

AMENDMENTS TO LB538
(Amendments to AM1278)

Introduced by Wayne, 13.

1 1. Strike section 1 and insert the following new sections:

2 Section 1. Section 9-1,101, Revised Statutes Cumulative Supplement,
3 2018, is amended to read:

4 9-1,101 (1) The Nebraska Bingo Act, the Nebraska County and City
5 Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
6 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, and section
7 9-701 shall be administered and enforced by the Charitable Gaming
8 Division of the Department of Revenue, which division is hereby created.
9 The Department of Revenue shall make annual reports to the Governor,
10 Legislature, Auditor of Public Accounts, and Attorney General on all tax
11 revenue received, expenses incurred, and other activities relating to the
12 administration and enforcement of such acts. The report submitted to the
13 Legislature shall be submitted electronically.

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

18 (3)(a) Forty percent of the taxes collected pursuant to sections
19 9-239, 9-344, 9-429, and 9-648 shall be available to the Charitable
20 Gaming Division for administering and enforcing the acts listed in
21 subsection (1) of this section and providing administrative support for
22 the Nebraska Commission on Problem Gambling. The remaining sixty percent
23 shall be transferred to the General Fund. Any portion of the forty
24 percent not used by the division in the administration and enforcement of
25 such acts and section shall be distributed as provided in this
26 subsection.

1 (b) On or before November 1 each year, the State Treasurer shall
2 transfer one hundred thousand dollars from the Charitable Gaming
3 Operations Fund to the Compulsive Gamblers Assistance Fund, except that
4 no transfer shall occur if the Charitable Gaming Operations Fund contains
5 less than one hundred thousand dollars.

6 (c) Any money remaining in the Charitable Gaming Operations Fund
7 after the transfer pursuant to subdivision (b) of this subsection not
8 used by the Charitable Gaming Division in its administration and
9 enforcement duties pursuant to this section may be transferred to the
10 General Fund at the direction of the Legislature.

11 (4) The Tax Commissioner shall employ investigators who shall be
12 vested with the authority and power of a law enforcement officer to carry
13 out the laws of this state administered by the Tax Commissioner or the
14 Department of Revenue ~~and to enforce sections 28-1101 to 28-1117 relating~~
15 ~~to possession of a gambling device. For purposes of enforcing sections~~
16 ~~28-1101 to 28-1117, the authority of the investigators shall be limited~~
17 ~~to investigating possession of a gambling device, notifying local law~~
18 ~~enforcement authorities, and reporting suspected violations to the county~~
19 ~~attorney for prosecution.~~

20 (5) The Charitable Gaming Division may charge a fee for publications
21 and listings it produces. The fee shall not exceed the cost of
22 publication and distribution of such items. The division may also charge
23 a fee for making a copy of any record in its possession equal to the
24 actual cost per page. The division shall remit the fees to the State
25 Treasurer for credit to the Charitable Gaming Operations Fund.

26 (6) For administrative purposes only, the Nebraska Commission on
27 Problem Gambling shall be located within the Charitable Gaming Division.
28 The division shall provide office space, furniture, equipment, and
29 stationery and other necessary supplies for the commission. Commission
30 staff shall be appointed, supervised, and terminated by the director of
31 the Gamblers Assistance Program pursuant to section 9-1004.

1 Sec. 2. Section 25-21,302, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 25-21,302 (1)(a) In addition to any other civil or criminal
4 penalties provided by law, any property used in the commission of a
5 violation of the Child Pornography Prevention Act or section 28-813,
6 28-831, 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~ may
7 be forfeited through a proceeding as provided in this section.

8 (b) The following property shall be subject to forfeiture if used or
9 intended for use as an instrumentality in or used in furtherance of a
10 violation of the Child Pornography Prevention Act or section 28-813,
11 28-831, 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~:

- 12 (i) Conveyances, including aircraft, vehicles, or vessels;
- 13 (ii) Books, records, telecommunication equipment, or computers;
- 14 (iii) Money or weapons;
- 15 (iv) Everything of value furnished, or intended to be furnished, in
16 exchange for an act in violation and all proceeds traceable to the
17 exchange;
- 18 (v) Negotiable instruments and securities;
- 19 (vi) Any property, real or personal, directly or indirectly acquired
20 or received in a violation or as an inducement to violate;
- 21 (vii) Any property traceable to proceeds from a violation; and
- 22 (viii) Any real property, including any right, title, and interest
23 in the whole of or any part of any lot or tract of land, used in
24 furtherance of a violation of the Child Pornography Prevention Act or
25 section 28-813, 28-831, 28-1102, 28-1103, 28-1104, 28-1105, or
26 28-1105.01, ~~or 28-1107~~.

27 (c)(i) No property used by any person as a common carrier in the
28 transaction of business as a common carrier is subject to forfeiture
29 under this section unless it appears that the owner or other person in
30 charge of the property is a consenting party or privy to a violation of
31 the Child Pornography Prevention Act or section 28-813, 28-831, 28-1102,

1 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~.

2 (ii) No property is subject to forfeiture under this section by
3 reason of any act or omission proved by the owner thereof to have been
4 committed or omitted without his or her actual knowledge or consent. If
5 the confiscating authority has reason to believe that the property is
6 leased or rented property, then the confiscating authority shall notify
7 the owner of the property within five days after the confiscation or
8 within five days after forming reason to believe that the property is
9 leased or rented property.

10 (iii) Forfeiture of property encumbered by a bona fide security
11 interest is subject to the interest of the secured party if such party
12 neither had actual knowledge of nor consented to the act or omission.

13 (2) No property shall be forfeited under this section, to the extent
14 of the interest of an owner, by reason of any act or omission established
15 by the owner to have been committed or omitted without his or her actual
16 knowledge or consent.

17 (3) Seizure without process may be made if the seizure is incident
18 to an arrest or a search under a search warrant.

19 (4)(a) When any property is seized under this section, proceedings
20 shall be instituted within a reasonable period of time from the date of
21 seizure or the subject property shall be immediately returned to the
22 party from whom seized.

23 (b) A petition for forfeiture shall be filed by the Attorney General
24 or a county attorney in the name of the State of Nebraska and may be
25 filed in the county in which the seizure is made, the county in which the
26 criminal prosecution is brought, or the county in which the owner of the
27 seized property is found. Forfeiture proceedings may be brought in the
28 district court or the county court. A copy of the petition shall be
29 served upon the following persons by service of process in the same
30 manner as in civil cases:

31 (i) The owner of the property if the owner's address is known;

1 (ii) Any secured party who has registered a lien or filed a
2 financing statement as provided by law if the identity of the secured
3 party can be ascertained by the entity filing the petition by making a
4 good faith effort to ascertain the identity of the secured party;

5 (iii) Any other bona fide lienholder or secured party or other
6 person holding an interest in the property in the nature of a security
7 interest of whom the seizing law enforcement agency has actual knowledge;
8 and

9 (iv) Any person in possession of property subject to forfeiture at
10 the time that it was seized.

11 (5) If the property is a motor vehicle subject to titling under the
12 Motor Vehicle Certificate of Title Act or a vessel subject to titling
13 under the State Boat Act, and if there is any reasonable cause to believe
14 that the motor vehicle or vessel has been titled, inquiry of the
15 Department of Motor Vehicles shall be made as to what the records of the
16 department show as to who is the record owner of the motor vehicle or
17 vessel and who, if anyone, holds any lien or security interest that
18 affects the motor vehicle or vessel.

19 (6) If the property is a motor vehicle or vessel and is not titled
20 in the State of Nebraska, then an attempt shall be made to ascertain the
21 name and address of the person in whose name the motor vehicle or vessel
22 is licensed, and if the motor vehicle or vessel is licensed in a state
23 which has in effect a certificate of title law, inquiry of the
24 appropriate agency of that state shall be made as to what the records of
25 the agency show as to who is the record owner of the motor vehicle or
26 vessel and who, if anyone, holds any lien, security interest, or other
27 instrument in the nature of a security device that affects the motor
28 vehicle or vessel.

29 (7) If the property is of a nature that a financing statement is
30 required by the laws of this state to be filed to perfect a security
31 interest affecting the property and if there is any reasonable cause to

1 believe that a financing statement covering the security interest has
2 been filed under the laws of this state, inquiry shall be made as to what
3 the records show as to who is the record owner of the property and who,
4 if anyone, has filed a financing statement affecting the property.

5 (8) If the property is an aircraft or part thereof and if there is
6 any reasonable cause to believe that an instrument in the nature of a
7 security device affects the property, inquiry shall be made as to what
8 the records of the Federal Aviation Administration show as to who is the
9 record owner of the property and who, if anyone, holds an instrument in
10 the nature of a security device which affects the property.

11 (9) If the answer to an inquiry states that the record owner of the
12 property is any person other than the person who was in possession of it
13 when it was seized or states that any person holds any lien, encumbrance,
14 security interest, other interest in the nature of a security interest,
15 mortgage, or deed of trust that affects the property, the record owner
16 and also any lienholder, secured party, other person who holds an
17 interest in the property in the nature of a security interest, or holder
18 of an encumbrance, mortgage, or deed of trust that affects the property
19 is to be named in the petition of forfeiture and is to be served with
20 process in the same manner as in civil cases.

21 (10) If the owner of the property cannot be found and served with a
22 copy of the petition of forfeiture or if no person was in possession of
23 the property subject to forfeiture at the time that it was seized and the
24 owner of the property is unknown, there shall be filed with the clerk of
25 the court in which the proceeding is pending an affidavit to such effect,
26 whereupon the clerk of the court shall publish notice of the hearing
27 addressed to "the Unknown Owner of, " filling in the blank
28 space with a reasonably detailed description of the property subject to
29 forfeiture. Service by publication shall be completed in the same manner
30 as is provided in the code of civil procedure for the service of process
31 in civil actions in the district courts of this state.

1 (11) No proceedings instituted pursuant to this section shall
2 proceed to hearing unless the judge conducting the hearing is satisfied
3 that this section has been complied with. Any answer received from an
4 inquiry required by this section shall be introduced into evidence at the
5 hearing.

6 (12)(a) An owner of property that has been seized shall file an
7 answer within thirty days after the completion of service of process. If
8 an answer is not filed, the court shall hear evidence that the property
9 is subject to forfeiture and forfeit the property to the seizing law
10 enforcement agency. If an answer is filed, a time for hearing on
11 forfeiture shall be set within thirty days after filing the answer or at
12 the succeeding term of court if court would not be in session within
13 thirty days after filing the answer. The court may postpone the
14 forfeiture hearing to a date past the time any criminal action is pending
15 against the owner upon request of any party.

16 (b) If the owner of the property has filed an answer denying that
17 the property is subject to forfeiture, then the burden is on the
18 petitioner to prove that the property is subject to forfeiture. However,
19 if an answer has not been filed by the owner of the property, the
20 petition for forfeiture may be introduced into evidence and is prima
21 facie evidence that the property is subject to forfeiture. The burden of
22 proof placed upon the petitioner in regard to property forfeited under
23 this section shall be by clear and convincing evidence.

24 (c) At the hearing any claimant of any right, title, or interest in
25 the property may prove his or her lien, encumbrance, security interest,
26 other interest in the nature of a security interest, mortgage, or deed of
27 trust to be bona fide and created without actual knowledge or consent
28 that the property was to be used so as to cause the property to be
29 subject to forfeiture.

30 (d) If it is found that the property is subject to forfeiture, then
31 the judge shall forfeit the property. However, if proof at the hearing

1 discloses that the interest of any bona fide lienholder, any secured
2 party, any other person holding an interest in the property in the nature
3 of a security interest, or any holder of a bona fide encumbrance,
4 mortgage, or deed of trust is greater than or equal to the present value
5 of the property, the court shall order the property released to him or
6 her. If the interest is less than the present value of the property and
7 if the proof shows that the property is subject to forfeiture, the court
8 shall order the property forfeited.

9 (13) Unless otherwise provided in this section, all personal
10 property which is forfeited under this section shall be liquidated and,
11 after deduction of court costs and the expense of liquidation, the
12 proceeds shall be remitted to the county treasurer of the county in which
13 the seizure was made. The county treasurer shall remit all such proceeds
14 from property forfeited pursuant to this section to the State Treasurer
15 for distribution in accordance with Article VII, section 5, of the
16 Constitution of Nebraska.

17 (14) All money forfeited under this section shall be remitted in the
18 same manner as provided in subsection (13) of this section.

19 (15) All real estate forfeited under this section shall be sold to
20 the highest bidder at a public auction for cash, the auction to be
21 conducted by the county sheriff or his or her designee at such place, on
22 such notice, and in accordance with the same procedure, as far as
23 practicable, as is required in the case of sales of land under execution
24 at law. The proceeds of the sale shall first be applied to the cost and
25 expense in administering and conducting the sale, then to the
26 satisfaction of all mortgages, deeds of trust, liens, and encumbrances of
27 record on the property. The remaining proceeds shall be remitted in the
28 same manner as provided in subsection (13) of this section.

29 (16) The forfeiture procedure set forth in this section is the sole
30 remedy of any claimant, and no court shall have jurisdiction to interfere
31 therewith by replevin, by injunction, by supersedeas, or by any other

1 manner.

2 Sec. 3. Section 28-1101, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 28-1101 As used in this article, unless the context otherwise
5 requires:

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

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

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

27 (4) A person engages in gambling if he or she bets something of
28 value upon the outcome of a future event, which outcome is determined by
29 an element of chance, or upon the outcome of a game, contest, or
30 election, or conducts or participates in any bingo, lottery by the sale
31 of pickle cards, lottery, raffle, gift enterprise, or other scheme not

1 authorized or conducted in accordance with the Nebraska Bingo Act, the
2 Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle
3 Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and
4 Raffle Act, the State Lottery Act, or section 9-701, but a person does
5 not engage in gambling by:

6 (a) Entering into a lawful business transaction;

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

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

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

17 ~~(5) Gambling device shall mean any device, machine, paraphernalia,~~
18 ~~writing, paper, instrument, article, or equipment that is used or usable~~
19 ~~for engaging in gambling, whether that activity consists of gambling~~
20 ~~between persons or gambling by a person involving the playing of a~~
21 ~~machine. Gambling device shall also include any mechanical gaming device,~~
22 ~~computer gaming device, electronic gaming device, or video gaming device~~
23 ~~which has the capability of awarding something of value, free games~~
24 ~~redeemable for something of value, instant-win tickets which also provide~~
25 ~~the possibility of participating in a subsequent drawing or event, or~~
26 ~~tickets or stubs redeemable for something of value, except as authorized~~
27 ~~in the furtherance of parimutuel wagering. Supplies, equipment, cards,~~
28 ~~tickets, stubs, and other items used in any bingo, lottery by the sale of~~
29 ~~pickle cards, other lottery, raffle, or gift enterprise conducted in~~
30 ~~accordance with the Nebraska Bingo Act, the Nebraska County and City~~
31 ~~Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle~~

1 ~~Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State~~
2 ~~Lottery Act, or section 9-701 are not gambling devices within this~~
3 ~~definition;~~

4 (5) ~~(6)~~ Something of value shall mean any money or property, any
5 token, object, or article exchangeable for money or property, or any form
6 of credit or promise directly or indirectly contemplating transfer of
7 money or property or of any interest therein, or involving extension of a
8 service or entertainment; and

9 (6) ~~(7)~~ Prize contest shall mean any competition in which one or
10 more competitors are awarded something of value as a consequence of
11 winning or achieving a certain result in the competition and (a) the
12 value of such awards made to competitors participating in the contest
13 does not depend upon the number of participants in the contest or upon
14 the amount of consideration, if any, paid for the opportunity to
15 participate in the contest or upon chance and (b) the value or identity
16 of such awards to be made to competitors is published before the
17 competition begins.

18 Sec. 4. Section 28-1105.01, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 28-1105.01 (1) A person commits the offense of gambling debt
21 collection if he or she employs any force or intimidation or threatens
22 force or intimidation in order to collect any debt which results from
23 gambling as defined by sections 9-510, 28-1101 to 28-1108 ~~28-1109~~, and
24 28-1117.

25 (2) Gambling debt collection is a Class III felony.

26 Sec. 5. Section 28-1111, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 28-1111 In addition to any penalty provided in section 28-1102,
29 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~, a sentencing court
30 may order that any money, securities, negotiable instruments, firearms,
31 conveyances, or electronic communication devices as defined in section

1 28-833 or any equipment, components, peripherals, software, hardware, or
2 accessories related to electronic communication devices, ~~or any gambling~~
3 ~~devices~~ be forfeited as a part of the sentence imposed if it finds by
4 clear and convincing evidence adduced at a separate hearing in the same
5 prosecution, conducted pursuant to section 28-1601, that any or all such
6 property was derived from, used, or intended to be used to facilitate a
7 violation of section 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01,
8 ~~or 28-1107~~.

9 Sec. 6. Section 28-1354, Revised Statutes Cumulative Supplement,
10 2018, is amended to read:

11 28-1354 For purposes of the Public Protection Act:

12 (1) Enterprise means any individual, sole proprietorship,
13 partnership, corporation, trust, association, or any legal entity, union,
14 or group of individuals associated in fact although not a legal entity,
15 and shall include illicit as well as licit enterprises as well as other
16 entities;

17 (2) Pattern of racketeering activity means a cumulative loss for one
18 or more victims or gains for the enterprise of not less than one thousand
19 five hundred dollars resulting from at least two acts of racketeering
20 activity, one of which occurred after August 30, 2009, and the last of
21 which occurred within ten years, excluding any period of imprisonment,
22 after the commission of a prior act of racketeering activity;

23 (3) Until January 1, 2017, person means any individual or entity, as
24 defined in section 21-2014, holding or capable of holding a legal,
25 equitable, or beneficial interest in property. Beginning January 1, 2017,
26 person means any individual or entity, as defined in section 21-214,
27 holding or capable of holding a legal, equitable, or beneficial interest
28 in property;

29 (4) Prosecutor includes the Attorney General of the State of
30 Nebraska, the deputy attorney general, assistant attorneys general, a
31 county attorney, a deputy county attorney, or any person so designated by

1 the Attorney General, a county attorney, or a court of the state to carry
2 out the powers conferred by the act;

3 (5) Racketeering activity includes the commission of, criminal
4 attempt to commit, conspiracy to commit, aiding and abetting in the
5 commission of, aiding in the consummation of, acting as an accessory to
6 the commission of, or the solicitation, coercion, or intimidation of
7 another to commit or aid in the commission of any of the following:

8 (a) Offenses against the person which include: Murder in the first
9 degree under section 28-303; murder in the second degree under section
10 28-304; manslaughter under section 28-305; assault in the first degree
11 under section 28-308; assault in the second degree under section 28-309;
12 assault in the third degree under section 28-310; terroristic threats
13 under section 28-311.01; kidnapping under section 28-313; false
14 imprisonment in the first degree under section 28-314; false imprisonment
15 in the second degree under section 28-315; sexual assault in the first
16 degree under section 28-319; and robbery under section 28-324;

17 (b) Offenses relating to controlled substances which include: To
18 unlawfully manufacture, distribute, deliver, dispense, or possess with
19 intent to manufacture, distribute, deliver, or dispense a controlled
20 substance under subsection (1) of section 28-416; possession of marijuana
21 weighing more than one pound under subsection (12) of section 28-416;
22 possession of money used or intended to be used to facilitate a violation
23 of subsection (1) of section 28-416 prohibited under subsection (17) of
24 section 28-416; any violation of section 28-418; to unlawfully
25 manufacture, distribute, deliver, or possess with intent to distribute or
26 deliver an imitation controlled substance under section 28-445;
27 possession of anhydrous ammonia with the intent to manufacture
28 methamphetamine under section 28-451; and possession of ephedrine,
29 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
30 methamphetamine under section 28-452;

31 (c) Offenses against property which include: Arson in the first

1 degree under section 28-502; arson in the second degree under section
2 28-503; arson in the third degree under section 28-504; burglary under
3 section 28-507; theft by unlawful taking or disposition under section
4 28-511; theft by shoplifting under section 28-511.01; theft by deception
5 under section 28-512; theft by extortion under section 28-513; theft of
6 services under section 28-515; theft by receiving stolen property under
7 section 28-517; criminal mischief under section 28-519; and unlawfully
8 depriving or obtaining property or services using a computer under
9 section 28-1344;

10 (d) Offenses involving fraud which include: Burning to defraud an
11 insurer under section 28-505; forgery in the first degree under section
12 28-602; forgery in the second degree under section 28-603; criminal
13 possession of a forged instrument under section 28-604; criminal
14 possession of written instrument forgery devices under section 28-605;
15 criminal impersonation under section 28-638; identity theft under section
16 28-639; identity fraud under section 28-640; false statement or book
17 entry under section 28-612; tampering with a publicly exhibited contest
18 under section 28-614; issuing a false financial statement for purposes of
19 obtaining a financial transaction device under section 28-619;
20 unauthorized use of a financial transaction device under section 28-620;
21 criminal possession of a financial transaction device under section
22 28-621; unlawful circulation of a financial transaction device in the
23 first degree under section 28-622; unlawful circulation of a financial
24 transaction device in the second degree under section 28-623; criminal
25 possession of a blank financial transaction device under section 28-624;
26 criminal sale of a blank financial transaction device under section
27 28-625; criminal possession of a financial transaction forgery device
28 under section 28-626; unlawful manufacture of a financial transaction
29 device under section 28-627; laundering of sales forms under section
30 28-628; unlawful acquisition of sales form processing services under
31 section 28-629; unlawful factoring of a financial transaction device

1 under section 28-630; and fraudulent insurance acts under section 28-631;
2 (e) Offenses involving governmental operations which include: Abuse
3 of public records under section 28-911; perjury or subornation of perjury
4 under section 28-915; bribery under section 28-917; bribery of a witness
5 under section 28-918; tampering with a witness or informant or jury
6 tampering under section 28-919; bribery of a juror under section 28-920;
7 assault on an officer, an emergency responder, a state correctional
8 employee, a Department of Health and Human Services employee, or a health
9 care professional in the first degree under section 28-929; assault on an
10 officer, an emergency responder, a state correctional employee, a
11 Department of Health and Human Services employee, or a health care
12 professional in the second degree under section 28-930; assault on an
13 officer, an emergency responder, a state correctional employee, a
14 Department of Health and Human Services employee, or a health care
15 professional in the third degree under section 28-931; and assault on an
16 officer, an emergency responder, a state correctional employee, a
17 Department of Health and Human Services employee, or a health care
18 professional using a motor vehicle under section 28-931.01;

19 (f) Offenses involving gambling which include: Promoting gambling in
20 the first degree under section 28-1102; possession of gambling records
21 under section 28-1105; and gambling debt collection under section
22 28-1105.01; ~~and possession of a gambling device under section 28-1107;~~

23 (g) Offenses relating to firearms, weapons, and explosives which
24 include: Carrying a concealed weapon under section 28-1202;
25 transportation or possession of machine guns, short rifles, or short
26 shotguns under section 28-1203; unlawful possession of a handgun under
27 section 28-1204; unlawful transfer of a firearm to a juvenile under
28 section 28-1204.01; possession of a firearm by a prohibited juvenile
29 offender under section 28-1204.05; using a deadly weapon to commit a
30 felony or possession of a deadly weapon during the commission of a felony
31 under section 28-1205; possession of a deadly weapon by a prohibited

1 person under section 28-1206; possession of a defaced firearm under
2 section 28-1207; defacing a firearm under section 28-1208; unlawful
3 discharge of a firearm under section 28-1212.02; possession, receipt,
4 retention, or disposition of a stolen firearm under section 28-1212.03;
5 unlawful possession of explosive materials in the first degree under
6 section 28-1215; unlawful possession of explosive materials in the second
7 degree under section 28-1216; unlawful sale of explosives under section
8 28-1217; use of explosives without a permit under section 28-1218;
9 obtaining an explosives permit through false representations under
10 section 28-1219; possession of a destructive device under section
11 28-1220; threatening the use of explosives or placing a false bomb under
12 section 28-1221; using explosives to commit a felony under section
13 28-1222; using explosives to damage or destroy property under section
14 28-1223; and using explosives to kill or injure any person under section
15 28-1224;

16 (h) Any violation of the Securities Act of Nebraska pursuant to
17 section 8-1117;

18 (i) Any violation of the Nebraska Revenue Act of 1967 pursuant to
19 section 77-2713;

20 (j) Offenses relating to public health and morals which include:
21 Prostitution under section 28-801; pandering under section 28-802;
22 keeping a place of prostitution under section 28-804; labor trafficking,
23 sex trafficking, labor trafficking of a minor, or sex trafficking of a
24 minor under section 28-831; a violation of section 28-1005; and any act
25 relating to the visual depiction of sexually explicit conduct prohibited
26 in the Child Pornography Prevention Act; and

27 (k) A violation of the Computer Crimes Act;

28 (6) State means the State of Nebraska or any political subdivision
29 or any department, agency, or instrumentality thereof; and

30 (7) Unlawful debt means a debt of at least one thousand five hundred
31 dollars:

1 (a) Incurred or contracted in gambling activity which was in
2 violation of federal law or the law of the state or which is
3 unenforceable under state or federal law in whole or in part as to
4 principal or interest because of the laws relating to usury; or

5 (b) Which was incurred in connection with the business of gambling
6 in violation of federal law or the law of the state or the business of
7 lending money or a thing of value at a rate usurious under state law if
8 the usurious rate is at least twice the enforceable rate.

9 Sec. 7. Section 28-1601, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 28-1601 (1) In addition to existing penalties for a violation of the
12 Child Pornography Prevention Act, subsection (1) of section 28-416, or
13 section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01,~~or~~
14 ~~28-1107,~~ a court may order forfeiture of any money, securities,
15 negotiable instruments, firearms, conveyances, or electronic
16 communication devices as defined in section 28-833, or any equipment,
17 components, peripherals, software, hardware, or accessories related to
18 electronic communication devices,~~or any gambling devices as defined in~~
19 ~~section 28-1101~~ if:

20 (a) The owner or possessor of the property has been convicted of a
21 violation of the Child Pornography Prevention Act, subsection (1) of
22 section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105,
23 or 28-1105.01,~~or 28-1107;~~

24 (b) The information charging such violation specifically requests
25 the forfeiture of property upon conviction and is prepared pursuant to
26 section 28-1602; and

27 (c) The property is found by clear and convincing evidence to have
28 been derived from, used, or intended to be used to facilitate a violation
29 of the Child Pornography Prevention Act, subsection (1) of section
30 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, or
31 ~~28-1105.01,~~~~or 28-1107.~~

1 (2) Following the filing of an information charging a violation of
2 the Child Pornography Prevention Act, subsection (1) of section 28-416,
3 or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01,
4 ~~or 28-1107~~ that specifically seeks forfeiture of any property listed in
5 subsection (1) of this section, the defendant may request a pretrial
6 hearing to determine the existence of probable cause to believe that the
7 property specifically sought to be forfeited was derived from, used, or
8 intended to be used to facilitate a violation of the Child Pornography
9 Prevention Act, subsection (1) of section 28-416, or section 28-813.01,
10 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01,~~or 28-1107~~. The
11 request for a hearing pursuant to this section must be filed with the
12 district court in which the criminal proceeding is pending within thirty
13 days after the filing of the information.

14 (3) At any time after the filing of the information in district
15 court and prior to final disposition of the criminal case, any person or
16 entity, other than the defendant, with a claimed legal interest in the
17 property may petition to intervene in the district court with
18 jurisdiction over the criminal case for the specific and limited purpose
19 of demonstrating his, her, or its legal interest in the property and his,
20 her, or its lack of actual knowledge that such property was derived from,
21 used, or intended to be used in violation of the Child Pornography
22 Prevention Act, subsection (1) of section 28-416, or section 28-813.01,
23 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01,~~or 28-1107~~. In the
24 petition to intervene, the intervening person or entity shall, at a
25 minimum, state facts demonstrating his, her, or its legal interest in the
26 property and his, her, or its lack of actual knowledge regarding the use
27 or intended use of the property. Within thirty days after filing a motion
28 to intervene, the district court shall conduct an evidentiary hearing on
29 the matter. At the conclusion of such hearing, the court may order that
30 any or all of the property be returned to the intervening claimant after
31 it is no longer needed as evidence in the criminal case upon a showing by

1 the claimant by a preponderance of the evidence (a) that he, she, or it
2 has a legally recognized interest in the property and (b) either (i) that
3 such property was acquired by the claimant in good faith and he, she, or
4 it did not have actual knowledge that such property was derived from,
5 used, or intended to be used to facilitate a violation of the Child
6 Pornography Prevention Act, subsection (1) of section 28-416, or section
7 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~
8 or (ii) that the property seized was not derived from, used, or intended
9 to be used to facilitate a violation of the Child Pornography Prevention
10 Act, subsection (1) of section 28-416, or section 28-813.01, 28-1102,
11 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~. The court, on its
12 own motion or upon application of the intervening claimant, may permit
13 such person to proceed in forma pauperis under sections 25-2301 to
14 25-2310. The court, on its own motion or upon application of the
15 intervening claimant, may appoint counsel to represent such person if
16 such person is indigent. If he or she asserts indigency, the court shall
17 make a reasonable inquiry to determine such person's financial condition
18 and may require him or her to execute an affidavit of indigency for
19 filing with the clerk of the court.

20 (4) After conviction but prior to sentencing for a violation of the
21 Child Pornography Prevention Act, subsection (1) of section 28-416, or
22 section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or~~
23 ~~28-1107~~ in cases in which the prosecuting authority has specifically
24 requested forfeiture of property, the district court shall conduct an
25 evidentiary hearing at which the prosecuting authority must prove by
26 clear and convincing evidence what specific amount or portion of the
27 property specifically enumerated in the criminal information was derived
28 from, used, or intended for use in furtherance of a violation of the
29 Child Pornography Prevention Act, subsection (1) of section 28-416, or
30 section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or~~
31 ~~28-1107~~. At the conclusion of such hearing, the court shall make specific

1 findings of fact indicating what amount or portion of the property sought
2 to be forfeited by the state was derived from, used, or intended to be
3 used to facilitate a violation of the Child Pornography Prevention Act,
4 subsection (1) of section 28-416, or section 28-813.01, 28-1102, 28-1103,
5 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~. The court shall order any
6 amount or portion of the property not proven by the state to be derived
7 from, used, or intended to be used to facilitate a violation of the Child
8 Pornography Prevention Act, subsection (1) of section 28-416, or section
9 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~
10 or the fair market value of the legally recognized interest in such
11 property be returned to its rightful and legal owner or interest holder.

12 (5)(a) The court shall order that any amount or portion of property
13 proven by the state by clear and convincing evidence to be derived from,
14 used, or intended to be used to facilitate a violation of the Child
15 Pornography Prevention Act, subsection (1) of section 28-416, or section
16 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~
17 be forfeited to the state and disposition of such property be conducted
18 in accordance with this subsection and section 28-1439.02 at such time as
19 the property is no longer required as evidence in any criminal
20 proceeding.

21 (b) As part of any disposition of property, the court may order
22 that: (i) Any money, securities, or negotiable instruments be distributed
23 as provided in Article VII, section 5, of the Constitution of Nebraska;
24 (ii) any conveyances be sold or put to official use by the seizing agency
25 for a period of not more than one year and when such property is no
26 longer necessary for official use or at the end of two years, whichever
27 comes first, such property shall be sold. Proceeds from the sale of any
28 conveyance shall be distributed as provided in Article VII, section 5, of
29 the Constitution of Nebraska; (iii) any electronic communication devices
30 as defined in section 28-833, or any equipment, components, peripherals,
31 software, hardware, or accessories related to electronic communication

1 ~~devices, or any gambling devices as defined in section 28-1101~~ be
2 destroyed by a law enforcement agency; and (iv) the disposition of
3 firearms shall be effectuated pursuant to section 29-820.

4 (c) As used in this subsection, official use means use directly in
5 connection with enforcement of the Child Pornography Prevention Act, the
6 Uniform Controlled Substances Act, or section 28-813.01, 28-1102,
7 28-1103, 28-1104, 28-1105, 28-1105.01, ~~or 28-1107~~.

8 (6) Any money, securities, negotiable instruments, firearms,
9 conveyances, or electronic communication devices as defined in section
10 28-833, or any equipment, components, peripherals, software, hardware, or
11 accessories related to electronic communication devices, ~~or any gambling~~
12 ~~devices as defined in section 28-1101~~ may be forfeited pursuant to a plea
13 agreement between the state and the defendant subject to notice to or
14 approval of the court.

15 (7) Subdivision (1)(a) of this section does not apply if the owner
16 or possessor of the property dies or is removed from the United States
17 before charges are filed or a conviction obtained.

18 (8) Subdivision (1)(b) of this section does not apply if the owner
19 or possessor of the property dies or is removed from the United States
20 before charges are filed so long as the statute of limitations for a
21 violation of the Child Pornography Prevention Act, subsection (1) of
22 section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105,
23 or 28-1105.01, ~~or 28-1107~~ has not expired.

24 (9) Subdivision (1)(a) of this section does not apply if the owner
25 or possessor of the property is unknown or incapable of being determined
26 for some legitimate reason or fails to appear in court as ordered after
27 prosecution for a violation of the Child Pornography Prevention Act,
28 subsection (1) of section 28-416, or section 28-813.01, 28-1102, 28-1103,
29 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~ is commenced and is not
30 apprehended within twelve months after the failure to appear order was
31 issued by the court.

1 (10) If the owner or possessor of the property fails to appear in
2 court as ordered after prosecution for a violation of the Child
3 Pornography Prevention Act, subsection (1) of section 28-416, or section
4 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~
5 is commenced but appears or is apprehended within twelve months after the
6 failure to appear order was issued by the court, the court may order the
7 owner or possessor of the property, as a part of any sentence imposed for
8 either the failure to appear or the conviction of the Child Pornography
9 Prevention Act, subsection (1) of section 28-416, or section 28-813.01,
10 28-1102, 28-1103, 28-1104, 28-1105, or 28-1105.01, ~~or 28-1107~~, to pay a
11 storage fee of one hundred dollars per month for each month the property
12 was held following the issuance of the failure to appear order.

13 Sec. 8. Section 28-1602, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 28-1602 (1) The prosecuting authority must specifically plead its
16 intent to seek forfeiture of any property upon a conviction for a
17 violation of the Child Pornography Prevention Act, subsection (1) of
18 section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105,
19 or 28-1105.01, ~~or 28-1107~~ in the same criminal information charging the
20 underlying violation of the Child Pornography Prevention Act, subsection
21 (1) of section 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104,
22 28-1105, or 28-1105.01, ~~or 28-1107~~.

23 (2) In pleading its intent to seek forfeiture, the information shall
24 specifically (a) state the date the property was seized, (b) state the
25 place the property was seized from, (c) describe the property sought to
26 be forfeited, and (d) if known, state the name of the owner of the
27 property, the name of the person or persons in possession of the property
28 or in physical proximity to the property when it was seized, and the name
29 of any other person or entity that may have a claim or interest in the
30 property.

31 Sec. 9. Section 53-1,104, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 53-1,104 (1) Any licensee which sells or permits the sale of any
3 alcoholic liquor not authorized under the terms of such license on the
4 licensed premises or in connection with such licensee's business or
5 otherwise shall be subject to suspension, cancellation, or revocation of
6 such license by the commission.

7 (2) When an order suspending a license to sell alcoholic liquor
8 becomes final, the licensee may elect to pay a cash penalty to the
9 commission in lieu of suspending sales of alcoholic liquor for the
10 designated period if such election is not prohibited by order of the
11 commission. Except as otherwise provided in subsection (3) of this
12 section, for the first such suspension for any licensee, the penalty
13 shall be fifty dollars per day, and for a second or any subsequent
14 suspension, the penalty shall be one hundred dollars per day.

15 (3)(a) For a second suspension for violation of section 53-180 or
16 53-180.02 occurring within four years after the date of the first
17 suspension, the commission, in its discretion, may order that the
18 licensee be required to suspend sales of alcoholic liquor for a period of
19 time not to exceed forty-eight hours and that the licensee may not elect
20 to pay a cash penalty. The commission may use the required suspension of
21 sales of alcoholic liquor penalty either alone or in conjunction with
22 suspension periods for which the licensee may elect to pay a cash
23 penalty. For purposes of this subsection, second suspension for violation
24 of section 53-180 shall include suspension for a violation of section
25 53-180.02 following suspension for a violation of section 53-180 and
26 second suspension for violation of section 53-180.02 shall include
27 suspension for a violation of section 53-180 following suspension for a
28 violation of section 53-180.02; and

29 (b) For a third or subsequent suspension for violation of section
30 53-180 or 53-180.02 occurring within four years after the date of the
31 first suspension, the commission, in its discretion, may order that the

1 licensee be required to suspend sales of alcoholic liquor for a period of
2 time not to exceed fifteen days and that the licensee may not elect to
3 pay a cash penalty. The commission may use the required suspension of
4 sales of alcoholic liquor penalty either alone or in conjunction with
5 suspension periods for which the licensee may elect to pay a cash
6 penalty. For purposes of this subsection, third or subsequent suspension
7 for violation of section 53-180 shall include suspension for a violation
8 of section 53-180.02 following suspension for a violation of section
9 53-180 and third or subsequent suspension for violation of section
10 53-180.02 shall include suspension for a violation of section 53-180
11 following suspension for a violation of section 53-180.02. ~~;~~ and

12 ~~(c) For a first suspension based upon a finding that a licensee or~~
13 ~~an employee or agent of the licensee has been convicted of possession of~~
14 ~~a gambling device on a licensee's premises in violation of sections~~
15 ~~28-1107 to 28-1111, the commission, in its discretion, may order that the~~
16 ~~licensee be required to suspend sales of alcoholic liquor for thirty days~~
17 ~~and that the licensee may not elect to pay a cash penalty. For a second~~
18 ~~or subsequent suspension for such a violation of sections 28-1107 to~~
19 ~~28-1111 occurring within four years after the date of the first~~
20 ~~suspension, the commission shall order that the license be canceled.~~

21 (4) For any licensee which has no violation for a period of four
22 years consecutively, any suspension shall be treated as a new first
23 suspension.

24 (5) The election provided for in subsection (2) of this section
25 shall be filed with the commission in writing one week before the
26 suspension is ordered to commence and shall be accompanied by payment in
27 full of the sum required by this section. If such election has not been
28 received by the commission by the close of business one week before the
29 day such suspension is ordered to commence, it shall be conclusively
30 presumed that the licensee has elected to close for the period of the
31 suspension and any election received later shall be absolutely void and

1 the payment made shall be returned to the licensee. The election shall be
2 made on a form prescribed by the commission. The commission shall remit
3 all funds collected under this section to the State Treasurer for
4 distribution in accordance with Article VII, section 5, of the
5 Constitution of Nebraska.

6 (6) Recognizing that suspension of the license of a licensee
7 domiciled outside of the state poses unique enforcement difficulties, the
8 commission may, at its discretion, mandate that a licensee domiciled
9 outside of the state pay the cash penalty found in subsection (2) of this
10 section rather than serve the suspension.

11 Sec. 10. Section 77-366, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 77-366 (1) The Tax Commissioner shall appoint or employ deputies,
14 investigators, inspectors, agents, security personnel, and other persons
15 as he or she deems necessary to administer and effectively enforce all
16 provisions of the revenue and property tax laws of this state. The
17 appointed personnel shall hold office at the pleasure of the Tax
18 Commissioner. Any appointed or employed personnel shall perform the
19 duties assigned by the Tax Commissioner.

20 (2) All personnel appointed or employed by the Tax Commissioner
21 shall be bonded or insured as required by section 11-201. As specified by
22 the Tax Commissioner, certain personnel shall be vested with the
23 authority and power of a law enforcement officer to carry out the laws of
24 this state administered by the Tax Commissioner or the Department of
25 Revenue ~~and to enforce sections 28-1101 to 28-1117 relating to possession~~
26 ~~of a gambling device pursuant to the limitations in section 9-1,101.~~ Such
27 personnel shall be empowered to arrest with or without a warrant, file
28 and serve any lien, seize property, serve and return a summons, warrant,
29 or subpoena issued by the Tax Commissioner, collect taxes, and bring an
30 offender before any court with jurisdiction in this state, except that
31 such personnel shall not be authorized to carry weapons or enforce any

1 laws other than laws administered by the Tax Commissioner or the
2 Department of Revenue ~~and sections 28-1101 to 28-1117 relating to~~
3 ~~possession of a gambling device pursuant to the limitations in section~~
4 ~~9-1,101.~~

5 (3) Subsection (2) of this section shall not be construed to
6 restrict any other law enforcement officer of this state from enforcing
7 any state law, revenue or otherwise.

8 Sec. 20. The following sections are outright repealed: Sections
9 28-1107 and 28-1109, Reissue Revised Statutes of Nebraska.

10 2. Renumber the remaining sections and correct internal references
11 and the repealer accordingly.