

## LEGISLATIVE BILL 1086

Approved by the Governor April 11, 2000

Introduced by General Affairs Committee: Janssen, 15, Chairperson;  
Connealy, 16; Cudaback, 36; Hartnett, 45; Quandahl, 31;  
Schrock, 38; Smith, 48

AN ACT relating to bingo and other gambling; to amend sections 2-219, 9-1,104, 9-204.01, 9-226, 9-232.02, 9-232.03, 9-233, 9-241.03, 9-255.06, 9-322, 9-328, 9-329, 9-329.02, 9-345.01, 9-345.03, 9-418, 9-425, 9-426, 9-501, 9-507, 9-509, and 9-620, Reissue Revised Statutes of Nebraska; to provide for biennial licenses and fees; to change provisions relating to state, district, and county fairs, fingerprinting requirements, bingo cards, pickle cards, limited period bingo, and lotteries and raffles; to change and provide powers and duties; to redefine terms; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 2-219, Reissue Revised Statutes of Nebraska, is amended to read:

2-219. No person shall be permitted to exhibit or conduct indecent shows or dances or to engage in any gambling or other games of chance or horseracing, either inside the enclosure where any state, district, or county agricultural society fair is being held or within forty rods thereof, during the time of holding such fairs. Nothing in this section shall be construed to prohibit wagering on the results of horseraces by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horserace meetings, to prohibit the operation of bingo games as provided in the Nebraska Bingo Act, to prohibit the conduct of lotteries pursuant to the Nebraska County and City Lottery Act, to prohibit the conduct of lotteries or raffles pursuant to the Nebraska Lottery and Raffle Act or the Nebraska Small Lottery and Raffle Act, or to prohibit the sale of pickle cards pursuant to the Nebraska Pickle Card Lottery Act. Nothing in this section shall be construed to prohibit the sale of intoxicating liquors, wine, or beer by a person properly licensed pursuant to Chapter 53 on premises under the control of the State Board of Agriculture or any county agricultural society. Any person who violates this section shall be guilty of a Class V misdemeanor. The trial of speed of horses under direction of the society shall not be included in the term horseracing. Upon the filing of proof with the State Treasurer of a violation of this section inside the enclosure of such fair, the amount of money appropriated shall be withheld from any money appropriated for the ensuing year.

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

9-1,104. (1) Any person applying for or holding a contract or license (a) as a distributor, gaming manager, or manufacturer pursuant to the Nebraska Bingo Act, (b) as a distributor, manufacturer, pickle card operator, or sales agent pursuant to the Nebraska Pickle Card Lottery Act, (c) as a lottery operator, manufacturer-distributor, or sales outlet location pursuant to the Nebraska County and City Lottery Act, or (d) pursuant to the State Lottery Act shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation through the Nebraska State Patrol for the purpose of determining whether the Department of Revenue has a basis to deny the contract or license application or to suspend, cancel, revoke, or terminate the person's contract or license. Each applicant for or party holding a license as a manufacturer, distributor, manufacturer-distributor, or lottery operator shall also submit a personal history report to the department on a form provided by the department and may be subject to a background investigation, an inspection of the applicant's or licensee's facilities, or both. If the applicant is an individual, the application shall also include the applicant's social security number.

(2)(a) If the applicant, party to the contract, or licensee is a corporation, the persons subject to such requirements shall include any officer or director of the corporation, his or her spouse, any person or entity directly or indirectly associated with such corporation in a consulting or other capacity which may impair the security, honesty, or integrity of the operation or conduct of the activities for which the application is made or contract or license is held, and, if applicable, any person or entity holding

in the aggregate ten percent or more of the debt or equity of the corporation. If any person or entity holding ten percent or more of the debt or equity of the applicant, contractor, or licensee corporation is a corporation, partnership, or limited liability company, every partner of such partnership, every member of such limited liability company, every officer or director of such corporation or partnership, every person or entity holding ten percent or more of the debt or equity of such corporation, partnership, or limited liability company, and every person or entity directly or indirectly associated with such corporation, partnership, or limited liability company in a consulting or other capacity which may impair the security, honesty, or integrity of the operation or conduct of the activities for which the application is made or contract or license is held may also be subject to such requirements. If the applicant, party to the contract, or licensee is a partnership, the persons subject to such requirements shall include any partner, his or her spouse, any officer or director of the partnership, or any person or entity directly or indirectly associated with such partnership in a consulting or other capacity which may impair the security, honesty, or integrity of the operation or conduct of the activities for which the application is made or contract or license is held. If the applicant, party to the contract, or licensee is a limited liability company, the persons subject to such requirement shall include any member and his or her spouse. If the applicant, party to the contract, or licensee is a nonprofit organization or nonprofit corporation, the person subject to such requirement shall be the person designated by such nonprofit organization or nonprofit corporation as the manager.

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

(c) Notwithstanding the provisions of this section, if an applicant for or party holding a license as a pickle card operator, sales agent, gaming manager, lottery operator, or sales outlet location is issued a license by the Nebraska Liquor Control Commission, the Department of Revenue may waive the fingerprinting requirements for criminal history record investigation purposes.

~~(3)(a) A person applying for or holding a license as a pickle card operator, sales agent, gaming manager, lottery operator, or sales outlet location shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation through the Nebraska State Patrol only if such an investigation has not been performed by the Nebraska Liquor Control Commission.~~

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

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

~~(5)~~ (4) Refusal to comply with this section by any person contracted with, licensed, or seeking a contract or license under the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Pickle Card Lottery Act, or the State Lottery Act shall be a violation of the act under which such person is contracted with, licensed, or seeking a contract or license.

Sec. 3. Section 9-204.01, Reissue Revised Statutes of Nebraska, is amended to read:

9-204.01. Bingo card shall mean:

(1) In the case of seventy-five-number bingo, a disposable paper bingo card or a reusable hard bingo card or shutter card, which has letters and numbers preprinted by the manufacturer and which:

(a) Contains five columns with five squares in each column;

(b) Identifies the five columns from left to right by the letters B-I-N-G-O; and

(c) Contains in each square, except for the center square identified as "free", one number from a pool of seventy-five numbers; or

(2) In the case of ninety-number bingo, a disposable paper bingo card which has numbers preprinted by the manufacturer and which:

(a) Contains six faces with each face containing twenty-seven squares arranged in nine columns of three squares each; and

(b) Contains in fifteen squares of each face a number from one to ninety which is not repeated on the same card.

The department may, ~~by rule and regulation,~~ approve variations to the card formats described in subdivisions (1) and (2) of this section if such variations result in a bingo game which is conducted in a manner that is consistent with section 9-204.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) Failed to demonstrate, either individually or, in the case of a

business entity or a nonprofit organization, through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) To enter or to authorize any law enforcement officer to enter at any time upon any premises where bingo activity required to be licensed or for which a permit is required under the act is being conducted to determine whether any of the provisions of the act or any rules or regulations adopted and promulgated under the act have been or are being violated and at such time to examine such premises;

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

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

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

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

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

Sec. 5. Section 9-232.02, Reissue Revised Statutes of Nebraska, is amended to read:

9-232.02. All (1) Except as otherwise provided in this section, all licenses to conduct bingo and licenses issued to utilization-of-funds members, gaming managers, or commercial lessors shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. An application for license renewal shall be submitted at least forty-five days prior to the expiration date of the license. The department may prescribe a separate application form for renewal purposes for any license application required by the Nebraska Bingo Act. The renewal application may require such information as the department deems necessary for the proper administration of the act.

(2) Commencing October 1, 2001, a license to conduct bingo issued to a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the Internal Revenue Code and any license issued to a utilization-of-funds member or gaming manager for such nonprofit organization

shall be a biennial license, shall expire on September 30 of each odd-numbered year or such other date as the department may prescribe by rule and regulation, and may be renewed biennially. The biennial license fee for a utilization-of-funds member shall be forty dollars and the biennial license fee for a gaming manager shall be one hundred dollars.

(3) Commencing October 1, 2002, a license to conduct bingo issued to a nonprofit organization holding a certificate of exemption under section 501(c)(5), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, and any license issued to a utilization-of-funds member or gaming manager for such nonprofit organization or volunteer fire company shall be a biennial license, shall expire on September 30 of each even-numbered year or such other date as the department may prescribe by rule and regulation, and may be renewed biennially. The biennial license fee for a utilization-of-funds member shall be forty dollars and the biennial license fee for a gaming manager shall be one hundred dollars.

(4) Commencing October 1, 2001, a commercial lessor license shall be a biennial license, shall expire on September 30 of each odd-numbered year or such other date as the department may prescribe by rule and regulation, and may be renewed biennially.

Sec. 6. Section 9-232.03, Reissue Revised Statutes of Nebraska, is amended to read:

9-232.03. A licensed organization may request authorization from the department to conduct a limited period bingo. A licensed organization may conduct no more than four limited period bingos with an aggregate total of no more than ~~seven~~ twelve days in any ~~license year~~ twelve-month period commencing October 1 of each year or such other date as the department may prescribe by rule and regulation.

The request shall be in writing and shall contain the date and time when and the location where the limited period bingo is to be conducted. The request shall be submitted to the department at least ten days prior to the desired starting date of the limited period bingo.

Except as otherwise provided in the Nebraska Bingo Act, a limited period bingo shall be conducted in the same manner as prescribed for regular bingo occasions.

Sec. 7. Section 9-233, Reissue Revised Statutes of Nebraska, is amended to read:

9-233. (1) The department may issue an applicant organization one of the following classes of bingo licenses:

(a) A Class I license which shall include organizations with gross receipts from the conduct of bingo which are less than one hundred fifty thousand dollars per ~~license year~~ twelve-month period commencing October 1 of each year or such other date as the department may prescribe by rule and regulation; or

(b) A Class II license which shall include organizations with gross receipts from the conduct of bingo equal to or greater than one hundred fifty thousand dollars per ~~license year~~ twelve-month period commencing October 1 of each year or such other date as the department may prescribe by rule and regulation.

(2) For purposes of this section, when bingo occasions are conducted on a joint basis by two or more licensed organizations, the class of license required shall be determined based upon the combined gross receipts of all licensed organizations involved in the conduct of the bingo occasion.

(3)(a) Except as otherwise provided in this subsection, a fee of fifteen dollars shall be charged for a Class I license, and a fee of fifty dollars shall be charged for a Class II license.

(b) Commencing October 1, 2001, a biennial license fee of thirty dollars shall be charged for a Class I license issued to a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the Internal Revenue Code, and a biennial license fee of one hundred dollars shall be charged for a Class II license issued to a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the Internal Revenue Code.

(c) Commencing October 1, 2002, a biennial license fee of thirty dollars shall be charged for a Class I license issued to a nonprofit organization holding a certificate of exemption under section 501(c)(5), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, and a biennial license fee of one hundred dollars shall be charged for a Class II license issued to a nonprofit organization holding a certificate of exemption under section 501(c)(5), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter

35, article 1.

(4) The department shall adopt and promulgate rules and regulations to establish reporting requirements for each class of license issued.

Sec. 8. Section 9-241.03, Reissue Revised Statutes of Nebraska, is amended to read:

9-241.03. (1) Irrespective of the number of organizations authorized to hold bingo occasions within a premises:

(a) No more than two bingo occasions per calendar week shall be held within a premises; and

(b) No more than four limited period bingos with an aggregate of no more than ~~seven~~ twelve days per ~~license year~~ twelve-month period commencing October 1 of each year or such other date as the department may prescribe by rule and regulation and no more than two special event bingos with an aggregate of no more than four days per calendar year shall be held within a premises.

(2) Bingo occasions held as part of a limited period bingo or special event bingo, or a bingo occasion that was canceled due to an act of God and rescheduled pursuant to section 9-241.02, shall not be counted in determining whether the use of a premises is in compliance with subdivision (1)(a) of this section.

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

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

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

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

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

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

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

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

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

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

(2)(a) Except as otherwise provided in this subsection, an application for a commercial lessor's license shall be accompanied by a fee of one hundred dollars for each premises the applicant is seeking to lease pursuant to subsection (1) of this section. A commercial lessor who desires to lease more than one premises for the conduct of bingo shall file a separate application and pay a separate fee for each such premises.

(b) Commencing October 1, 2001, the biennial license fee for a commercial lessor shall be two hundred dollars for each premises the applicant is seeking to lease pursuant to subsection (1) of this section.

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

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

(5) A commercial lessor, the owner of a premises, and all parties who lease or sublease a premises which ultimately is leased to an organization for the conduct of bingo shall not be involved directly with the conduct of any bingo occasion regulated by the Nebraska Bingo Act which may include, but not be limited to, the managing, operating, promoting, advertising, or administering of bingo. Such persons shall not derive any financial gain from any gaming activities regulated by Chapter 9 except as provided in subsection (4) of section 9-347 if the individual is licensed as a pickle card operator,

if the individual is licensed as a lottery operator or authorized sales outlet location pursuant to the Nebraska County and City Lottery Act, or if the individual is contracted with as a lottery game retailer pursuant to the State Lottery Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include instances in which the licensee individually or, in the case of a business entity or a nonprofit organization, any officer, director, employee, or limited liability

company member of the licensee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such licensee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 1, subchapter D of the Internal Revenue Code from such licensee for past or present services in a consulting capacity or otherwise, or any person with a substantial interest in the licensee:

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

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

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

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

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

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

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

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

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

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

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

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

(5) To levy an administrative fine on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which the individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of the fine if any fine is levied, the department shall take into consideration the seriousness of the violation, the intent of the violator, whether the violator voluntarily reported the violation, whether the

violator derived financial gain as a result of the violation and the extent thereof, and whether the violator has had previous violations of the act, rules, or regulations. A fine levied on a violator under this section shall not exceed one thousand dollars for each violation of the act or any rule or regulation adopted and promulgated pursuant to the act plus the financial benefit derived by the violator as a result of each violation. If an administrative fine is levied, the fine shall not be paid from pickle card lottery gross proceeds of an organization and shall be remitted by the violator to the department within thirty days after the date of the order issued by the department levying such fine;

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

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

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

(9) To examine or to cause to have examined, by any agent or representative designated by the department for such purpose, any books, papers, records, or memoranda relating to the conduct of lottery by the sale of pickle cards of any licensee, to require by administrative order or summons the production of such documents or the attendance of any person having knowledge in the premises, to take testimony under oath, and to require proof material for its information. If any such person willfully refuses to make documents available for examination by the department or its agent or representative or willfully fails to attend and testify, the department may apply to a judge of the district court of the county in which such person resides for an order directing such person to comply with the department's request. If any documents requested by the department are in the custody of a corporation, the court order may be directed to any principal officer of the corporation. If the documents requested by the department are in the custody of a limited liability company, the court order may be directed to any member when management is reserved to the members or otherwise to any manager. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

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

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

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

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

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

Sec. 11. Section 9-328, Reissue Revised Statutes of Nebraska, is amended to read:

9-328. (1)(a) Except as otherwise provided in this subsection, all licenses to conduct a lottery by the sale of pickle cards and licenses issued to utilization-of-funds members shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. An application for license renewal shall be submitted to the department at least forty-five days prior to the expiration date of the license unless such application only pertains to the conduct of a lottery by the sale of pickle cards at a special function as provided in section 9-345.01.

(b) Commencing October 1, 2001, a license to conduct a lottery by the sale of pickle cards issued to a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the Internal

Revenue Code and any license issued to a utilization-of-funds member for such nonprofit organization shall be a biennial license, shall expire on September 30 of each odd-numbered year or such other date as the department may prescribe by rule and regulation, and may be renewed biennially. The biennial license fee for a utilization-of-funds member shall be forty dollars.

(c) Commencing October 1, 2002, a license to conduct a lottery by the sale of pickle cards issued to a nonprofit organization holding a certificate of exemption under section 501(c)(5), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, and any license issued to a utilization-of-funds member for such nonprofit organization or volunteer fire company shall be a biennial license, shall expire on September 30 of each even-numbered year or such other date as the department may prescribe by rule and regulation, and may be renewed biennially. The biennial license fee for a utilization-of-funds member shall be forty dollars.

(2) The department shall establish classes of licenses for licensed organizations based upon the manner in which the licensed organization intends to sell the pickle cards. The classes shall include:

(a) Class I licenses which shall include organizations which sell individual pickle cards only at the organization's designated premises and at the organization's licensed regularly scheduled bingo occasions pursuant to the Nebraska Bingo Act; and

(b) Class II licenses which shall include organizations which sell the pickle cards on the premises of one or more licensed pickle card operators.

A licensed organization holding a Class II license shall be required to market its pickle cards through a licensed sales agent.

(3)(a) Except as otherwise provided in this subsection, a license fee of one hundred dollars shall be charged for each Class I license, one hundred fifty dollars for each Class II license, and twenty dollars for a license for each utilization-of-funds member.

(b) Commencing October 1, 2001, a biennial license fee of two hundred dollars shall be charged for a Class I license issued to a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the Internal Revenue Code, and a biennial license fee of three hundred dollars shall be charged for a Class II license issued to a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the Internal Revenue Code. Commencing October 1, 2002, a biennial license fee of two hundred dollars shall be charged for a Class I license issued to a nonprofit organization holding a certificate of exemption under section 501(c)(5), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, and a biennial license fee of three hundred dollars shall be charged for a Class II license issued to a nonprofit organization holding a certificate of exemption under section 501(c)(5), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1.

(4) The department shall adopt and promulgate rules and regulations establishing reporting requirements for each class of license.

Sec. 12. Section 9-329, Reissue Revised Statutes of Nebraska, is amended to read:

9-329. (1) No sales agent shall market, sell, or deliver any pickle card unit to any pickle card operator without first obtaining a license.

(2) Any person wishing to operate as a sales agent in this state shall file an application with the department for a license on a form prescribed by the department. Each application for a license shall include (a) the name, address, and social security number of the person applying for the license, (b) the name and state identification number of the licensed organization for which any pickle card units are to be marketed or sold by the applicant, and (c) such other information which the department deems necessary.

(3) A statement signed by the person licensed as a utilization-of-funds member signifying that such licensed organization approves the applicant to act as a sales agent on behalf of such organization shall accompany each sales agent's application for a license. No person licensed as a utilization-of-funds member shall be licensed as a sales agent.

(4)(a) Except as otherwise provided in this subsection, a fee of fifty dollars shall be charged for each license issued pursuant to this section. The department shall remit the proceeds from such fee to the State Treasurer for credit to the Charitable Gaming Operations Fund. Such licenses shall expire on September 30 of each year or such other date which the department may prescribe by rule and regulation and may be renewed annually.

An application for license renewal shall be submitted to the department at least forty-five days prior to the expiration date of the license.

(b) Commencing October 1, 2001, a sales agent license issued to a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the Internal Revenue Code shall be a biennial license, shall expire on September 30 of each odd-numbered year or such other date as the department may prescribe by rule and regulation, and may be renewed biennially. The biennial license fee for a sales agent shall be one hundred dollars. Commencing October 1, 2002, a sales agent license issued to a nonprofit organization holding a certificate of exemption under section 501(c)(5), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, shall be a biennial license, shall expire on September 30 of each even-numbered year or such other date as the department may prescribe by rule and regulation, and may be renewed biennially. The biennial license fee for a sales agent license shall be one hundred dollars.

~~(3)~~ (5) The information required by this section shall be kept current. A sales agent shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information.

~~(4)~~ (6) The department may prescribe a separate application form for renewal purposes.

~~(5)~~ (7) The department may issue a temporary license pending receipt of additional information or further inquiry.

Sec. 13. Section 9-329.02, Reissue Revised Statutes of Nebraska, is amended to read:

9-329.02. (1) A pickle card operator shall not be eligible to sell individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards without first obtaining a license.

(2) Any sole proprietorship, partnership, limited liability company, or corporation wishing to operate as a pickle card operator in this state shall file an application with the department for a license on a form prescribed by the department. Each application for a license shall include (a) the name, address, and state identification number of the sole proprietorship, partnership, limited liability company, or corporation applying for the license, (b) a description of the premises on which the pickle cards will be sold or offered for sale, (c) if the applicant is an individual, the applicant's social security number, and (d) such other information which the department deems necessary. The information required by this subsection shall be kept current. A pickle card operator shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information.

~~(3)(a) Except as otherwise provided in this subsection, a fee of fifty dollars shall be charged for each license issued pursuant to this section and shall be paid for by the applicant. A licensed organization shall not pay the required licensing fees of a pickle card operator as an inducement for the pickle card operator to sell individual pickle cards on its behalf. Such Except as otherwise provided in this subsection, such licenses shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. The department shall remit the proceeds from such license fees to the State Treasurer for credit to the Charitable Gaming Operations Fund. An application for license renewal shall be submitted to the department at least sixty days prior to the expiration date of the license.~~

(b) Commencing October 1, 2001, a pickle card operator license shall be a biennial license, shall expire on September 30 of each odd-numbered year or such other date as the department may prescribe by rule and regulation, and may be renewed biennially. The biennial license fee for a pickle card operator shall be one hundred dollars.

(4) One license issued to any sole proprietorship, partnership, limited liability company, or corporation under this section as a pickle card operator shall cover the sole proprietorship, partnership, limited liability company, or corporation and the employees of the licensed pickle card operator. Any license issued pursuant to this section shall be valid only for the sole proprietorship, partnership, limited liability company, or corporation in the name of which it was issued and shall allow the sale of individual pickle cards only on the premises described in the pickle card operator's application for a license. A pickle card operator's license may not be transferred under any circumstances including change of ownership.

(5) The department may prescribe a separate application form for renewal purposes.

(6) A licensed pickle card operator shall not sell individual pickle

cards on behalf of a licensed organization until an authorization has been obtained from the department by the licensed organization. The licensed organization shall file an application with the department for such authorization on a form prescribed by the department. Each application for an authorization shall include (a) the name, address, and state identification number of the licensed pickle card operator and (b) such other information which the department deems necessary. The application shall include a statement signed by a person licensed as a utilization-of-funds member signifying that such licensed organization approves the pickle card operator to sell individual pickle cards on behalf of such organization.

(7) A pickle card operator may sell individual pickle cards on behalf of more than one licensed organization. Each licensed organization for which the pickle card operator desires to sell individual pickle cards shall obtain the authorization described in subsection (6) of this section.

(8) A pickle card operator who sells individual pickle cards through a coin-operated or currency-operated dispensing device shall purchase, lease, or rent its own equipment. If such equipment is obtained from a licensed organization or distributor, it shall be purchased, leased, or rented at a rate not less than fair market value. A licensed organization or distributor shall not provide such equipment to a pickle card operator free of charge or at a rate less than fair market value as an inducement for the pickle card operator to sell a licensed organization's individual pickle cards. The department may require a licensed organization, distributor, or pickle card operator to provide such documentation as the department deems necessary to verify that a pickle card operator has purchased, leased, or rented the equipment for a rate not less than fair market value.

(9) No pickle card operator shall generate revenue from the sale of individual pickle cards which exceeds the revenue generated from other retail sales on an annual basis. For purposes of this subsection, retail sales shall not include revenue generated from other charitable gaming activities authorized by Chapter 9.

Sec. 14. Section 9-345.01, Reissue Revised Statutes of Nebraska, is amended to read:

9-345.01. A licensed organization may conduct a lottery by the sale of pickle cards only at its designated premises, at its regularly scheduled bingo occasion and its limited period bingo conducted pursuant to the Nebraska Bingo Act, and at the premises of one or more pickle card operators.

A licensed organization may obtain an authorization from the department to sell its individual pickle cards at a festival, bazaar, picnic, carnival, or similar special function conducted by the licensed organization outside of the organization's designated premises one time per ~~license year~~ twelve-month period commencing October 1 of each year or such other date as the department may prescribe by rule and regulation not to exceed seven consecutive days if the special function is conducted within the county in which the licensed organization has its principal office and the pickle cards are sold only by volunteer members of the licensed organization. A licensed organization shall make written request to the department for such authorization at least ten days prior to the start of the special function.

Sec. 15. Section 9-345.03, Reissue Revised Statutes of Nebraska, is amended to read:

9-345.03. (1) Any person who places a coin-operated or currency-operated pickle card dispensing device in operation in this state without a current registration decal affixed permanently and conspicuously to the device shall be subject to an administrative penalty of thirty dollars for each violation. The department shall remit the proceeds from such penalties to the State Treasurer for credit to the Charitable Gaming Operations Fund.

(2) Registration of the device with the department shall be made by application to the department and shall be the responsibility of the licensed organization when such device is to be used in a licensed organization's designated premises or at the location of its regularly scheduled bingo occasion or of the licensed pickle card operator when such device is to be used on the premises of the pickle card operator.

(3) Each application for registration shall include (a) the name and address of the licensed pickle card operator or licensed organization registering the device, (b) the state identification number of the licensed pickle card operator or licensed organization registering the device, (c) a detailed description of the physical appearance and operation of the device, and (d) such other information which the department deems necessary.

(4) A fee of fifty dollars shall be charged for each decal issued pursuant to this section. The department shall remit the proceeds from the fee to the State Treasurer for credit to the Charitable Gaming Operations Fund. All decals issued by the department pursuant to this section shall

expire on December 31 of each year or such other date as the department may prescribe by rule and regulation and shall be renewed annually.

(5) The registration decal issued by the department pursuant to this section shall not be transferable.

(6) Upon request by the Tax Commissioner or his or her agents or employees, the licensed organization or pickle card operator responsible for registering the device shall provide the requesting individual immediate access to any pickle cards contained within such device.

(7) Any person violating any provision of this section shall be deemed guilty of a Class II misdemeanor. Each day on which any person engages in or conducts the business of operating any device subject to this section without having paid the penalty or the registration as provided constitutes a separate offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) Failed to demonstrate, either individually or, in the case of a

nonprofit organization, through its managers or employees, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made.

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) To examine or to cause to have examined, by any agent or representative designated by the department for such purpose, any books, papers, records, or memoranda relating to lottery or raffle activities required to be licensed pursuant to the Nebraska Lottery and Raffle Act, to require by summons the production of such documents and the attendance of any person having knowledge in the premises, to take testimony under oath, and to require proof material for its information. If any such person willfully refuses to make documents available for examination by the department or its agent or representative or willfully fails to attend and testify, the department may apply to a judge of the district court of the county in which such person resides for an order directing such person to comply with the department's request. If any documents requested by the department are in the custody of a corporation, the court order may be directed to any principal officer of the corporation. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

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

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

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

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

Sec. 17. Section 9-425, Reissue Revised Statutes of Nebraska, is amended to read:

9-425. All (1) Except as otherwise provided in this section, all licenses to conduct a lottery or raffle and licenses issued to utilization-of-funds members shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. An application for license renewal shall be submitted to the department at least thirty days prior to the starting date of the first lottery or raffle ticket sales for the license year. The department may issue a temporary license prior to receiving all necessary information from the applicant.

(2) Commencing October 1, 2001, a license to conduct a lottery or raffle issued to a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the Internal Revenue Code and any license issued to a utilization-of-funds member for such nonprofit organization shall be a biennial license, shall expire on September 30 of each odd-numbered year or such other date as the department may prescribe by rule and regulation, and may be renewed biennially. The biennial license fee for a license to conduct a lottery or raffle shall be thirty dollars and the biennial license fee for a utilization-of-funds member shall be forty dollars. Commencing October 1, 2002, a license to conduct a lottery or raffle issued to a nonprofit organization holding a certificate of exemption under section 501 of the Internal Revenue Code, other than a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the code, or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, and any license issued to a utilization-of-funds member for such nonprofit organization or volunteer fire company shall be a biennial license, shall expire on September 30 of each even-numbered year or such other date as the department may prescribe by rule and regulation, and may be renewed biennially. The biennial license fee for a license to conduct a lottery or raffle shall be thirty dollars and the biennial license fee for a utilization-of-funds member shall be forty dollars.

Sec. 18. Section 9-426, Reissue Revised Statutes of Nebraska, is amended to read:

9-426. (1) A licensed organization may obtain from the department a special permit to conduct one raffle and one lottery. The cost of the special permit shall be ten dollars. The special permit shall exempt the licensed organization from subsections (2) and (3) of section 9-427 and from section 9-430. The organization shall comply with all other requirements of the Nebraska Lottery and Raffle Act.

(2) The special permit shall be valid for three calendar months and shall be issued by the department upon the proper application by the licensed organization. The special permit shall become invalid upon termination,

revocation, or cancellation of the organization's license to conduct a lottery or raffle. The application shall be in such form and contain such information as the department may prescribe. No licensed organization may obtain more than one special permit for each ~~calendar year~~ twelve-month period commencing October 1 of each year or such other date as the department may prescribe by rule and regulation.

(3) No licensed organization conducting a raffle or lottery pursuant to a special permit shall pay persons selling tickets or stubs for the raffle or lottery, except that nothing in this subsection shall prohibit the awarding of prizes to such persons based on ticket or stub sales.

Sec. 19. Section 9-501, Reissue Revised Statutes of Nebraska, is amended to read:

9-501. Sections 9-501 to 9-513 and section 22 of this act shall be known and may be cited as the Nebraska Small Lottery and Raffle Act.

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

9-507. (1) Lottery shall mean a gambling scheme in which (a) participants pay or agree to pay something of value for an opportunity to win, (b) winning opportunities are represented by tickets differentiated by sequential enumeration, (c) the winners are to be determined by a random drawing of the tickets or by the method set forth in section 22 of this act, and (d) the holders of the winning tickets are to receive something of value.

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

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

9-509. (1) Raffle shall mean a gambling scheme in which (a) participants pay or agree to pay something of value for an opportunity to win, (b) winning opportunities are represented by tickets differentiated by sequential enumeration, (c) winners are to be determined by a random drawing of tickets or by the method set forth in section 22 of this act, and (d) at least eighty percent of all of the prizes to be awarded are merchandise prizes which are not directly or indirectly redeemable for cash by the qualifying nonprofit organization conducting the raffle or any agent of the organization.

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

Sec. 22. (1) A qualifying nonprofit organization may conduct a lottery or raffle in which the winners are to be determined by a race utilizing inanimate, buoyant objects floated along a river, canal, or other waterway. The objects shall each bear a number or other unique identifying mark which corresponds to sequentially numbered tickets which are sold to participants in the lottery or raffle. A qualifying nonprofit organization utilizing this method of winner determination shall comply with all other requirements of the Nebraska Small Lottery and Raffle Act and any rules and regulations adopted and promulgated pursuant to the act.

(2) The Department of Revenue may adopt and promulgate rules and regulations for the conduct of a lottery or raffle utilizing the method of winner determination provided by this section.

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

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

(1) To issue licenses and temporary licenses;

(2) To deny any license application or renewal application for cause. Cause for denial of an application or renewal of a license shall include instances in which the applicant individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the applicant or licensee other than an employee whose duties are purely ministerial in nature, any other person or entity directly or

indirectly associated with such applicant or licensee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 1, subchapter D of the Internal Revenue Code from such applicant or licensee for past or present services in a consulting capacity or otherwise, the licensee, or any person with a substantial interest in the applicant or licensee:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) To issue and cause to be served upon any licensee or other person an order requiring the licensee or other person to cease and desist from violations of the Nebraska County and City Lottery Act. The order shall give reasonable notice of the rights of the licensee or other person to request a hearing and shall state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the Tax Commissioner, and within twenty days after the date of the hearing, the Tax Commissioner shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be held in accordance with the rules and regulations adopted and promulgated by the department. If the licensee or other person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the licensee or other person shall be deemed in default and the proceeding may be determined against the licensee or other person upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To levy an administrative fine on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which the individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of the fine if any fine is levied, the department shall take into consideration the seriousness of the violation, the intent of the violator, whether the violator voluntarily reported the violation, whether the violator derived financial gain as a result of the violation and the extent thereof, and whether the violator has had previous violations of the act and regulations. A fine levied on a violator under this section shall not exceed twenty-five thousand dollars for each violation of the act or any rules and regulations adopted and promulgated pursuant to the act plus the financial benefit derived by the violator as a result of each violation. If an administrative fine is levied, the fine shall not be paid from lottery gross proceeds of the county, city, or village and shall be remitted by the violator to the department within thirty days from the date of the order issued by the department levying such fine;

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

(7) To require periodic reports of lottery activity from licensed counties, cities, villages, manufacturer-distributors, and lottery operators

and any other persons, organizations, limited liability companies, or corporations as the department deems necessary to carry out the act;

(8) To audit, examine, or cause to have examined, by any agent or representative designated by the department for such purpose, any books, papers, records, or memoranda relating to the conduct of a lottery, to require by administrative order or summons the production of such documents or the attendance of any person having knowledge in the premises, to take testimony under oath, and to require proof material for its information. If any such person willfully refuses to make documents available for examination by the department or its agent or representative or willfully fails to attend and testify, the department may apply to a judge of the district court of the county in which such person resides for an order directing such person to comply with the department's request. If any documents requested by the department are in the custody of a corporation, the court order may be directed to any principal officer of the corporation. If the documents requested by the department are in the custody of a limited liability company, the court order may be directed to any member when management is reserved to the members or otherwise to any manager. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

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

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

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

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

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

Sec. 24. Original sections 2-219, 9-1,104, 9-204.01, 9-226, 9-232.02, 9-232.03, 9-233, 9-241.03, 9-255.06, 9-322, 9-328, 9-329, 9-329.02, 9-345.01, 9-345.03, 9-418, 9-425, 9-426, 9-501, 9-507, 9-509, and 9-620, Reissue Revised Statutes of Nebraska, are repealed.