirements, conditions,
3 limitations, or duties imposed by the Nebraska Bingo Act, the
4 Nebraska County and City Lottery Act, the Nebraska Lottery and
5 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
6 Small Lottery and Raffle Act, ~~the State Lottery Act,~~ or any rules
7 or regulations adopted and promulgated pursuant to such acts;

8 (b) Knowingly caused, aided, abetted, or conspired with
9 another to cause any person to violate any of the provisions of the
10 Nebraska Lottery and Raffle Act or any rules or regulations adopted
11 and promulgated pursuant to the act;

12 (c) Obtained a license or permit pursuant to the act by
13 fraud, misrepresentation, or concealment;

14 (d) Was convicted of, forfeited bond upon a charge of, or
15 pleaded guilty or nolo contendere to any offense or crime, whether
16 a felony or misdemeanor, involving any gambling activity or fraud,
17 theft, willful failure to make required payments or reports, or
18 filing false reports with a governmental agency at any level;

19 (e) Was convicted of, forfeited bond upon a charge of, or
20 pleaded guilty or nolo contendere to any felony other than those
21 described in subdivision (d) of this subdivision within the ten
22 years preceding filing of the application;

23 (f) Denied the department or its authorized
24 representatives, including authorized law enforcement agencies,
25 access to any place where lottery or raffle activity required to be
26 licensed under the Nebraska Lottery and Raffle Act is being
27 conducted or failed to produce for inspection or audit any book,
28 record, document, or item required by law, rule, or regulation;

1 (g) Made a misrepresentation of or failed to disclose a
2 material fact to the department;

3 (h) Failed to pay any taxes and additions to taxes,
4 including penalties and interest, required by the Nebraska Lottery
5 and Raffle Act;

6 (i) Failed to pay an administrative fine levied pursuant
7 to the Nebraska Bingo Act, the Nebraska County and City Lottery
8 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle
9 Card Lottery Act;

10 (j) Failed to demonstrate good character, honesty, and
11 integrity; or

12 (k) Failed to demonstrate, either individually or, in the
13 case of a nonprofit organization, through its managers or
14 employees, the ability, experience, or financial responsibility
15 necessary to maintain the activity for which the license was
16 issued;

17 (4) To examine or to cause to have examined, by any agent
18 or representative designated by the department for such purpose,
19 any books, papers, records, or memoranda relating to lottery or
20 raffle activities required to be licensed pursuant to the Nebraska
21 Lottery and Raffle Act, to require by summons the production of
22 such documents or the attendance of any person having knowledge in
23 the premises, to take testimony under oath, and to require proof
24 material for its information. If any such person willfully refuses
25 to make documents available for examination by the department or
26 its agent or representative or willfully fails to attend and
27 testify, the department may apply to a judge of the district court
28 of the county in which such person resides for an order directing

1 such person to comply with the department's request. If any
2 documents requested by the department are in the custody of a
3 corporation, the court order may be directed to any principal
4 officer of the corporation. Any person who fails or refuses to
5 obey such a court order shall be guilty of contempt of court;

6 (5) To levy an administrative fine on an individual,
7 partnership, limited liability company, corporation, or
8 organization for cause. For purposes of this subdivision, cause
9 shall include instances in which the individual, partnership,
10 limited liability company, corporation, or organization violated
11 the provisions, requirements, conditions, limitations, or duties
12 imposed by the act or any rule or regulation adopted and
13 promulgated pursuant to the act. In determining whether to levy an
14 administrative fine and the amount of the fine if any fine is
15 levied, the department shall take into consideration the
16 seriousness of the violation, the intent of the violator, whether
17 the violator voluntarily reported the violation, whether the
18 violator derived financial gain as a result of the violation and
19 the extent thereof, and whether the violator has had previous
20 violations of the act, rules, or regulations. A fine levied on a
21 violator under this section shall not exceed one thousand dollars
22 for each violation of the act or any rule or regulation adopted and
23 promulgated pursuant to the act plus the financial benefit derived
24 by the violator as a result of each violation. If an
25 administrative fine is levied, the fine shall not be paid from
26 lottery or raffle gross proceeds of an organization and shall be
27 remitted by the violator to the department within thirty days after
28 the date of the order issued by the department levying such fine;

1 (6) Unless specifically provided otherwise, to compute,
2 determine, assess, and collect the amounts required to be paid to
3 the state as taxes imposed by the act in the same manner as
4 provided for sales and use taxes in the Nebraska Revenue Act of
5 1967;

6 (7) To confiscate and seize lottery or raffle tickets or
7 stubs pursuant to section 9-432; and

8 (8) To adopt and promulgate such rules and regulations,
9 prescribe such forms, and employ such staff, including inspectors,
10 as are necessary to carry out the Nebraska Lottery and Raffle Act.

11 Sec. 17. Section 9-419, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 9-419. (1) The Tax Commissioner may suspend any license
14 or permit, except that no order to suspend any license or permit
15 shall be issued unless the department determines that the licensee
16 or permittee is not operating in accordance with the purposes and
17 intent of the Nebraska Bingo Act, the Nebraska County and City
18 Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska
19 Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act,
20 ~~the State Lottery Act~~, or any rules or regulations adopted and
21 promulgated pursuant to such acts.

22 (2) Before any license or permit is suspended prior to a
23 hearing, notice of an order to suspend a license or permit shall be
24 mailed to or personally served upon the licensee or permittee at
25 least fifteen days before the order of suspension takes effect.

26 (3) The order of suspension may be withdrawn if the
27 licensee or permittee provides the department with evidence that
28 any prior findings or violations have been corrected and that the

1 licensee or permittee is now in full compliance, whether before or
2 after the effective date of the order of suspension.

3 (4) The Tax Commissioner may issue an order of suspension
4 pursuant to subsections (1) and (2) of this section when an action
5 for suspension, cancellation, or revocation is pending. The Tax
6 Commissioner may also issue an order of suspension after a hearing
7 for a limited time of up to one year without an action for
8 cancellation or revocation pending.

9 (5) The hearing for suspension, cancellation, or
10 revocation of the license or permit shall be held within twenty
11 days after the date the suspension takes effect. A request by the
12 licensee or permittee to hold the hearing after the end of the
13 twenty-day period shall extend the suspension until the hearing.

14 (6) The decision of the department shall be made within
15 twenty days after the conclusion of the hearing. The suspension
16 shall continue in effect until the decision is issued. If the
17 decision is that an order of suspension, revocation, or
18 cancellation is not appropriate, the suspension shall terminate
19 immediately by order of the Tax Commissioner. If the decision is
20 an order for the suspension, revocation, or cancellation of the
21 license or permit, the suspension shall continue pending an appeal
22 of the decision of the department.

23 (7) Any period of suspension prior to the issuance of an
24 order of suspension shall count toward the total amount of time a
25 licensee may be suspended from gaming activities under the Nebraska
26 Lottery and Raffle Act. Any period of suspension prior to the
27 issuance of an order of cancellation shall not reduce the period of
28 the cancellation. Any period of suspension after the issuance of

1 the order and during an appeal shall be counted as a part of the
2 period of cancellation.

3 Sec. 18. Section 9-422, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 9-422. No person, except a licensed organization
6 operating pursuant to the Nebraska Lottery and Raffle Act, shall
7 conduct any lottery with gross proceeds in excess of one thousand
8 dollars or any raffle with gross proceeds in excess of five
9 thousand dollars. Any lottery or raffle conducted in violation of
10 this section is hereby declared to be a public nuisance. Any
11 person who violates this section shall be guilty of a Class III
12 misdemeanor. Nothing in this section shall be construed to apply
13 to any lottery conducted in accordance with the Nebraska County and
14 City Lottery Act, or any lottery by the sale of pickle cards
15 conducted in accordance with the Nebraska Pickle Card Lottery Act.
16 ~~, or any lottery game conducted pursuant to the State Lottery Act.~~

17 Sec. 19. Section 9-502, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 9-502. The purpose of the Nebraska Small Lottery and
20 Raffle Act is to allow qualifying nonprofit organizations to
21 conduct lotteries with gross proceeds not greater than one thousand
22 dollars or raffles with gross proceeds not greater than five
23 thousand dollars subject to minimal regulation. The Nebraska Small
24 Lottery and Raffle Act shall apply to all lotteries with gross
25 proceeds not greater than one thousand dollars, except for
26 lotteries by the sale of pickle cards conducted in accordance with
27 the Nebraska Pickle Card Lottery Act, and lotteries conducted by a
28 county, city, or village in accordance with the Nebraska County and

1 City Lottery Act, ~~and lottery games conducted pursuant to the State~~
2 ~~Lottery Act,~~ and to all raffles with gross proceeds not greater
3 than five thousand dollars. All such lotteries and raffles shall
4 be played and conducted only by the methods permitted in the act.
5 No other form or method shall be authorized or permitted.

6 Sec. 20. Section 9-507, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 9-507. (1) Lottery shall mean a gambling scheme in which
9 (a) participants pay or agree to pay something of value for an
10 opportunity to win, (b) winning opportunities are represented by
11 tickets differentiated by sequential enumeration, (c) the winners
12 are to be determined by a random drawing of the tickets, and (d)
13 the holders of the winning tickets are to receive something of
14 value.

15 (2) Lottery shall not include (a) any raffle, (b) any
16 gambling scheme which uses any mechanical, computer, electronic, or
17 video gaming device which has the capability of awarding something
18 of value, free games redeemable for something of value, or tickets
19 or stubs redeemable for something of value, (c) any activity
20 authorized or regulated under the Nebraska Bingo Act, the Nebraska
21 County and City Lottery Act, the Nebraska Lottery and Raffle Act,
22 the Nebraska Pickle Card Lottery Act, ~~the State Lottery Act,~~
23 section 9-701, or Chapter 2, article 12, or (d) any activity
24 prohibited under Chapter 28, article 11.

25 Sec. 21. Section 9-509, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 9-509. (1) Raffle shall mean a gambling scheme in which
28 (a) participants pay or agree to pay something of value for an

1 opportunity to win, (b) winning opportunities are represented by
2 tickets differentiated by sequential enumeration, (c) winners are
3 to be determined by a random drawing of tickets, and (d) at least
4 eighty percent of all of the prizes to be awarded are merchandise
5 prizes which are not directly or indirectly redeemable for cash by
6 the qualifying nonprofit organization conducting the raffle or any
7 agent of the organization.

8 (2) Raffle shall not include (a) any gambling scheme
9 which uses any mechanical, computer, electronic, or video gaming
10 device which has the capability of awarding something of value,
11 free games redeemable for something of value, or tickets or stubs
12 redeemable for something of value, (b) any activity authorized or
13 regulated under the Nebraska Bingo Act, the Nebraska County and
14 City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska
15 Pickle Card Lottery Act, ~~the State Lottery Act,~~ section 9-701, or
16 Chapter 2, article 12, or (c) any activity prohibited under Chapter
17 28, article 11.

18 Sec. 22. Section 9-607, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 9-607. (1) Lottery shall mean a gambling scheme in
21 which:

22 (a) The players pay or agree to pay something of value
23 for an opportunity to win;

24 (b) Winning opportunities are represented by tickets;

25 (c) Winners are solely determined by one of the following
26 two methods:

27 (i) By a random drawing of tickets differentiated by
28 sequential enumeration from a receptacle by hand whereby each

1 ticket has an equal chance of being chosen in the drawing; or

2 (ii) By use of a game known as keno in which a player
3 selects up to twenty numbers from a total of eighty numbers on a
4 paper ticket and a computer, other electronic selection device, or
5 electrically operated blower machine which is not player-activated
6 randomly selects up to twenty numbers from the same pool of eighty
7 numbers and the winning players are determined by the correct
8 matching of the numbers on the paper ticket selected by the players
9 with the numbers randomly selected by the computer, other
10 electronic selection device, or electrically operated blower
11 machine, except that no keno game shall permit or require player
12 access or activation of lottery equipment and the random selection
13 of numbers by the computer, other electronic selection device, or
14 electrically operated blower machine shall not occur within five
15 minutes of the completion of the previous selection of random
16 numbers; and

17 (d) The holders of the winning paper tickets are to
18 receive cash or prizes redeemable for cash. Selection of a winner
19 or winners shall be predicated solely on chance.

20 (2) Lottery shall not include:

21 (a) Any gambling scheme which uses any mechanical gaming
22 device, computer gaming device, electronic gaming device, or video
23 gaming device which has the capability of awarding something of
24 value, free games redeemable for something of value, or tickets or
25 stubs redeemable for something of value;

26 (b) Any activity authorized or regulated under the
27 Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the
28 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and

1 Raffle Act, ~~the State Lottery Act~~, section 9-701, or Chapter 2,
2 article 12; or

3 (c) Any activity prohibited under Chapter 28, article 11.

4 (3) Notwithstanding the requirement in subdivision
5 (1)(c)(ii) of this section that a player select up to twenty
6 numbers, a player may select more than twenty numbers on a paper
7 ticket when a top or bottom, left or right, edge, or way ticket is
8 played. For a top or bottom ticket, the player shall select all
9 numbers from one through forty or all numbers from forty-one
10 through eighty. For a left or right ticket, the player shall
11 select all numbers ending in one through five or all numbers ending
12 in six through zero. For an edge ticket, the player shall select
13 all of the numbers comprising the outside edge of the ticket. For
14 a way ticket, the player shall select a combination of groups of
15 numbers in multiple ways on a single ticket.

16 (4) A county, city, or village conducting a keno lottery
17 shall designate the method of winning number selection to be used
18 in the lottery and submit such designation in writing to the
19 department prior to conducting a keno lottery. Only those methods
20 of winning number selection described in subdivision (1)(c)(ii) of
21 this section shall be permitted, and the method of winning number
22 selection initially utilized may only be changed once during that
23 business day as set forth in the designation. A county, city, or
24 village shall not change the method or methods of winning number
25 selection filed with the department or allow it to be changed once
26 such initial designation has been made unless (a) otherwise
27 authorized in writing by the department based upon a written
28 request from the county, city, or village or (b) an emergency

1 arises in which case a ball draw method of number selection would
2 be switched to a number selection by a random number generator. An
3 emergency situation shall be reported by the county, city, or
4 village to the department within twenty-four hours of its
5 occurrence.

6 Sec. 23. Section 9-620, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 9-620. The department shall have the following powers,
9 functions, and duties:

10 (1) To issue licenses and temporary licenses;

11 (2) To deny any license application or renewal
12 application for cause. Cause for denial of an application or
13 renewal of a license shall include instances in which the applicant
14 individually, or in the case of a business entity, any officer,
15 director, employee, or limited liability company member of the
16 applicant or licensee other than an employee whose duties are
17 purely ministerial in nature, any other person or entity directly
18 or indirectly associated with such applicant or licensee which
19 directly or indirectly receives compensation other than
20 distributions from a bona fide retirement or pension plan
21 established pursuant to Chapter 1, subchapter D of the Internal
22 Revenue Code from such applicant or licensee for past or present
23 services in a consulting capacity or otherwise, the licensee, or
24 any person with a substantial interest in the applicant or
25 licensee:

26 (a) Violated the provisions, requirements, conditions,
27 limitations, or duties imposed by the Nebraska Bingo Act, the
28 Nebraska County and City Lottery Act, the Nebraska Lottery and

1 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
2 Small Lottery and Raffle Act, ~~the State Lottery Act~~, or any rules
3 or regulations adopted and promulgated pursuant to such acts;

4 (b) Knowingly caused, aided, abetted, or conspired with
5 another to cause any person to violate any of the provisions of
6 such acts or any rules or regulations adopted and promulgated
7 pursuant to such acts;

8 (c) Obtained a license or permit pursuant to such acts by
9 fraud, misrepresentation, or concealment;

10 (d) Was convicted of, forfeited bond upon a charge of, or
11 pleaded guilty or nolo contendere to any offense or crime, whether
12 a felony or a misdemeanor, involving any gambling activity or
13 fraud, theft, willful failure to make required payments or reports,
14 or filing false reports with a governmental agency at any level;

15 (e) Was convicted of, forfeited bond upon a charge of, or
16 pleaded guilty or nolo contendere to any felony other than those
17 described in subdivision (d) of this subdivision within the ten
18 years preceding the filing of the application;

19 (f) Denied the department or its authorized
20 representatives, including authorized law enforcement agencies,
21 access to any place where activity required to be licensed under
22 the Nebraska County and City Lottery Act is being conducted or
23 failed to produce for inspection or audit any book, record,
24 document, or item required by law, rule, or regulation;

25 (g) Made a misrepresentation of or failed to disclose a
26 material fact to the department;

27 (h) Failed to prove by clear and convincing evidence his,
28 her, or its qualifications to be licensed in accordance with the

1 Nebraska County and City Lottery Act;

2 (i) Failed to pay any taxes and additions to taxes,
3 including penalties and interest, required by the Nebraska Bingo
4 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery
5 and Raffle Act, or the Nebraska Pickle Card Lottery Act or any
6 other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

7 (j) Failed to pay an administrative fine levied pursuant
8 to the Nebraska Bingo Act, the Nebraska County and City Lottery
9 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle
10 Card Lottery Act;

11 (k) Failed to demonstrate good character, honesty, and
12 integrity; or

13 (l) Failed to demonstrate, either individually or in the
14 case of a business entity through its managers, employees, or
15 agents, the ability, experience, or financial responsibility
16 necessary to establish or maintain the activity for which the
17 application is made.

18 No license renewal shall be issued when the applicant for
19 renewal would not be eligible for a license upon a first
20 application;

21 (3) To revoke, cancel, or suspend for cause any license.
22 Cause for revocation, cancellation, or suspension of a license
23 shall include instances in which the licensee individually, or in
24 the case of a business entity, any officer, director, employee, or
25 limited liability company member of the licensee other than an
26 employee whose duties are purely ministerial in nature, any other
27 person or entity directly or indirectly associated with such
28 licensee which directly or indirectly receives compensation other

1 than distributions from a bona fide retirement or pension plan
2 established pursuant to Chapter 1, subchapter D of the Internal
3 Revenue Code from such licensee for past or present services in a
4 consulting capacity or otherwise, or any person with a substantial
5 interest in the licensee:

6 (a) Violated the provisions, requirements, conditions,
7 limitations, or duties imposed by the Nebraska Bingo Act, the
8 Nebraska County and City Lottery Act, the Nebraska Lottery and
9 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
10 Small Lottery and Raffle Act, ~~the State Lottery Act,~~ or any rules
11 or regulations adopted and promulgated pursuant to such acts;

12 (b) Knowingly caused, aided, abetted, or conspired with
13 another to cause any person to violate any of the provisions of the
14 Nebraska County and City Lottery Act or any rules or regulations
15 adopted and promulgated pursuant to the act;

16 (c) Obtained a license pursuant to the Nebraska County
17 and City Lottery Act by fraud, misrepresentation, or concealment;

18 (d) Was convicted of, forfeited bond upon a charge of, or
19 pleaded guilty or nolo contendere to any offense or crime, whether
20 a felony or a misdemeanor, involving any gambling activity or
21 fraud, theft, willful failure to make required payments or reports,
22 or filing false reports with a governmental agency at any level;

23 (e) Was convicted of, forfeited bond upon a charge of, or
24 pleaded guilty or nolo contendere to any felony other than those
25 described in subdivision (d) of this subdivision within the ten
26 years preceding the filing of the application;

27 (f) Denied the department or its authorized
28 representatives, including authorized law enforcement agencies,

1 access to any place where activity required to be licensed under
2 the Nebraska County and City Lottery Act is being conducted or
3 failed to produce for inspection or audit any book, record,
4 document, or item required by law, rule, or regulation;

5 (g) Made a misrepresentation of or failed to disclose a
6 material fact to the department;

7 (h) Failed to pay any taxes and additions to taxes,
8 including penalties and interest, required by the Nebraska County
9 and City Lottery Act;

10 (i) Failed to pay an administrative fine levied pursuant
11 to the Nebraska Bingo Act, the Nebraska County and City Lottery
12 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle
13 Card Lottery Act;

14 (j) Failed to demonstrate good character, honesty, and
15 integrity; or

16 (k) Failed to demonstrate, either individually or in the
17 case of a business entity through its managers, employees, or
18 agents, the ability, experience, or financial responsibility
19 necessary to maintain the activity for which the license was
20 issued;

21 (4) To issue and cause to be served upon any licensee or
22 other person an order requiring the licensee or other person to
23 cease and desist from violations of the Nebraska County and City
24 Lottery Act. The order shall give reasonable notice of the rights
25 of the licensee or other person to request a hearing and shall
26 state the reason for the entry of the order. A hearing shall be
27 held not later than seven days after the request for the hearing is
28 received by the Tax Commissioner, and within twenty days after the

1 date of the hearing, the Tax Commissioner shall issue an order
2 vacating the cease and desist order or making it permanent as the
3 facts require. All hearings shall be held in accordance with the
4 rules and regulations adopted and promulgated by the department.
5 If the licensee or other person to whom a cease and desist order is
6 issued fails to appear at the hearing after being duly notified,
7 the licensee or other person shall be deemed in default and the
8 proceeding may be determined against the licensee or other person
9 upon consideration of the cease and desist order, the allegations
10 of which may be deemed to be true;

11 (5) To levy an administrative fine on an individual,
12 partnership, limited liability company, corporation, or
13 organization for cause. For purposes of this subdivision, cause
14 shall include instances in which the individual, partnership,
15 limited liability company, corporation, or organization violated
16 the provisions, requirements, conditions, limitations, or duties
17 imposed by the act or any rule or regulation adopted and
18 promulgated pursuant to the act. In determining whether to levy an
19 administrative fine and the amount of the fine if any fine is
20 levied, the department shall take into consideration the
21 seriousness of the violation, the intent of the violator, whether
22 the violator voluntarily reported the violation, whether the
23 violator derived financial gain as a result of the violation and
24 the extent thereof, and whether the violator has had previous
25 violations of the act and regulations. A fine levied on a violator
26 under this section shall not exceed twenty-five thousand dollars
27 for each violation of the act or any rules and regulations adopted
28 and promulgated pursuant to the act plus the financial benefit

1 derived by the violator as a result of each violation. If an
2 administrative fine is levied, the fine shall not be paid from
3 lottery gross proceeds of the county, city, or village and shall be
4 remitted by the violator to the department within thirty days from
5 the date of the order issued by the department levying such fine;

6 (6) To enter or to authorize any law enforcement officer
7 to enter at any time upon any premises where lottery activity
8 required to be licensed under the act is being conducted to
9 determine whether any of the provisions of the act or any rules or
10 regulations adopted and promulgated under it have been or are being
11 violated and at such time to examine such premises;

12 (7) To require periodic reports of lottery activity from
13 licensed counties, cities, villages, manufacturer-distributors, and
14 lottery operators and any other persons, organizations, limited
15 liability companies, or corporations as the department deems
16 necessary to carry out the act;

17 (8) To audit, examine, or cause to have examined, by any
18 agent or representative designated by the department for such
19 purpose, any books, papers, records, or memoranda relating to the
20 conduct of a lottery, to require by administrative order or summons
21 the production of such documents or the attendance of any person
22 having knowledge in the premises, to take testimony under oath, and
23 to require proof material for its information. If any such person
24 willfully refuses to make documents available for examination by
25 the department or its agent or representative or willfully fails to
26 attend and testify, the department may apply to a judge of the
27 district court of the county in which such person resides for an
28 order directing such person to comply with the department's

1 request. If any documents requested by the department are in the
2 custody of a corporation, the court order may be directed to any
3 principal officer of the corporation. If the documents requested
4 by the department are in the custody of a limited liability
5 company, the court order may be directed to any member when
6 management is reserved to the members or otherwise to any manager.
7 Any person who fails or refuses to obey such a court order shall be
8 guilty of contempt of court;

9 (9) Unless specifically provided otherwise, to compute,
10 determine, assess, and collect the amounts required to be paid as
11 taxes imposed by the act in the same manner as provided for sales
12 and use taxes in the Nebraska Revenue Act of 1967;

13 (10) To confiscate and seize lottery equipment or
14 supplies pursuant to section 9-649;

15 (11) To investigate the activities of any person applying
16 for a license under the Nebraska County and City Lottery Act or
17 relating to the conduct of any lottery activity under the act. Any
18 license applicant or licensee shall produce such information,
19 documentation, and assurances as may be required by the department
20 to establish by a preponderance of the evidence the financial
21 stability, integrity, and responsibility of the applicant or
22 licensee, including, but not limited to, bank account references,
23 business and personal income and disbursement schedules, tax
24 returns and other reports filed with governmental agencies,
25 business entity and personal accounting records, and check records
26 and ledgers. Any such license applicant or licensee shall
27 authorize the department to examine bank accounts and other such
28 records as may be deemed necessary by the department;

1 (12) To adopt and promulgate such rules and regulations
2 and prescribe all forms as are necessary to carry out the act; and

3 (13) To employ staff, including auditors and inspectors,
4 as necessary to carry out the act.

5 Sec. 24. Section 14-102, Revised Statutes Supplement,
6 1999, is amended to read:

7 14-102. In addition to the powers granted in section
8 14-101, cities of the metropolitan class shall have power by
9 ordinance:

10 Taxes, special assessments.

11 (1) To levy any tax or special assessment authorized by
12 law;

13 Corporate seal.

14 (2) To provide a corporate seal for the use of the city,
15 and also any official seal for the use of any officer, board, or
16 agent of the city, whose duties under this act or under any
17 ordinance require an official seal to be used. Such corporate seal
18 shall be used in the execution of municipal bonds, warrants,
19 conveyances, and other instruments and proceedings as this act or
20 the ordinances of the city require;

21 Regulation of public health.

22 (3) To provide all needful rules and regulations for the
23 protection and preservation of health within the city; and for this
24 purpose they may provide for the enforcement of the use of water
25 from public water supplies when the use of water from other sources
26 shall be deemed unsafe;

27 Appropriations for debts and expenses.

28 (4) To appropriate money and provide for the payment of

1 debts and expenses of the city;

2 Protection of strangers and travelers.

3 (5) To adopt all such measures as they may deem necessary
4 for the accommodation and protection of strangers and the traveling
5 public in person and property;

6 Concealed weapons, firearms, fireworks, explosives.

7 (6) To punish and prevent the carrying of concealed
8 weapons and the discharge of firearms, fireworks, or explosives of
9 any description within the city;

10 Sale of foodstuffs.

11 (7) To regulate the inspection and sale of meats, flour,
12 poultry, fish, milk, vegetables, and all other provisions or
13 articles of food exposed or offered for sale in the city;

14 Official bonds.

15 (8) To require all officers or servants elected or
16 appointed in pursuance of this act to give bond and security for
17 the faithful performance of their duties; but no officer shall
18 become security upon the official bond of another or upon any bond
19 executed to the city;

20 Official reports of city officers.

21 (9) To require from any officer of the city at any time a
22 report, in detail, of the transactions of his or her office or any
23 matter connected therewith;

24 Cruelty to children and animals.

25 (10) To provide for the prevention of cruelty to children
26 and animals;

27 Dogs; taxes and restrictions.

28 (11) To regulate, license, or prohibit the running at

1 large of dogs and other animals within the city as well as in areas
2 within three miles of the corporate limits of the city, to guard
3 against injuries or annoyance from such dogs and other animals, and
4 to authorize the destruction of the dogs and other animals when
5 running at large contrary to the provisions of any ordinance. Any
6 licensing provision shall comply with subsection (2) of section
7 54-603 for dog guides, hearing aid dogs, and service dogs;

8 Cleaning sidewalks.

9 (12) To provide for keeping sidewalks clean and free from
10 obstructions and accumulations, to provide for the assessment and
11 collection of taxes on real estate and for the sale and conveyance
12 thereof, and to pay the expenses of keeping the sidewalk adjacent
13 to such real estate clean and free from obstructions and
14 accumulations as herein provided;

15 Planting and trimming of trees; protection of birds.

16 (13) To provide for the planting and protection of shade
17 or ornamental and useful trees upon the streets or boulevards, to
18 assess the cost thereof to the extent of benefits upon the abutting
19 property as a special assessment, and to provide for the protection
20 of birds and animals and their nests; to provide for the trimming
21 of trees located upon the streets and boulevards or when the
22 branches of trees overhang the streets and boulevards when in the
23 judgment of the mayor and council such trimming is made necessary
24 to properly light such street or boulevard or to furnish proper
25 police protection and to assess the cost thereof upon the abutting
26 property as a special assessment;

27 Naming and numbering streets and houses.

28 (14) To provide for, regulate, and require the numbering

1 or renumbering of houses along public streets or avenues; to care
2 for and control and to name and rename streets, avenues, parks, and
3 squares within the city;

4 Weeds.

5 (15) To require weeds and worthless vegetation growing
6 upon any lot or piece of ground within the city to be cut and
7 destroyed so as to abate any nuisance occasioned thereby, to
8 prohibit and control the throwing, depositing, or accumulation of
9 litter on any lot or piece of ground within the city and to require
10 the removal thereof so as to abate any nuisance occasioned thereby,
11 and if the owner fails to cut and destroy weeds and worthless
12 vegetation or remove litter, or both, after notice as required by
13 ordinance, to assess the cost thereof upon the lots or lands as a
14 special assessment. The notice required to be given may be by
15 publication in the official newspaper of the city and may be
16 directed in general terms to the owners of lots and lands affected
17 without naming such owners;

18 Animals running at large.

19 (16) To prohibit and regulate the running at large or the
20 herding or driving of domestic animals, such as hogs, cattle,
21 horses, sheep, goats, fowls, or animals of any kind or description
22 within the corporate limits and provide for the impounding of all
23 animals running at large, herded, or driven contrary to such
24 prohibition; and to provide for the forfeiture and sale of animals
25 impounded to pay the expense of taking up, caring for, and selling
26 such impounded animals, including the cost of advertising and fees
27 of officers;

28 Use of streets.

1 (17) To regulate the transportation of articles through
2 the streets, to prevent injuries to the streets from overloaded
3 vehicles, and to regulate the width of wagon tires and tires of
4 other vehicles;

5 Playing on streets and sidewalks.

6 (18) To prevent or regulate the rolling of hoops, playing
7 of ball, flying of kites, the riding of bicycles or tricycles, or
8 any other amusement or practice having a tendency to annoy persons
9 passing in the streets or on the sidewalks or to frighten teams or
10 horses; to regulate the use of vehicles propelled by steam, gas,
11 electricity, or other motive power, operated on the streets of the
12 city;

13 Combustibles and explosives.

14 (19) To regulate or prohibit the transportation and
15 keeping of gunpowder, oils, and other combustible and explosive
16 articles;

17 Public sale of chattels on streets.

18 (20) To regulate, license, or prohibit the sale of
19 domestic animals or of goods, wares, and merchandise at public
20 auction on the streets, alleys, highways, or any public ground
21 within the city;

22 Signs and obstruction in streets.

23 (21) To regulate and prevent the use of streets,
24 sidewalks, and public grounds for signs, posts, awnings, awning
25 posts, scales, or other like purposes; to regulate and prohibit the
26 exhibition or carrying or conveying of banners, placards,
27 advertisements, or the distribution or posting of advertisements or
28 handbills in the streets or public grounds or upon the sidewalks;

1 Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
2 Card Lottery Act, or the Nebraska Small Lottery and Raffle Act; ~~7~~
3 ~~or the State Lottery Act;~~

4 Police regulation in general.

5 (25) To make and enforce all police regulations for the
6 good government, general welfare, health, safety, and security of
7 the city and the citizens thereof in addition to the police powers
8 expressly granted herein; and in the exercise of the police power,
9 to pass all needful and proper ordinances and impose fines,
10 forfeitures, penalties, and imprisonment at hard labor for the
11 violation of any ordinance, and to provide for the recovery,
12 collection, and enforcement thereof; and in default of payment to
13 provide for confinement in the city or county prison, workhouse, or
14 other place of confinement with or without hard labor as may be
15 provided by ordinance;

16 Fast driving on streets.

17 (26) To prevent horseracing and immoderate driving or
18 riding on the street and to compel persons to fasten their horses
19 or other animals attached to vehicles while standing in the
20 streets;

21 Libraries, art galleries, and museums.

22 (27) To establish and maintain public libraries, reading
23 rooms, art galleries, and museums and to provide the necessary
24 grounds or buildings therefor; to purchase books, papers, maps,
25 manuscripts, works of art, and objects of natural or of scientific
26 curiosity, and instruction therefor; to receive donations and
27 bequests of money or property for the same in trust or otherwise
28 and to pass necessary bylaws and regulations for the protection and

1 government of the same;

2 Hospitals, workhouses, jails, firehouses, etc.; garbage disposal.

3 (28) To erect, designate, establish, maintain, and
4 regulate hospitals or workhouses, houses of correction, jails,
5 station houses, fire engine houses, asphalt repair plants, and
6 other necessary buildings; and to erect, designate, establish,
7 maintain, and regulate plants for the removal, disposal, or
8 recycling of garbage and refuse or to make contracts for garbage
9 and refuse removal, disposal, or recycling, or all of the same, and
10 to charge equitable fees for such removal, disposal, or recycling,
11 or all of the same, except as hereinafter provided. The fees
12 collected pursuant to this subdivision shall be credited to a
13 single fund to be used exclusively by the city for the removal,
14 disposal, or recycling of garbage and refuse, or all of the same,
15 including any costs incurred for collecting the fee. Before any
16 contract for such removal, disposal, or recycling is let, the city
17 council shall make specifications therefor, bids shall be
18 advertised for as now provided by law, and the contract shall be
19 let to the lowest and best bidder, who shall furnish bond to the
20 city conditioned upon his or her carrying out the terms of the
21 contract, the bond to be approved by the city council. Nothing in
22 this act, and no contract or regulation made by the city council,
23 shall be so construed as to prohibit any person, firm, or
24 corporation engaged in any business in which garbage or refuse
25 accumulates as a byproduct from selling, recycling, or otherwise
26 disposing of his, her, or its garbage or refuse or hauling such
27 garbage or refuse through the streets and alleys under such uniform
28 and reasonable regulations as the city council may by ordinance

1 prescribe for the removal and hauling of garbage or refuse;

2 Market places.

3 (29) To erect and establish market houses and market
4 places and to provide for the erection of all other useful and
5 necessary buildings for the use of the city and for the protection
6 and safety of all property owned by the city; and such market
7 houses and market places and buildings aforesaid may be located on
8 any street, alley, or public ground or on land purchased for such
9 purpose;

10 Cemeteries, registers of births and deaths.

11 (30) To prohibit the establishment of additional
12 cemeteries within the limits of the city, to regulate the
13 registration of births and deaths, to direct the keeping and
14 returning of bills of mortality, and to impose penalties on
15 physicians, sextons, and others for any default in the premises;

16 Plumbing, etc., inspection.

17 (31) To provide for the inspection of steam boilers,
18 electric light appliances, pipefittings, and plumbings, to regulate
19 their erection and construction, to appoint inspectors, and to
20 declare their powers and duties, except as herein otherwise
21 provided;

22 Fire limits and fire protection.

23 (32) To prescribe fire limits and regulate the erection
24 of all buildings and other structures within the corporate limits;
25 to provide for the removal of any buildings or structures or
26 additions thereto erected contrary to such regulations, to provide
27 for the removal of dangerous buildings, and to provide that wooden
28 buildings shall not be erected or placed or repaired in the fire

1 limits; but such ordinance shall not be suspended or modified by
2 resolution nor shall exceptions be made by ordinance or resolution
3 in favor of any person, firm, or corporation or concerning any
4 particular lot or building; to direct that all and any building
5 within such fire limits, when the same shall have been damaged by
6 fire, decay, or otherwise, to the extent of fifty percent of the
7 value of a similar new building above the foundation, shall be torn
8 down or removed; and to prescribe the manner of ascertaining such
9 damages and to assess the cost of removal of any building erected
10 or existing contrary to such regulations or provisions, against the
11 lot or real estate upon which such building or structure is located
12 or shall be erected, or to collect such costs from the owner of any
13 such building or structure and enforce such collection by civil
14 action in any court of competent jurisdiction;

15

Building regulations.

16 (33) To regulate the construction, use, and maintenance
17 of party walls, to prescribe and regulate the thickness, strength,
18 and manner of constructing stone, brick, wood, or other buildings
19 and the size and shape of brick and other material placed therein,
20 to prescribe and regulate the construction and arrangement of fire
21 escapes and the placing of iron and metallic shutters and doors
22 therein and thereon, and to provide for the inspection of elevators
23 and hoist-way openings to avoid accidents; to prescribe, regulate,
24 and provide for the inspection of all plumbing, pipefitting, or
25 sewer connections in all houses or buildings now or hereafter
26 erected; to regulate the size, number, and manner of construction
27 of halls, doors, stairways, seats, aisles, and passageways of
28 theaters, tenement houses, audience rooms, and all buildings of a

1 public character, whether now built or hereafter to be built, so
2 that there may be convenient, safe, and speedy exit in case of
3 fire; to prevent the dangerous construction and condition of
4 chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers,
5 and heating appliances used in or about any building or a
6 manufactory and to cause the same to be removed or placed in safe
7 condition when they are considered dangerous; to regulate and
8 prevent the carrying on of manufactures dangerous in causing and
9 promoting fires; to prevent the deposit of ashes in unsafe places
10 and to cause such buildings and enclosures as may be in a dangerous
11 state to be put in a safe condition; to prevent the disposing of
12 and delivery or use in any building or other structure, of soft,
13 shelly, or imperfectly burned brick or other unsuitable building
14 material within the city limits and provide for the inspection of
15 the same; to provide for the abatement of dense volumes of smoke;
16 to regulate the construction of areaways, stairways, and vaults and
17 to regulate partition fences; to enforce proper heating and
18 ventilation of buildings used for schools, workhouses, or shops of
19 every class in which labor is employed or large numbers of persons
20 are liable to congregate;

21 Warehouses and street railways.

22 (34) To regulate levees, depots and depot grounds, and
23 places for storing freight and goods and to provide for and
24 regulate the laying of tracks and the passage of steam or other
25 railways through the streets, alleys, and public grounds of the
26 city;

27 Lighting railroad property.

28 (35) To require the lighting of any railway within the

1 city, the cars of which are propelled by steam, and to fix and
2 determine the number, size, and style of lampposts, burners, lamps,
3 and all other fixtures and apparatus necessary for such lighting
4 and the points of location for such lampposts; and in case any
5 company owning or operating such railways shall fail to comply with
6 such requirements, the council may cause the same to be done and
7 may assess the expense thereof against such company, and the same
8 shall constitute a lien upon any real estate belonging to such
9 company and lying within such city and may be collected in the same
10 manner as taxes for general purposes;

11 City publicity.

12 (36) To provide for necessary publicity and to
13 appropriate money for the purpose of advertising the resources and
14 advantages of the city;

15 Offstreet parking.

16 (37) To erect, establish, and maintain offstreet parking
17 areas on publicly owned property located beneath any elevated
18 segment of the National System of Interstate and Defense Highways
19 or portion thereof, or public property title to which is in the
20 city on May 12, 1971, or property owned by the city and used in
21 conjunction with and incidental to city-operated facilities, and to
22 regulate parking thereon by time limitation devises or by lease;

23 Public passenger transportation systems.

24 (38) To acquire, by the exercise of the power of eminent
25 domain or otherwise, lease, purchase, construct, own, maintain,
26 operate, or contract for the operation of public passenger
27 transportation systems, excluding taxicabs and railroad systems,
28 including all property and facilities required therefor, within and

1 without the limits of the city, to redeem such property from prior
2 encumbrance in order to protect or preserve the interest of the
3 city therein, to exercise all powers granted by the Constitution of
4 Nebraska and laws of the State of Nebraska or exercised by or
5 pursuant to a home rule charter adopted pursuant thereto, including
6 but not limited to receiving and accepting from the government of
7 the United States or any agency thereof, from the State of Nebraska
8 or any subdivision thereof, and from any person or corporation
9 donations, devises, gifts, bequests, loans, or grants for or in aid
10 of the acquisition, operation, and maintenance of such public
11 passenger transportation systems and to administer, hold, use, and
12 apply the same for the purposes for which such donations, devises,
13 gifts, bequests, loans, or grants may have been made, to negotiate
14 with employees and enter into contracts of employment, to employ by
15 contract or otherwise individuals singularly or collectively, to
16 enter into agreements authorized under the Interlocal Cooperation
17 Act or the Joint Public Agency Act, to contract with an operating
18 and management company for the purpose of operating, servicing, and
19 maintaining any public passenger transportation systems any city of
20 the metropolitan class shall acquire under the provisions of this
21 act, and to exercise such other and further powers as may be
22 necessary, incident, or appropriate to the powers of such city; and
23 Regulation of air quality.

24 (39) In addition to powers conferred elsewhere in the
25 laws of the state and notwithstanding any other law of the state,
26 to implement and enforce an air pollution control program within
27 the corporate limits of the city under subdivision (23) of section
28 81-1504 or subsection (1) of section 81-1528, which program shall

1 be consistent with the Clean Air Act, as amended, 42 U.S.C. 7401 et
 2 seq. Such powers shall include without limitation those involving
 3 injunctive relief, civil penalties, criminal fines, and burden of
 4 proof. Nothing in this section shall preclude the control of air
 5 pollution by resolution, ordinance, or regulation not in actual
 6 conflict with the state air pollution control regulations.

7 Sec. 25. Section 15-258, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 15-258. A city of the primary class may restrain,
 10 prohibit, and suppress unlicensed tippling shops, billiard tables,
 11 bowling alleys, houses of prostitution, opium joints, dens, and
 12 other disorderly houses and practices, games, gambling houses,
 13 desecration of the Sabbath day, commonly called Sunday, and may
 14 prohibit all public amusements, shows, exhibitions, or ordinary
 15 business pursuits upon such day, all lotteries, all fraudulent
 16 devices and practices for the purposes of obtaining money or
 17 property, all shooting galleries, and all kinds of public
 18 indecencies, except that nothing in this section shall be construed
 19 to apply to bingo, lotteries, lotteries by the sale of pickle
 20 cards, or raffles conducted in accordance with the Nebraska Bingo
 21 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card
 22 Lottery Act, or the Nebraska Small Lottery and Raffle Act. ~~7. or~~
 23 ~~the State Lottery Act.~~

24 Sec. 26. Section 16-226, Reissue Revised Statutes of
 25 Nebraska, is amended to read:

26 16-226. A city of the first class by ordinance may
 27 regulate, prohibit, and suppress unlicensed tippling shops,
 28 billiard tables, and bowling alleys, may restrain houses of

1 prostitution, opium joints, dens, and other disorderly houses and
2 practices, games, gambling houses, desecration of the Sabbath day,
3 commonly called Sunday, and may prohibit all public amusements,
4 shows, exhibitions, or ordinary business pursuits upon such day,
5 all lotteries, all fraudulent devices and practices for the purpose
6 of obtaining money or property, all shooting galleries, and all
7 kinds of public indecencies, except that nothing in this section
8 shall be construed to apply to bingo, lotteries, lotteries by the
9 sale of pickle cards, or raffles conducted in accordance with the
10 Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the
11 Nebraska Pickle Card Lottery Act, or the Nebraska Small Lottery and
12 Raffle Act. ~~7 or the State Lottery Act.~~

13 Sec. 27. Section 17-120, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 17-120. A city of the second class shall have power to
16 restrain, prohibit, and suppress houses of prostitution and
17 unlicensed tippling shops, gambling and gambling houses, and other
18 disorderly houses and practices, and all kinds of public
19 indecencies, and all lotteries or fraudulent devices and practices
20 for the purpose of obtaining money or property, except that nothing
21 in this section shall be construed to apply to bingo, lotteries,
22 lotteries by the sale of pickle cards, or raffles conducted in
23 accordance with the Nebraska Bingo Act, the Nebraska Lottery and
24 Raffle Act, the Nebraska Pickle Card Lottery Act, or the Nebraska
25 Small Lottery and Raffle Act. ~~7 or the State Lottery Act.~~ It may
26 license, regulate, or prohibit billiard halls and billiard tables,
27 pool halls and pool tables, and bowling alleys.

28 Sec. 28. Section 17-207, Revised Statutes Supplement,

1 1999, is amended to read:

2 17-207. The board of trustees shall have power to pass
3 ordinances to prevent and remove nuisances; to restrain and
4 prohibit gambling; to provide for licensing and regulating
5 theatrical and other amusements within such village; to prevent the
6 introduction and spread of contagious diseases; to establish and
7 regulate markets; to erect and repair bridges; to erect, repair,
8 and regulate wharves and the rates of wharfage; to regulate the
9 landing of watercraft; to provide for the inspection of building
10 materials to be used or offered for sale in such village; to govern
11 the planting and protection of shade trees in the streets and the
12 building of structures projecting upon or over and adjoining, and
13 all excavations through and under, the sidewalks of such village;
14 and in addition to the special powers herein conferred and granted,
15 to maintain the peace, good government, and welfare of the town or
16 village and its trade, commerce, and manufactories, and to enforce
17 all ordinances by inflicting penalties upon inhabitants or other
18 persons, for the violation thereof, not exceeding five hundred
19 dollars for any one offense, recoverable with costs. Nothing in
20 this section shall be construed to apply to bingo, lotteries,
21 lotteries by the sale of pickle cards, or raffles conducted in
22 accordance with the Nebraska Bingo Act, the Nebraska Lottery and
23 Raffle Act, the Nebraska Pickle Card Lottery Act, or the Nebraska
24 Small Lottery and Raffle Act. ~~7 of the State Lottery Act.~~

25 Sec. 29. Section 28-1101, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 28-1101. As used in this article, unless the context
28 otherwise requires:

1 (1) A person advances gambling activity if, acting other
2 than as a player, he or she engages in conduct that materially aids
3 any form of gambling activity. Conduct of this nature includes,
4 but shall not be limited to, conduct directed toward (a) the
5 creation or establishment of the particular game, contest, scheme,
6 device, or activity involved, (b) the acquisition or maintenance of
7 premises, paraphernalia, equipment, or apparatus therefor, or (c)
8 engaging in the procurement, sale, or offering for sale within this
9 state of any chance, share, or interest in a lottery of another
10 state or government whether or not such chance, share, or interest
11 is an actual lottery ticket, receipt, contingent promise to pay,
12 order to purchase, or other record of such interest except as
13 provided in the Nebraska County and City Lottery Act, the Nebraska
14 Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the
15 Nebraska Small Lottery and Raffle Act, ~~the State Lottery Act,~~ or
16 section 9-701;

17 (2) Bookmaking shall mean advancing gambling activity by
18 unlawfully accepting bets from members of the public as a business
19 upon the outcome of future contingent events;

20 (3) A person profits from gambling activity if, other
21 than as a player, he or she accepts or receives money or other
22 property pursuant to an agreement or understanding with any person
23 whereby he or she participates or is to participate in the proceeds
24 of gambling activity;

25 (4) A person engages in gambling if he or she bets
26 something of value upon the outcome of a future event, which
27 outcome is determined by an element of chance, or upon the outcome
28 of a game, contest, or election, or conducts or participates in any

1 bingo, lottery by the sale of pickle cards, lottery, raffle, gift
2 enterprise, or other scheme not authorized or conducted in
3 accordance with the Nebraska Bingo Act, the Nebraska County and
4 City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska
5 Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act,
6 ~~the State Lottery Act,~~ or section 9-701, but a person does not
7 engage in gambling by:

8 (a) Entering into a lawful business transaction;

9 (b) Playing an amusement device or a coin-operated
10 mechanical game which confers as a prize an immediate, unrecorded
11 right of replay not exchangeable for something of value;

12 (c) Conducting or participating in a prize contest; or

13 (d) Conducting or participating in any bingo, lottery by
14 the sale of pickle cards, lottery, raffle, or gift enterprise
15 conducted in accordance with the Nebraska Bingo Act, the Nebraska
16 County and City Lottery Act, the Nebraska Lottery and Raffle Act,
17 the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery
18 and Raffle Act, ~~the State Lottery Act,~~ or section 9-701;

19 (5) Gambling device shall mean any device, machine,
20 paraphernalia, writing, paper, instrument, article, or equipment
21 that is used or usable for engaging in gambling, whether that
22 activity consists of gambling between persons or gambling by a
23 person involving the playing of a machine. Gambling device shall
24 also include any mechanical gaming device, computer gaming device,
25 electronic gaming device, or video gaming device which has the
26 capability of awarding something of value, free games redeemable
27 for something of value, instant-win tickets which also provide the
28 possibility of participating in a subsequent drawing or event, or

1 tickets or stubs redeemable for something of value, except as
2 authorized in the furtherance of parimutuel wagering. Supplies,
3 equipment, cards, tickets, stubs, and other items used in any
4 bingo, lottery by the sale of pickle cards, other lottery, raffle,
5 or gift enterprise conducted in accordance with the Nebraska Bingo
6 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery
7 and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
8 Small Lottery and Raffle Act, ~~the State Lottery Act,~~ or section
9 9-701 are not gambling devices within this definition;

10 (6) Something of value shall mean any money or property,
11 any token, object, or article exchangeable for money or property,
12 or any form of credit or promise directly or indirectly
13 contemplating transfer of money or property or of any interest
14 therein, or involving extension of a service or entertainment; and

15 (7) Prize contest shall mean any competition in which one
16 or more competitors are awarded something of value as a consequence
17 of winning or achieving a certain result in the competition and (a)
18 the value of such awards made to competitors participating in the
19 contest does not depend upon the number of participants in the
20 contest or upon the amount of consideration, if any, paid for the
21 opportunity to participate in the contest or upon chance and (b)
22 the value or identity of such awards to be made to competitors is
23 published before the competition begins.

24 Sec. 30. Section 28-1105, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 28-1105. (1) A person commits the offense of possession
27 of gambling records if, other than as a player, he or she knowingly
28 possesses any writing, paper, instrument, or article which is:

1 (a) Of a kind commonly used in the operation or promotion
2 of a bookmaking scheme or enterprise and such writing, paper,
3 instrument, or article has been used for the purpose of recording,
4 memorializing, or registering any bet, wager, or other gambling
5 information; or

6 (b) Of a kind commonly used in the operation, promotion,
7 or playing of a lottery or mutuel scheme or enterprise or other
8 scheme not conducted pursuant to the Nebraska Bingo Act, the
9 Nebraska County and City Lottery Act, the Nebraska Lottery and
10 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
11 Small Lottery and Raffle Act, ~~the State Lottery Act~~, or section
12 9-701 and such writing, paper, instrument, or article has been used
13 for the purpose of recording, memorializing, or registering any
14 bet, wager, or other gambling information not permitted by such
15 acts or section.

16 (2) Possession of gambling records in the first degree is
17 a Class II misdemeanor.

18 Sec. 31. Section 28-1113, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 28-1113. Nothing in this article shall be construed to:

21 (1) Apply to or prohibit wagering on the results of
22 horseraces by the parimutuel or certificate method when conducted
23 by licensees within the racetrack enclosure at licensed horserace
24 meetings; or

25 (2) Prohibit or punish the conducting or participating in
26 any bingo, lottery by the sale of pickle cards, lottery, raffle, or
27 gift enterprise when conducted in accordance with the Nebraska
28 Bingo Act, the Nebraska County and City Lottery Act, the Nebraska

1 Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the
2 Nebraska Small Lottery and Raffle Act, ~~the State Lottery Act,~~ or
3 section 9-701.

4 Sec. 32. Section 77-2733, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-2733. (1) The income of a nonresident individual
7 derived from sources within this state shall be the sum of the
8 following:

9 (a) The net amount of items of income, gain, loss, and
10 deduction entering into his or her federal taxable income which are
11 derived from or connected with sources in this state including (i)
12 his or her distributive share of partnership income and deductions
13 determined under section 77-2729, (ii) his or her share of small
14 business corporation or limited liability company income determined
15 under section 77-2734.01, and (iii) his or her share of estate or
16 trust income and deductions determined under section 77-2725; and

17 (b) The portion of the modifications described in section
18 77-2716 which relates to income derived from sources in this state,
19 including any modifications attributable to him or her as a
20 partner.

21 (2) Items of income, gain, loss, and deduction derived
22 from or connected with sources within this state are those items
23 attributable to:

24 (a) The ownership or disposition of any interest in real
25 or tangible personal property in this state; and

26 (b) A business, trade, profession, or occupation carried
27 on in this state. ~~and~~

28 ~~(c) Any lottery prize awarded in a lottery game conducted~~

1 ~~pursuant to the State Lottery Act.~~

2 (3) Income from intangible personal property including
3 annuities, dividends, interest, and gains from the disposition of
4 intangible personal property shall constitute income derived from
5 sources within this state only to the extent that such income is
6 from property employed in a business, trade, profession, or
7 occupation carried on in this state.

8 (4) Deductions with respect to capital losses, net
9 long-term capital gains, and net operating losses shall be based
10 solely on income, gains, losses, and deductions derived from or
11 connected with sources in this state, under rules and regulations
12 to be prescribed by the Tax Commissioner, but otherwise shall be
13 determined in the same manner as the corresponding federal
14 deductions.

15 (5) If a business, trade, profession, or occupation is
16 carried on partly within and partly without this state, the items
17 of income and deduction derived from or connected with sources
18 within this state shall be determined by apportionment under rules
19 and regulations to be prescribed by the Tax Commissioner.

20 (6) Compensation paid by the United States for service in
21 the armed forces of the United States performed by a nonresident
22 individual shall not constitute income derived from sources within
23 this state.

24 (7) Compensation paid by a resident estate or trust for
25 services by a nonresident fiduciary shall constitute income derived
26 from sources within this state.

27 (8) Compensation paid by a business, trade, or profession
28 shall constitute income derived from sources within this state if:

1 (a) The individual's service is performed entirely within
2 this state;

3 (b) The individual's service is performed both within and
4 without this state, but the service performed without this state is
5 incidental to the individual's service within this state;

6 (c) The individual's service is performed without this
7 state, but the service performed without this state is related to
8 the transactions and activity of the business, trade, or profession
9 carried on within this state; or

10 (d) Some of the service is performed in this state and
11 (i) the base of operations or, if there is no base of operations,
12 the place from which the service is directed or controlled is in
13 this state or (ii) the base of operations or the place from which
14 the service is directed or controlled is not in any state in which
15 some part of the service is performed, but the individual's
16 residence is in this state.

17 Sec. 33. Section 77-27,160, Revised Statutes Supplement,
18 1998, is amended to read:

19 77-27,160. It is the intent of the Legislature to
20 establish and maintain a procedure to set off against a debtor's
21 income tax refund ~~or state lottery prize~~ any debt which is assigned
22 to the Department of Health and Human Services or which any
23 individual not eligible as a public assistance recipient is
24 attempting to collect, which has accrued through written contract,
25 subrogation, or court judgment and is in the form of a liquidated
26 amount due and owing for the care, support, or maintenance of a
27 child or for spousal support.

28 Sec. 34. Section 77-27,161, Revised Statutes Supplement,

1 1998, is amended to read:

2 77-27,161. For purposes of sections 77-27,160 to
3 77-27,173, unless the context otherwise requires:

4 (1) Debt shall mean any liquidated amount due and owing
5 any claimant which has accrued through assignment, contract,
6 subrogation, court judgment, or operation of law, regardless of
7 whether there is an outstanding judgment for such amount, and which
8 is for the care, support, or maintenance of a child or for spousal
9 support and shall include the costs of health services subject to
10 section 77-27,163.01;

11 (2) Debtor shall mean any individual owing money to or
12 having a delinquent account with any claimant which has not been
13 satisfied by court order, set aside by court order, or discharged
14 in bankruptcy;

15 (3) Claimant shall mean:

16 (a) The Department of Health and Human Services with
17 respect to collection of a debt owed by a parent in a case
18 involving a recipient of aid to dependent children in which rights
19 to child, spousal, or medical support payments have been assigned
20 to this state;

21 (b) An individual who is not eligible as a public
22 assistance recipient and to whom a child, spousal, or medical
23 support debt is owed; or

24 (c) Any person or entity entitled to receive child
25 support, spousal support, or medical support as defined in section
26 43-1712.01 pursuant to an order issued by a court or agency of
27 another state or jurisdiction, including an agency of another state
28 or jurisdiction to which a person has assigned his or her right to

1 receive such support. Such a claimant shall submit certification
2 and documentation sufficient to satisfy the requirements of section
3 43-1730;

4 (4) Refund shall mean any Nebraska state income tax
5 refund which the Department of Revenue determines to be due an
6 individual taxpayer. In the case of a joint income tax return, it
7 is presumed that each partner to the marriage submitting such
8 return contributed one-half of the earnings upon which the refund
9 is based. The presumption may be contested by the state, the
10 delinquent taxpayer, and the innocent spouse by virtue of the
11 hearing process prescribed in section 77-27,169; and

12 (5) Spousal support shall have the same meaning as in
13 section 43-1715. ~~+~~ and

14 ~~(6) State lottery prize shall mean any lottery prize in~~
15 ~~excess of five hundred dollars to be awarded to an individual~~
16 ~~pursuant to the State Lottery Act upon presentation of a winning~~
17 ~~lottery ticket to the Lottery Division of the Department of Revenue~~
18 ~~for redemption.~~

19 Sec. 35. Section 77-27,166, Revised Statutes Supplement,
20 1998, is amended to read:

21 77-27,166. ~~(1)~~ By December 1 of each year, the
22 Department of Health and Human Services may submit any certified
23 debt of twenty-five dollars or more to the Department of Revenue
24 except when the validity of the debt is legitimately in dispute.
25 Any submission shall be effective only to initiate setoff for a
26 claim against a refund that would be made for the calendar year
27 subsequent to the year in which such submission is made.

28 ~~(2) The Lottery Division of the Department of Revenue~~

1 shall review all current debts on the records of the Department of
2 Health and Human Services at the time of redeeming a lottery ticket
3 for a state lottery prize to certify a debt owed by a winner of a
4 state lottery prize.

5 Sec. 36. Section 77-27,167, Revised Statutes Supplement,
6 1998, is amended to read:

7 77-27,167. If a debtor identified by the Department of
8 Health and Human Services pursuant to section 77-27,165 or
9 77-27,166 is determined by the Department of Revenue to be entitled
10 to a refund of twenty-five dollars or more, ~~or a state lottery~~
11 ~~prize,~~ the Department of Health and Human Services shall be
12 notified that a refund ~~or prize~~ is pending.

13 Sec. 37. Section 77-27,168, Revised Statutes Supplement,
14 1998, is amended to read:

15 77-27,168. (1) Upon receipt of notification pursuant to
16 section 77-27,167 that a debtor is entitled to a refund, ~~or a state~~
17 ~~lottery prize,~~ the Department of Health and Human Services shall,
18 within twenty days, send written notification to the debtor of an
19 assertion of its rights, or of the rights of an individual not
20 eligible as a public assistance recipient, to all or a portion of
21 the debtor's refund. ~~or state lottery prize.~~

22 (2) The written notification shall clearly set forth the
23 basis for the claim to the refund, ~~or state lottery prize,~~ the
24 intention to apply the refund ~~or state lottery prize~~ against the
25 debt to a claimant, the debtor's opportunity to give written notice
26 of intent to contest the validity of the claim before the
27 Department of Health and Human Services within thirty days of the
28 date of the mailing of the notice, the mailing address to which the

1 application for a hearing must be sent, and notice that failure to
2 apply for a hearing in writing within the thirty-day period will be
3 deemed a waiver of the opportunity to contest the claim, causing a
4 setoff by default.

5 In the case of a joint tax return, the notice shall also
6 state the name of the taxpayer named in the return, if any, against
7 whom no debt is claimed. There shall be no affirmative duty placed
8 upon the non-owing spouse of an intercepted tax return to initiate
9 an action to receive payment of the noninterceptable amount.

10 Sec. 38. Section 77-27,169, Revised Statutes Supplement,
11 1998, is amended to read:

12 77-27,169. A written application, pursuant to sections
13 77-27,165 and 77-27,168, by a debtor for a hearing shall be
14 effective upon mailing the application, postage prepaid and
15 properly addressed, to the Department of Health and Human Services.

16 If the Department of Health and Human Services receives a
17 written application contesting a claim, it shall grant a hearing to
18 the taxpayer ~~or state lottery prize winner~~ to determine whether the
19 claim is valid. If the amount asserted as due and owing is not
20 correct, an adjustment to the claimed amount shall be made. No
21 issues shall be reconsidered at the hearing which have been
22 previously litigated.

23 Sec. 39. Section 77-27,171, Revised Statutes Supplement,
24 1998, is amended to read:

25 77-27,171. (1) Upon final determination of the amount
26 and validity of the debt due and owing by means of the hearing
27 provided for in section 77-27,169 or by the taxpayer's default
28 through failure to request a hearing pursuant to section 77-27,168,

1 the Department of Health and Human Services shall certify the debt
2 to the Department of Administrative Services within twenty days
3 from the date of the final determination. The final determination
4 shall not delay a refund beyond the period prescribed in section
5 77-2794.

6 (2) Upon receipt of the certified debt amount from the
7 Department of Health and Human Services, the Department of
8 Administrative Services shall deduct an amount equal to the
9 certified debt from the refund ~~or state lottery prize~~ due the
10 debtor, up to the amount of the refund, ~~or state lottery prize,~~ and
11 shall transfer such amount, by noncash voucher, to the Department
12 of Health and Human Services. In nonpublic assistance cases, the
13 Department of Health and Human Services shall transmit the funds
14 collected to the clerk of the district court for dispersal to the
15 payee. The Department of Administrative Services shall refund ~~or~~
16 ~~award~~ any remaining balance to the debtor as if the setoff had not
17 occurred.

18 Sec. 40. Section 77-27,172, Revised Statutes Supplement,
19 1998, is amended to read:

20 77-27,172. When the Department of Health and Human
21 Services receives all or a portion of a certified debt pursuant to
22 section 77-27,171, the department shall notify the debtor of the
23 completion of the setoff. Such notice shall include the final
24 amount of the refund ~~or state lottery prize~~ to which the debtor was
25 entitled prior to the setoff, the amount of the certified debt, and
26 the amount of the refund ~~or state lottery prize~~ in excess of the
27 debt, if any.

28 Sec. 41. Section 79-757, Revised Statutes Supplement,

1 1998, is amended to read:

2 79-757. Sections 79-757 to 79-762 and sections 43 and 44
3 of this act shall be known and may be cited as the Quality
4 Education Accountability Act.

5 Sec. 42. Section 79-758, Revised Statutes Supplement,
6 1999, is amended to read:

7 79-758. (1) Quality education incentive payments shall
8 be provided to local systems, as defined in section 79-1003, each
9 year the local system meets the qualifications described in this
10 section. The first two years a local system qualifies for quality
11 education incentives, the system shall meet all of the primary
12 quality factors in subsection (2) of this section. The third and
13 fourth years a local system qualifies for quality education
14 incentives, the system shall meet all of the primary quality
15 factors in subsection (2) of this section and at least two of the
16 premier quality factors in subsection (3) of this section. The
17 fifth and sixth years a local system qualifies for quality
18 education incentives, the system shall meet all of the primary
19 quality factors in subsection (2) of this section and at least
20 three of the premier quality factors in subsection (3) of this
21 section. The seventh year and each year thereafter a local system
22 qualifies for quality education incentives, the system shall meet
23 all of the primary quality factors in subsection (2) of this
24 section and at least four of the premier quality factors in
25 subsection (3) of this section except as provided in subsection (4)
26 of this section.

27 (2) The primary quality factors are:

28 (a) Each district in the local system has adopted

1 academic standards adopted and promulgated by the State Board of
2 Education or academic standards approved by the state board as
3 generally more rigorous than the academic standards adopted and
4 promulgated by the state board;

5 (b) Each district in the local system has an alternative
6 school, class, or educational program available or in operation for
7 all expelled students pursuant to subsection (1) of section 79-266
8 or, for districts that do not have any expelled students, an
9 adopted school board policy to have an alternative school, class,
10 or educational program available or in operation for all expelled
11 students pursuant to subsection (1) of section 79-266 if any
12 expulsions occur;

13 (c) At least sixty percent of the graduating seniors in
14 the local system have taken a standard college admissions test.
15 More than one standard college admissions test may be considered in
16 the calculation of the sixty percent criterion as long as an
17 individual Nebraska public school student is counted only once; and

18 (d) The graduating seniors in the local system who have
19 taken a standard college admissions test have an aggregate average
20 test score, using the highest test score on each test taken for
21 each student who has taken at least one of the tests, above the
22 statewide aggregate average test score. Each local system shall
23 calculate the aggregate score of its graduating seniors who took a
24 standard college admissions test by using the highest test score on
25 each test taken for each student who has taken at least one of the
26 tests. If more than sixty percent of the graduating seniors in the
27 system took at least one of the standard college admissions tests,
28 then only the scores of the number of top-scoring students needed

1 to reach the minimum sixty percent level are to be counted to
2 calculate the aggregate system average. At least twenty-five
3 percent of the graduating seniors in the system must have taken a
4 standard college admissions test in order for the system aggregate
5 score on that test to be considered. The statewide aggregate
6 average test score shall be the average of the test scores used in
7 calculating the local system aggregate average test score for all
8 local systems.

9 (3) The premier quality factors are:

10 (a) The local system has at least one teacher who has
11 received credentials from a national nonprofit organization the
12 purpose of which is to establish high and rigorous standards in a
13 broad range of educational areas for what accomplished teachers
14 should know and be able to do and which issues credentials to
15 teachers who demonstrate that they meet those standards;

16 (b) At least thirty-six percent of the certificated
17 teachers in the local system have advanced degrees or at least
18 thirty graduate-level hours;

19 (c) Each first-year teacher in a local system is provided
20 with a mentor participating in the mentor teacher program pursuant
21 to section 79-761 or a mentor teacher program has been established
22 by a district in the local system and approved by the state board;

23 (d) The high school district improves the annual
24 percentage dropout rate from the prior year or maintains a dropout
25 rate not to exceed four percent; and

26 (e) An approved program for learners with high ability
27 pursuant to sections 79-1106 to 79-1108.03 is available to every
28 student identified as a learner with high ability in the local

1 system and there is at least one learner with high ability
2 identified in the local system.

3 (4) If a local system in which at least forty percent of
4 the formula students qualify for the poverty factor pursuant to
5 section 79-1007.01 meets all of the qualifications for quality
6 education incentive payments, including the requirement that at
7 least sixty percent of the graduating seniors in the local system
8 have taken a standard college admissions test, but the aggregate
9 average college admissions test scores pursuant to subdivision
10 (2)(d) of this section are not above the statewide average, the
11 local system shall receive quality education incentive payments
12 equal to fifty dollars per formula student multiplied by two times
13 the percentage resulting when the number of local system graduating
14 seniors who scored above the statewide average on any standard
15 college admissions test, using the highest test score on each test
16 taken for each student who has taken at least one of the tests, is
17 divided by the number of all local system graduating seniors who
18 have taken a standard college admissions test.

19 (5) Local systems meeting the criteria in subsections (1)
20 through (4) of this section may apply to the Excellence in
21 Education Council for quality education incentive payments on or
22 before November 1, using the most recent information and data
23 available. Upon review by the Excellence in Education Council, if
24 the information and data in the application indicate that the local
25 system meets the criteria in such subsections, the local system
26 shall qualify for quality education incentive payments.

27 (6) Quality education incentive payments shall be made
28 from the Education Innovation Fund on or before the following

1 January 15. The payments shall equal fifty dollars per adjusted
2 formula student or one hundred dollars per adjusted formula student
3 for local systems in the very sparse cost grouping based on the
4 most recent certification of state aid pursuant to the Tax Equity
5 and Educational Opportunities Support Act. Local systems which
6 qualify to receive specially calculated payments pursuant to
7 subsection (4) of this section are not eligible to receive one
8 hundred dollars per adjusted formula student even though the system
9 is in the very sparse cost grouping based on the most recent
10 certification of state aid pursuant to the act. If the unobligated
11 balance in the fund is less than the amount calculated for quality
12 education incentive payments due to qualified local systems
13 pursuant to this section, each qualified local system shall receive
14 a pro rata amount such that the amount of payments equals the
15 unobligated balance in the fund.

16 (7) Quality education incentive payments shall only be
17 used for pilot projects or model programs for the purposes set
18 forth in section ~~9-812~~ 43 of this act for major competitive grants.
19 Incentive payments may not be used to supplant federal, state, or
20 local funds. The payments shall be made to the high school
21 district, and the high school district prior to the application
22 shall determine how the payments shall be used after consultation
23 with all Class I school districts in the local system. Quality
24 education incentive payments, or portions of such payments, may be
25 transferred to the Class I school districts. Quality education
26 incentive payments shall not be included as local system formula
27 resources pursuant to section 79-1018.01. The Excellence in
28 Education Council may audit the use of quality education incentive

1 payments at the discretion of the council.

2 Sec. 43. The Education Innovation Fund is hereby
3 created. The Education Innovation Fund shall be allocated in the
4 following manner: Up to ten percent to fund the mentor teacher
5 program pursuant to the Quality Education Accountability Act; up to
6 seventy percent as quality education incentives pursuant to the
7 act; and up to twenty percent of the fund shall be allocated by the
8 Governor through incentive grants to encourage the development of
9 strategic school improvement plans by school districts for
10 accomplishing high performance learning and to encourage schools to
11 establish innovations in programs or practices that result in
12 restructuring of school organization, school management, and
13 instructional programs which bring about improvement in the quality
14 of education. Such incentive grants allocated by the Governor are
15 intended to provide selected school districts, teachers or groups
16 of teachers, nonprofit educational organizations, educational
17 service units, or cooperatives funding for the allowable costs of
18 implementing pilot projects and model programs.

19 From the funds allocated by the Governor, minigrants
20 shall be available to school districts to support the development
21 of strategic school improvement plans which shall include
22 statements of purposes and goals for the districts. The plans
23 shall also include the specific statements of improvement or
24 strategic initiatives designed to improve quality learning for
25 every student.

26 In addition to the minigrants granted for the development
27 of strategic school improvement plans, school districts with annual
28 budget expenditures of three hundred fifty thousand dollars or less

1 are eligible for minigrants from the funds allocated by the
2 Governor for the purposes allowed in subdivisions (1) through (17)
3 of this section. The amount of this type of minigrant shall not
4 exceed five thousand dollars. The school district shall present a
5 curriculum support plan with its application for the grant. The
6 curriculum support plan must show how the district is working to
7 achieve one or more of the allowed purposes and how the grant will
8 be used to directly advance the plan to achieve one or more of
9 these purposes. The plan must be signed by the school
10 administrator and a school board representative. The application
11 for the grant shall be brief. The Excellence in Education Council
12 shall select the recipients of this type of minigrant and shall
13 administer such minigrants.

14 From the funds allocated by the Governor, major
15 competitive grants shall be available to support innovative
16 programs which are directly related to the strategic school
17 improvement plans. The development of a strategic school
18 improvement plan by a school district shall be required before a
19 grant is awarded. Annual reports shall be made by program
20 recipients documenting the effectiveness of the program in
21 improving the quality of education as designed in the strategic
22 school improvement plans. Special consideration shall be given to
23 plans which contain public or private matching funds and
24 cooperative agreements, including agreements for in-kind services.
25 Purposes for which such major competitive grants would be offered
26 shall include:

27 (1) Professional staff development programs to provide
28 funds for teacher and administrator training and continuing

1 education to upgrade teaching and administrative skills;

2 (2) The development of strategic school improvement plans
3 by school districts;

4 (3) Educational technology assistance to public schools
5 for the purchase and operation of computers, telecommunications
6 equipment and services, and other forms of technological innovation
7 which may enhance classroom teaching, instructional management, and
8 districtwide administration pursuant to the state's goal of
9 ensuring that all kindergarten through grade twelve public school
10 districts or affiliated school systems have a direct connection to
11 a statewide public computer information network by June 30, 2000.
12 The telecomputing equipment and services needed to meet this goal
13 may be funded under this subdivision, sections 79-1241.01, 79-1243,
14 and 79-1310, or any combination of such subdivision and sections.
15 Such telecommunications equipment, services, and forms of technical
16 innovation shall be approved by the State Department of Education
17 only after review by the technical panel created in section
18 86-1511;

19 (4) An educational accountability program to develop an
20 educational indicators system to measure the performance and
21 outcomes of public schools and to ensure efficiency in operations;

22 (5) Alternative programs for students, including
23 underrepresented groups, at-risk students, and dropouts;

24 (6) Programs that demonstrate improvement of student
25 performance against valid national and international achievement
26 standards;

27 (7) Early childhood and parent education which emphasizes
28 child development;

1 (8) Programs using decisionmaking models that increase
2 involvement of parents, teachers, and students in school
3 management;

4 (9) Increased involvement of the community in order to
5 achieve increased confidence in and satisfaction with its schools;

6 (10) Development of magnet or model programs designed to
7 facilitate desegregation;

8 (11) Programs that address family and social issues
9 impairing the learning productivity of students;

10 (12) Programs enhancing critical and higher-order
11 thinking capabilities;

12 (13) Programs which produce the quality of education
13 necessary to guarantee a competitive work force;

14 (14) Programs designed to increase productivity of staff
15 and students through innovative use of time;

16 (15) Training programs designed to benefit teachers at
17 all levels of education by increasing their ability to work with
18 educational technology in the classroom;

19 (16) Approved accelerated or differentiated curriculum
20 programs under sections 79-1106 to 79-1108.03; and

21 (17) Programs for students with disabilities receiving
22 special education under the Special Education Act and students
23 needing support services as defined in section 79-1125.01, which
24 programs demonstrate improved outcomes for students through
25 emphasis on prevention and collaborative planning.

26 Sec. 44. The Governor shall establish the Excellence in
27 Education Council. The Governor shall appoint eleven members to
28 the council, including representatives of educational

1 organizations, postsecondary educational institutions, the business
2 community, and the general public, members of school boards and
3 parent education associations, school administrators, and at least
4 four teachers who are engaged in classroom teaching. The State
5 Department of Education shall provide staff support for the council
6 to administer the Education Innovation Fund, including the Quality
7 Education Accountability Act. The council shall have the following
8 powers and duties:

9 (1) In consultation with the State Department of
10 Education, develop and publish criteria for the awarding of
11 incentive grants allocated by the Governor for programs pursuant to
12 this subdivision, including minigrants;

13 (2) Provide recommendations to the Governor regarding the
14 selection of projects to be funded and the distribution and
15 duration of project funding. For projects recommended under
16 subdivision (3) of section 43 of this act, the council shall also
17 provide recommendations to the Nebraska Information Technology
18 Commission for its review and recommendations to the Governor;

19 (3) Establish standards, formats, procedures, and
20 timelines for the successful implementation of approved programs
21 funded by incentive grants allocated by the Governor from the
22 Education Innovation Fund;

23 (4) Assist school districts in determining the
24 effectiveness of the innovations in programs and practices and
25 measure the subsequent degree of improvement in the quality of
26 education;

27 (5) Consider the reasonable distribution of funds across
28 the state and all classes of school districts;

1 (6) Carry out its duties pursuant to the Quality
2 Education Accountability Act; and

3 (7) Provide annual reports to the Governor concerning
4 programs funded by the fund. Each report shall include the number
5 of applicants and approved applicants, an overview of the various
6 programs, objectives, and anticipated outcomes, and detailed
7 reports of the cost of each program.

8 To assist the council in carrying out its duties, the
9 State Board of Education shall, in consultation with the council,
10 adopt and promulgate rules and regulations establishing criteria,
11 standards, and procedures regarding the selection and
12 administration of programs funded from the Education Innovation
13 Fund, including the Quality Education Accountability Act.

14 Recipients of incentive grants allocated by the Governor
15 from the Education Innovation Fund shall be required to provide,
16 upon request, such data relating to the funded programs and
17 initiatives as the Governor deems necessary.

18 Sec. 45. Section 79-761, Revised Statutes Supplement,
19 1998, is amended to read:

20 79-761. The State Board of Education shall develop
21 guidelines for mentor teacher programs in local systems in order to
22 provide ongoing support for individuals entering the teaching
23 profession. Funding for mentor teacher programs shall be provided
24 to local systems which provide each first-year teacher in the local
25 system with a mentor. The mentor teacher programs shall be funded
26 by the Education Innovation Fund pursuant to ~~subsection (2) of~~
27 ~~section 9-812~~ 43 of this act and shall identify criteria for
28 selecting excellent, experienced, and qualified teachers to be

1 participants. ~~The state board shall report to the Legislature on~~
2 ~~or before December 17, 1998, on its progress in implementing this~~
3 ~~section.~~

4 Sec. 46. Section 79-1018.01, Revised Statutes
5 Supplement, 1999, is amended to read:

6 79-1018.01. Local system formula resources include other
7 actual receipts available for the funding of general fund operating
8 expenditures as determined by the department for the second school
9 fiscal year immediately preceding the school fiscal year in which
10 aid is to be paid, except that receipts from the Community
11 Improvements Cash Fund and receipts acquired pursuant to the
12 Low-Level Radioactive Waste Disposal Act shall not be included.

13 Other actual receipts include:

- 14 (1) Public power district sales tax revenue;
- 15 (2) Fines and license fees;
- 16 (3) Tuition receipts from individuals, other districts,
17 or any other source except those derived from adult education;
- 18 (4) Transportation receipts;
- 19 (5) Interest on investments;
- 20 (6) Other miscellaneous noncategorical local receipts,
21 not including receipts from private foundations, individuals,
22 associations, or charitable organizations;
- 23 (7) Special education receipts, excluding grant funds
24 received pursuant to section ~~9-812~~ 43 of this act;
- 25 (8) Special education receipts and non-special education
26 receipts from the state for wards of the court and wards of the
27 state;
- 28 (9) All receipts from the temporary school fund;

1 (10) Motor vehicle tax receipts received on or after
2 January 1, 1998;

3 (11) Pro rata motor vehicle license fee receipts;

4 (12) Other miscellaneous state receipts excluding revenue
5 from the textbook loan program authorized by section 79-734;

6 (13) Impact aid entitlements for the school fiscal year
7 which have actually been received by the district to the extent
8 allowed by federal law;

9 (14) All other noncategorical federal receipts;

10 (15) All receipts pursuant to the enrollment option
11 program under sections 79-232 to 79-246;

12 (16) Receipts under the federal Medicare Catastrophic
13 Coverage Act of 1988 as authorized pursuant to sections 43-2510 and
14 43-2511 but only to the extent of the amount the local system would
15 have otherwise received pursuant to the Special Education Act; and

16 (17) Receipts for accelerated or differentiated
17 curriculum programs pursuant to sections 79-1106 to 79-1108.03.

18 Sec. 47. Section 79-1310, Revised Statutes Supplement,
19 1999, is amended to read:

20 79-1310. It is the intent of the Legislature that by
21 June 30, 2000, all kindergarten through grade twelve public school
22 districts, affiliated school systems, or Class VI school systems
23 shall have a direct connection to a statewide public computer
24 information network. The costs of such connection may be funded
25 under this section, ~~subsection (2) of section 9-812~~ section 43 of
26 this act, section 79-1243, or any combination of such ~~subsection~~
27 ~~and~~ sections.

28 The School Technology Fund is created. The fund shall

1 consist of the money transferred to the fund pursuant to section
2 81-1634 and appropriations made by the Legislature which are
3 received as gifts or grants. The State Board of Education shall
4 authorize the disbursement of the fund as provided in this section.
5 The first priority for the disbursement of the School Technology
6 Fund is the direct connection of each kindergarten through grade
7 twelve public school district, affiliated school system, or Class
8 VI school system to a statewide public computer information
9 network. Subsequent priorities for disbursement may include, but
10 are not limited to, development of networking capabilities within a
11 district or system, the purchase or installation of equipment, or
12 other telecomputing needs as determined by the State Board of
13 Education. Funds shall be awarded on the basis of need, ability to
14 pay, and the number of buildings in each district or system
15 designated by the State Board of Education as suitable for direct
16 connection to a statewide public computer information network. The
17 State Board of Education shall adopt and promulgate rules and
18 regulations to carry out the provisions of this section. The State
19 Board of Education shall consult with the Nebraska Information
20 Technology Commission in carrying out this section. Any money in
21 the School Technology 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. 48. Section 81-15,174, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-15,174. There is hereby established the Nebraska
27 Environmental Trust Fund which shall be a cash fund. The fund
28 shall be used to carry out the purposes of the Nebraska

1 Environmental Trust Act, including administrative costs. Money in
2 the fund shall include ~~proceeds credited pursuant to section 9-812~~
3 ~~and~~ any monetary gifts, grants, or donations. Any money in the
4 fund available for investment shall be invested by the state
5 investment officer pursuant to the Nebraska Capital Expansion Act
6 and the Nebraska State Funds Investment Act.

7 Sec. 49. Section 83-162.04, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 83-162.04. The Compulsive Gamblers Assistance Fund is
10 created. The division shall administer the fund for the treatment
11 of compulsive gamblers as recommended by the commission and shall
12 spend no more than fifty thousand dollars of the money appropriated
13 to the fund for administrative costs. ~~In addition to money~~
14 ~~transferred to the fund from the State Lottery Operation Trust Fund~~
15 ~~under section 9-812, the~~ The department is authorized to accept for
16 deposit in the Compulsive Gamblers Assistance Fund funds,
17 donations, gifts, devises, or bequests from any federal, state,
18 local, public, or private source to be used by the division in the
19 exercise of this authority under and in the performance of its
20 duties in carrying out the provisions of the Alcoholism, Drug
21 Abuse, and Addiction Services Act which relate to compulsive
22 gambling. The Director of Administrative Services shall draw
23 warrants upon the Compulsive Gamblers Assistance Fund upon the
24 presentation of proper vouchers by the division. Money from the
25 Compulsive Gamblers Assistance Fund shall be used exclusively for
26 the purpose of providing assistance to agencies, groups,
27 organizations, and individuals that provide education, assistance,
28 and counseling to individuals and families experiencing difficulty

1 as a result of problem or pathological gambling, to promote the
2 awareness of gamblers assistance programs, and to pay the costs and
3 expenses of the division and the commission with regard to
4 compulsive gambling. Neither the director of the division nor the
5 division shall provide any direct services to problem or
6 pathological gamblers or their families. Funds appropriated from
7 the Compulsive Gamblers Assistance Fund shall not be granted or
8 loaned to or administered by any of the mental health regional
9 governing boards created pursuant to the Nebraska Comprehensive
10 Community Mental Health Services Act unless the mental health
11 region is a direct provider of services dealing with the treatment
12 of compulsive gambling. Any money in the fund available for
13 investment shall be invested by the state investment officer
14 pursuant to the Nebraska Capital Expansion Act and the Nebraska
15 State Funds Investment Act.

16 Sec. 50. Section 84-712.05, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 84-712.05. The following records, unless publicly
19 disclosed in an open court, open administrative proceeding, or open
20 meeting or disclosed by a public entity pursuant to its duties, may
21 be withheld from the public by the lawful custodian of the records:

22 (1) Personal information in records regarding a student,
23 prospective student, or former student of any tax-supported
24 educational institution maintaining the records, other than routine
25 directory information;

26 (2) Medical records, other than records of births and
27 deaths and except as provided in subdivision (5) of this section,
28 in any form concerning any person, and also records of elections

1 filed under section 44-2821;

2 (3) Trade secrets, academic and scientific research work
3 which is in progress and unpublished, and other proprietary or
4 commercial information which if released would give advantage to
5 business competitors and serve no public purpose;

6 (4) Records which represent the work product of an
7 attorney and the public body involved which are related to
8 preparation for litigation, labor negotiations, or claims made by
9 or against the public body or which are confidential communications
10 as defined in section 27-503;

11 (5) Records developed or received by law enforcement
12 agencies and other public bodies charged with duties of
13 investigation or examination of persons, institutions, or
14 businesses, when the records constitute a part of the examination,
15 investigation, intelligence information, citizen complaints or
16 inquiries, informant identification, or strategic or tactical
17 information used in law enforcement training, except that this
18 subdivision shall not apply to records so developed or received
19 relating to the presence of and amount or concentration of alcohol
20 or drugs in any body fluid of any person;

21 (6) Appraisals or appraisal information and negotiation
22 records concerning the purchase or sale, by a public body, of any
23 interest in real or personal property, prior to completion of the
24 purchase or sale;

25 (7) Personal information in records regarding personnel
26 of public bodies other than salaries and routine directory
27 information;

28 (8) Information solely pertaining to protection of the

1 physical security of public property such as guard schedules, or
2 lock combinations; ~~or the security standards, procedures, policies,~~
3 ~~plans, specifications, diagrams, access lists, and other~~
4 ~~security-related records of the Lottery Division of the Department~~
5 ~~of Revenue and those persons or entities with which the division~~
6 ~~has entered into contractual relationships. Nothing in this~~
7 ~~subdivision shall allow the division to withhold from the public~~
8 ~~any information relating to amounts paid persons or entities with~~
9 ~~which the division has entered into contractual relationships,~~
10 ~~amounts of prizes paid, the name of the prize winner, and the city,~~
11 ~~village, or county where the prize winner resides;~~

12 (9) With respect to public utilities and except as
13 provided in sections 43-512.06 and 70-101, personally identified
14 private citizen account payment information, credit information on
15 others supplied in confidence, and customer lists;

16 (10) Records or portions of records kept by a publicly
17 funded library which, when examined with or without other records,
18 reveal the identity of any library patron using the library's
19 materials or services;

20 (11) Correspondence, memoranda, and records of telephone
21 calls related to the performance of duties by a member of the
22 Legislature in whatever form. The lawful custodian of the
23 correspondence, memoranda, and records of telephone calls, upon
24 approval of the Executive Board of the Legislative Council, shall
25 release the correspondence, memoranda, and records of telephone
26 calls which are not designated as sensitive or confidential in
27 nature to any person performing an audit of the Legislature. A
28 member's correspondence, memoranda, and records of confidential

1 telephone calls related to the performance of his or her
2 legislative duties shall only be released to any other person with
3 the explicit approval of the member;

4 (12) Records or portions of records kept by public bodies
5 which would reveal the location, character, or ownership of any
6 known archaeological, historical, or paleontological site in
7 Nebraska when necessary to protect the site from a reasonably held
8 fear of theft, vandalism, or trespass. This section shall not
9 apply to the release of information for the purpose of scholarly
10 research, examination by other public bodies for the protection of
11 the resource or by recognized tribes, the Unmarked Human Burial
12 Sites and Skeletal Remains Protection Act, or the federal Native
13 American Graves Protection and Repatriation Act;

14 (13) Records or portions of records kept by public bodies
15 which maintain collections of archaeological, historical, or
16 paleontological significance which reveal the names and addresses
17 of donors of such articles of archaeological, historical, or
18 paleontological significance unless the donor approves disclosure,
19 except as the records or portions thereof may be needed to carry
20 out the purposes of the Unmarked Human Burial Sites and Skeletal
21 Remains Protection Act or the federal Native American Graves
22 Protection and Repatriation Act; and

23 (14) Job application materials submitted by applicants,
24 other than finalists, who have applied for employment by any public
25 body as defined in section 84-1409. For purposes of this
26 subdivision, job application materials means employment
27 applications, resumes, reference letters, and school transcripts,
28 and finalist means any applicant who is offered and who accepts an

1 interview by a public body or its agents, representatives, or
2 consultants for any public employment position.

3 Sec. 51. Sections 2 to 50, 52, and 53 of this act become
4 operative on July 1, 2001. The other sections of this act become
5 operative on their effective date.

6 Sec. 52. Original sections 9-1,104, 9-204, 9-226, 9-227,
7 9-255.06, 9-255.09, 9-312, 9-315, 9-322, 9-323, 9-335, 9-402,
8 9-411, 9-415, 9-418, 9-419, 9-422, 9-502, 9-507, 9-509, 9-607,
9 9-620, 15-258, 16-226, 17-120, 28-1101, 28-1105, 28-1113, 77-2733,
10 81-15,174, 83-162.04, and 84-712.05, Reissue Revised Statutes of
11 Nebraska, sections 77-27,160, 77-27,161, 77-27,166 to 77-27,169,
12 77-27,171, 77-27,172, 79-757, and 79-761, Revised Statutes
13 Supplement, 1998, and sections 14-102, 17-207, 79-758, 79-1018.01,
14 and 79-1310, Revised Statutes Supplement, 1999, are repealed.

15 Sec. 53. The following sections are outright repealed:
16 Sections 9-801, 9-802, 9-804, 9-806 to 9-811.01, 9-813, 9-814,
17 9-816 to 9-830, 9-832 to 9-836, 9-837 to 9-841, 49-1469.01 to
18 49-1469.03, and 77-2704.38, Reissue Revised Statutes of Nebraska,
19 section 9-836.01, Revised Statutes Supplement, 1998, and sections
20 9-803, 9-805, and 9-812, Revised Statutes Supplement, 1999.