LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 545

Introduced by Wayne, 13.
Read first time January 19, 2021
Committee: General Affairs

A BILL FOR AN ACT relating to gaming; to amend sections 77-3004, 77-3005, and 77-3009, Reissue Revised Statutes of Nebraska, sections 9-1,101, 77-3007, 77-3011, 77-3442, and 79-1001, Revised Statutes Cumulative Supplement, 2020, sections 28-1101, 28-1105, 28-1113, and 77-3001, Reissue Revised Statutes of Nebraska, as amended by sections 8, 9, 10, and 12, respectively, Initiative Law 2020, No. 430, and section 3, Initiative Law 2020, No. 430; to adopt the Games of Skill Act; to redefine duties for the Department of Revenue; to provide a gambling exception for operating or participating in games of skill; to change a provision relating to the possession of gambling records; to correlate provisions with Laws 2019, LB538, section 2; to provide for excise taxes as prescribed; to change provisions relating to property tax levies; to change the Tax Equity and Educational Opportunities Support Act; to redefine a term under the Nebraska Racetrack Gaming Act; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 10 of this act shall be known and may be cited as the Games of Skill Act.

Sec. 2. (1) The Legislature finds that:

(a) Sports betting requires knowledge and skill. Knowledge of a sport and skill in analyzing and predicting the performance of athletes and the outcomes of sporting events is essential for a participant in sports betting to be successful; and

(b) Certain poker games also require knowledge and skill. While poker does have a random component in the cards that are dealt to participants, there is more skill than chance necessary for successful participation in a game where strategic decisions influence the other participants and ultimately the outcome of the game.

(2) It is the intent of the Legislature to recognize sports betting and various forms of poker as games of skill and not as games of chance.

Sec. 3. For purposes of the Games of Skill Act:

(1) Athlete means a person who competes in a sport or sporting event;

(2) Confidential information means information related to participation in a game of skill obtained by an operator or by an employee of such operator;

(3) Department means the Charitable Gaming Division of the Department of Revenue;

(4) Entry fee means cash or a cash equivalent required to be paid to an operator by a participant in a game of skill in order to participate in such game of skill;

(5) Game of skill means sports betting or poker;

(6) Gross revenue means the total entry fees that an operator collects from participants less the total of sums paid out as prizes to participants with such difference multiplied by the location percentage;

(7) Location percentage means, for each game of skill, the percentage rounded to the nearest tenth of a percent of the total entry
fees collected from participants located in Nebraska at the time of entry into the game of skill divided by the total entry fees collected from participants in all locations for such game of skill;

(8) Operator means a person that offers an opportunity for participants to engage in a game of skill, collects an entry fee from each participant, administers such game of skill, and awards prizes;

(9) Participant means a person who pays an entry fee to engage in a game of skill offered by an operator;

(10) Poker means a draw or community card game in which a participant bets that the value of the participant's hand is greater than the value of the hands held by other participants in such game, and each subsequent participant in such game must either equal or raise the bet or drop out. Poker includes draw poker, such as five-card draw in which the participant determines whether to discard and then receive new cards from the dealer, and community card poker such as Texas Hold'em and Omaha Hold'em in which the participant combines the cards the participant is holding along with the community cards that all participants in such game share and the participant with the highest hand at the end of the betting wins the pot unless the participant is the only participant playing once the other participants in such game have dropped out; and

(11) Sports betting means the placement of a wager on the outcome of a sporting event where a winning wager is based on the score, point total, point spread, or performance of a team in a team sport or on the score, point total, point spread, or performance of an individual athlete in a nonteam sport.

Sec. 4. (1) No operator shall offer any game of skill in this state without a current registration with the department. An application for registration or renewal shall be in electronic or paper form prescribed by the department and shall, for initial registration, include submission of the applicant's fingerprints pursuant to subsection (2) of this section. To be eligible for registration to offer a game of skill in this
state, an operator shall (a) be authorized to transact business in Nebraska, (b) pay an initial registration fee of ten thousand dollars to the department for the first year of operation, (c) pass a national criminal history record information check pursuant to subsection (2) of this section, and (d) comply with any other applicable provisions of the Games of Skill Act.

(2)(a) To become a registered operator, an applicant shall provide a full legible set of the applicant's fingerprints to the Nebraska State Patrol. The Nebraska State Patrol shall undertake a search for criminal history record information relating to the applicant, including transmittal of the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information shall include information concerning the applicant from federal repositories of such information and repositories of such information in other states if authorized by federal law. The Nebraska State Patrol shall issue a report to the department that includes the criminal history record information concerning the applicant. The applicant shall pay the actual cost of the fingerprinting and criminal history record information check. The department shall maintain a record of the results of the criminal history record information check. The criteria for failing the criminal history record information check shall include, at a minimum, any felony conviction within the last ten years or any conviction involving fraudulent activities.

(b) For purposes of this subsection, an applicant includes (i) each officer, director, and shareholder owning a beneficial interest in ten percent or more of an applicant corporation, (ii) each partner or joint venturer of an applicant partnership or joint venture, and (iii) each member and manager of an applicant limited liability company.

(3) After the initial registration year, an operator shall annually apply for renewal of such registration and pay a renewal fee of five
thousand dollars.

(4) Registration and renewal fees shall be paid in a manner prescribed by the department. No refunds shall be allowed of any registration or renewal fees collected by the department. Any operator that allows a registration to lapse without requesting an extension of time to file an application for renewal shall be required to resubmit a new initial registration application. The department may grant an extension upon receipt of a request from an operator.

(5) The department shall remit all registration and renewal fees collected under this section, after payment of all reasonable and necessary operating expenses, to the State Treasurer for credit to the Games of Skill School Property Tax Reduction Fund.

Sec. 5. (1) The department shall issue a valid registration or renewal to any applicant who meets the criteria set forth in the Games of Skill Act. The department shall deny registration or renewal to any applicant who does not meet such criteria.

(2) The department shall approve or deny a registration or renewal application within thirty days after receipt of the completed application or, if applicable, the report from the Nebraska State Patrol pursuant to subsection (2) of section 4 of this act, whichever is later. If the registration is not issued or renewed, the department shall provide the operator with the specific justification for not issuing or renewing such registration.

(3) The department shall maintain and publish a list of all registered operators on the department's web site. Any pending application made under the Games of Skill Act shall not be considered a public record for purposes of sections 84-712 to 84-712.09 until such application has been approved by the department.

Sec. 6. (1) As a condition of registration, an operator shall submit evidence, deemed satisfactory to the department, that the operator has established and implemented, or has the ability to implement, prior
to conducting operations, commercially reasonable procedures for a game of skill that:

(a) Prevent such operator, any employee of such operator, or any relative living in the same household as such operator or any employee of such operator from engaging as a participant in any game of skill offered by such operator. For purposes of this subdivision, relative means the parent, child, sibling, or spouse of the operator or employee;

(b) Prevent the sharing of confidential information with third parties that could affect game-of-skill play until such information is made publicly available;

(c) Prohibit the following persons from engaging as a participant in any game of skill:

(i) A referee, umpire, coach, trainer, or other individual who officiates or participates in or prepares athletes for a sporting event that is the subject of a game of skill; or

(ii) Any sports agent, team employee, or league official associated with a sport or sporting event that is the subject of a game of skill;

(d) Verify that a participant in a game of skill is nineteen years of age or older;

(e) Provide a participant with access to information on responsible play and access to information on seeking assistance for compulsive gambling behavior;

(f) Provide a participant with information regarding the participant's play history and account details;

(g) Ensure that any athlete in a real-world sporting event is restricted from participating in a game of skill that is determined, in whole or in part, on the results of such athlete, such athlete's real-world team, or the sport or sporting event in which such athlete is participating as an athlete;

(h) Allow a person to be restricted, at the request of such person, from participating in a game of skill and provide reasonable steps to
prevent the person from participating in any game of skill offered by such operator;

(i) Disclose the number of entries or wagers that a participant may submit to each game of skill and provide reasonable steps to prevent a participant from submitting more than the allowable number;

(j) Segregate participant funds from operational funds or maintain a reserve that exceeds the amount of participant funds on deposit, which reserve may not be used for operational activities. The reserve funds may be in the form of cash, cash equivalents, payment-processor reserves, payment-processor receivables, an irrevocable letter of credit, a bond, or any combination thereof, in the amount that must exceed the total balances of the accounts of all participants; and

(k) Prohibit the use of unauthorized third-party computer scripts.

(2) An operator shall not offer a game of skill based on the performance of a participant in a collegiate, high school, or youth sporting event.

(3) An operator shall:

(a) Contract annually with a certified public accountant to conduct an independent financial audit consistent with the standards accepted by the American Institute of Certified Public Accountants; and

(b) Submit a copy of the audit report prepared pursuant to subdivision (a) of this subsection to the department.

Sec. 7. In addition to the registration and renewal fees imposed pursuant to section 4 of this act and any other taxes or fees, of any form whatsoever, imposed by the State of Nebraska or any of its subdivisions, upon the business of operating games of skill as defined in section 3 of this act, an excise tax of twenty-five percent shall be levied and collected by the Tax Commissioner on the gross receipts for each game of skill conducted pursuant to the Games of Skill Act. All excise taxes collected pursuant to this section shall be remitted to the State Treasurer for credit to the Games of Skill Property Tax Reduction
Sec. 8. Any person who knowingly violates any provision of the Games of Skill Act shall be subject to payment of a civil penalty of not more than one thousand dollars for each violation, not to exceed five thousand dollars for violations arising out of the same transaction or occurrence. Such penalty may be recovered in a civil action brought by the department. All penalty money collected by the department pursuant to this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 9. The Games of Skill School Property Tax Reduction Fund is hereby created. The fund shall consist of all registration and renewal fees collected by the department under section 4 of this act, after payment of reasonable and necessary operating expenses, and all excise tax receipts collected pursuant to section 7 of this act. The fund shall be used solely for games of skill school property tax reduction aid pursuant to section 24 of this act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 10. (1) The department shall adopt and promulgate rules and regulations to implement and administer the Games of Skill Act, including, but not limited to, rules and regulations:

(a) To provide for the prevention of practices detrimental to the public interest and to safeguard the integrity of games of skill;

(b) To establish the necessary scope of review of registration and renewal applications filed by operators; and

(c) To establish criteria for failing the criminal history record information check and updating criminal history record information for renewals.

(2) The department shall not adopt and promulgate rules and regulations limiting or regulating:
(a) Game rules governing the play of an individual game of skill;
(b) The statistical components of a game of skill; or
(c) Any digital platform to be used by an operator.

Sec. 11. Section 9-1,101, Revised Statutes Cumulative Supplement, 2020, is amended to read:

9-1,101 (1) The Games of Skill Act, 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, and section 9-701 shall be administered and enforced by the Charitable Gaming Division of the Department of Revenue, which division is hereby created. The Department of Revenue shall make annual reports to the Governor, Legislature, Auditor of Public Accounts, and Attorney General on all tax revenue received, expenses incurred, and other activities relating to the administration and enforcement of such acts. The report submitted to the Legislature shall be submitted electronically.

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

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

(b) Beginning July 1, 2019, through June 30, 2021, on or before the last day of the last month of each calendar quarter, the State Treasurer
(c) Any money remaining in the Charitable Gaming Operations Fund after the transfer pursuant to subdivision (b) of this subsection not used by the Charitable Gaming Division in its administration and enforcement duties pursuant to this section may be transferred to the General Fund and the Compulsive Gamblers Assistance Fund at the direction of the Legislature.

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

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

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

Sec. 12. Section 28-1101, Reissue Revised Statutes of Nebraska, as amended by section 8, Initiative Law 2020, No. 430, is amended to read:
As used in this article, unless the context otherwise requires:

(1) A person advances gambling activity if, acting other than as a player, he or she engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes, but shall not be limited to, conduct directed toward (a) the creation or establishment of the particular game, contest, scheme, device, or activity involved, (b) the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor, or (c) engaging in the procurement, sale, or offering for sale within this state of any chance, share, or interest in a lottery of another state or government whether or not such chance, share, or interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest except as provided in the Games of Skill 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, the Nebraska Racetrack Gaming Act, or section 9-701;

(2) Bookmaking means advancing gambling activity by unlawfully accepting bets from members of the public as a business upon the outcome of future contingent events. Bookmaking does not include a wager placed in a game of skill conducted under the Games of Skill Act;

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

(4) A person engages in gambling if he or she bets something of value upon the outcome of a future event, which outcome is determined by an element of chance, or upon the outcome of a game, contest, or election, or conducts or participates in any bingo, lottery by the sale of pickle cards, lottery, raffle, gift enterprise, or other scheme not authorized or conducted in accordance with the Games of Skill Act, 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, the Nebraska Racetrack Gaming Act, or section 9-701, but a person does not engage in gambling by:

(a) Entering into a lawful business transaction;

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

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

(d) Conducting or participating in any game of skill, bingo, lottery by the sale of pickle cards, lottery, raffle, game of chance, or gift enterprise conducted in accordance with the Games of Skill Act, 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, the Nebraska Racetrack Gaming Act, or section 9-701;

(5) Gambling device shall mean any device, machine, paraphernalia, writing, paper, instrument, article, or equipment that is used or usable for engaging in gambling, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. Gambling device shall also include any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, instant-win tickets which also provide the possibility of participating in a subsequent drawing or event, or tickets or stubs redeemable for something of value, except as authorized in the furtherance of parimutuel wagering. Supplies, equipment, cards, tickets, stubs, and other items used in any game of skill, bingo, lottery by the sale of pickle cards, other lottery, raffle, game of chance, or gift enterprise conducted in accordance with the Games
of Skill Act, 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, the Nebraska Racetrack Gaming Act, or section 9-701 are not gambling devices within this definition;

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

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

Sec. 13. Section 28-1105, Reissue Revised Statutes of Nebraska, as amended by section 9, Initiative Law 2020, No. 430, is amended to read:

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

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

(b) Of a kind commonly used in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise or other scheme not conducted pursuant to the Games of Skill Act, 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, the Nebraska Racetrack Gaming Act, or section 9-701 and such writing, paper, instrument, or article has been used for the purpose of recording, memorializing, or registering any bet, wager, or other gambling information not permitted by such acts or section.

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

Sec. 14. Section 28-1113, Reissue Revised Statutes of Nebraska, as amended by section 10, Initiative Law 2020, No. 430, is amended to read:

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

(1) Apply to or 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;

(2) Prohibit or punish the conducting or participating in any game of skill, bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with the Games of Skill Act, 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 section 9-701; or

(3) Apply to or prohibit the operation of games of chance, whether using a gambling device or otherwise, by authorized gaming operators within licensed racetrack enclosures or the participation or playing of such games of chance, whether participated in or played using a gambling device or otherwise, by individuals twenty-one years of age or older within licensed racetrack enclosures as provided in the Nebraska Racetrack Gaming Act.

Sec. 15. Section 77-3001, Reissue Revised Statutes of Nebraska, as amended by section 12, Initiative Law 2020, No. 430, is amended to read:

77-3001 For purposes of the Mechanical Amusement Device Tax Act, unless the context otherwise requires:
(1) Cash device means any mechanical amusement device capable of awarding (a) cash, (b) anything redeemable for cash, (c) gift cards, credit, or other instruments which have a value denominated by reference to an amount of currency, or (d) anything redeemable for anything described in subdivision (c) of this subdivision;

(2) Department means the Department of Revenue;

(3) Distributor means any person who sells, leases, or delivers possession or custody of a machine or mechanical device to operators thereof for a consideration either directly or indirectly received;

(4) Mechanical amusement device means any machine which, upon insertion of a coin, currency, credit card, or substitute into the machine, operates or may be operated or used for a game, contest, or amusement of any description, such as, by way of example, but not by way of limitation, pinball games, shuffleboard, bowling games, radio-ray rifle games, baseball, football, racing, boxing games, electronic video games of skill, and coin-operated pool tables. Mechanical amusement device also includes game and draw lotteries and coin-operated automatic musical devices. Mechanical amusement device does not mean vending machines which dispense tangible personal property, devices located in private homes for private use, pickle card dispensing devices which are required to be registered with the department pursuant to section 9-345.03, gaming devices or limited gaming devices as defined in and operated pursuant to the Nebraska Racetrack Gaming Act, or devices which are mechanically constructed in a manner that would render their operation illegal under the laws of the State of Nebraska;

(5) Operator means any person who operates a place of business in which a machine or device owned by him or her is physically located or any person who places and who either directly or indirectly controls or manages any machine or device;

(6) Person means an individual, partnership, limited liability company, society, association, joint-stock company, corporation, estate,
receiver, lessee, trustee, assignee, referee, or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals;

(2) Mechanical amusement device means any machine which, upon insertion of a coin, currency, credit card, or substitute into the machine, operates or may be operated or used for a game, contest, or amusement of any description, such as, by way of example, but not by way of limitation, pinball games, shuffleboard, bowling games, radio-ray rifle games, baseball, football, racing, boxing games, and coin-operated pool tables. Mechanical amusement device also includes game and draw lotteries and coin-operated automatic musical devices. The term does not mean vending machines which dispense tangible personal property, devices located in private homes for private use, pickle card dispensing devices which are required to be registered with the Department of Revenue pursuant to section 9-345.03, gaming devices or limited gaming devices as defined in and operated pursuant to the Nebraska Racetrack Gaming Act, or devices which are mechanically constructed in a manner that would render their operation illegal under the laws of the State of Nebraska;

(3) Operator means any person who operates a place of business in which a machine or device owned by him or her is physically located or any person who places and who either directly or indirectly controls or manages any machine or device;

(4) Distributor means any person who sells, leases, or delivers possession or custody of a machine or mechanical device to operators thereof for a consideration either directly or indirectly received;

(7) (5) Whenever in the act, the words machine or device are used, they refer to mechanical amusement device; and

(8) Whenever in the act, the words electronic video games of skill, games of skill, or skill-based devices are used, they refer to mechanical amusement devices which produce an outcome predominantly caused by skill and not chance; and
Whenever in the act, the words machine, device, person, operator, or distributor are used, the words in the singular include the plural and in the plural include the singular.

Sec. 16. In addition to the occupation tax levied and imposed by the Mechanical Amusement Device Tax Act and any other taxes or fees, of any form whatsoever, imposed by the State of Nebraska or any of its subdivisions, upon the business of operating or distributing an electronic video game of skill, an excise tax of twenty-five percent shall be levied and collected by the Tax Commissioner on the gross receipts from each electronic video game of skill. All excise taxes collected pursuant to this section shall be remitted to the State Treasurer for credit to the Games of Skill Property Tax Reduction Fund.

Sec. 17. Section 77-3004, Reissue Revised Statutes of Nebraska, is amended to read:

77-3004 (1) An occupation tax is hereby imposed and levied, in the amount and in accordance with the terms and conditions hereafter stated, upon the business of operating mechanical amusement devices within the State of Nebraska for profit or gain either directly or indirectly received. Every person who now or hereafter engages in the business of operating such devices in the State of Nebraska shall pay such tax in the amount and manner specified in this section.

(2) Any operator of a mechanical amusement device within the State of Nebraska shall pay an occupation tax for each machine or device which he or she operates during all of the taxable year. The occupation tax shall be due and payable on January 1 of each year on each machine or device in operation on that date, except that it shall be unlawful to pay any such occupation tax unless the sales or use tax has been paid on such mechanical amusement devices. For every machine or device put into operation on a date subsequent to January 1, and which has not been included in computing the tax imposed and levied by the Mechanical Amusement Device Tax Act, the occupation tax shall be due and payable
therefor prior to the time the machine or device is placed in operation.
All occupation taxes collected pursuant to the act shall be remitted to
the State Treasurer for credit to the General Fund.

(3) The amount of the occupation tax shall be fifty dollars for each
machine or device for the period from July 1, 1998, through December 31,
1999, except that for machines placed in operation after April 1, 1999,
and before January 1, 2000, the occupation tax shall be twenty-five
dollars for each machine or device.

(4) The amount of the occupation tax shall be thirty-five dollars
for each machine or device for any period beginning on or after January
1, 2000, except that for machines placed in operation after July 1, and
before January 1 of each year, the occupation tax shall be twenty dollars
for each machine or device.

Sec. 18. Section 77-3005, Reissue Revised Statutes of Nebraska, is
amended to read:

77-3005 The occupation tax levied and imposed by the Mechanical
Amusement Device Tax Act shall be in addition to the excise tax imposed
by the act and any and all other taxes or fees, of any form whatsoever,
now imposed by the State of Nebraska or any of its subdivisions, upon the
business of operating or distributing mechanical amusement devices as
defined in section 77-3001, or otherwise defined by the subdivisions and
municipalities of the State of Nebraska, except that payment of the tax
and license fees due and owing on or before the licensing date of each
year shall exempt any such mechanical amusement device from the
application of the sales tax which would or could otherwise be imposed
under the Nebraska Revenue Act of 1967. Nonpayment of the taxes or fees
due and owing on or before the licensing date of each year shall render
the exemption provided by this section inapplicable and the particular
machines or devices shall then be subject to all the provisions of the
Nebraska Revenue Act of 1967, including the penalty provisions pertaining
to the owner or operator of such machines or devices.
Sec. 19. Section 77-3007, Revised Statutes Cumulative Supplement, 2020, is amended to read:

77-3007 (1) The payment of the occupation tax imposed by the Mechanical Amusement Device Tax Act shall be evidenced by a separate decal for each device signifying payment of the occupation tax, in a form prescribed by the Tax Commissioner.

(2) Every operator shall place such decal in a conspicuous place on each device to denote payment of the tax for each device for the current year.

Sec. 20. Section 77-3009, Reissue Revised Statutes of Nebraska, is amended to read:

77-3009 (1) Any person who places a mechanical amusement device in operation in the State of Nebraska without the necessary decal being placed conspicuously upon it or without having obtained the necessary license shall be subject to an administrative penalty of seventy-five dollars for each violation.

(2) Any mechanical amusement device which does not have the necessary decal conspicuously displayed upon it shall be subject to being sealed by the Tax Commissioner or his or her delegate. If such seal is broken prior to payment of the occupation tax upon such device, the device shall be subject to forfeiture and sale by the Tax Commissioner.

(3) Any person violating the Mechanical Amusement Device Tax Act shall be guilty of a Class II misdemeanor. Each day on which any person engages in or conducts the business of operating or distributing the machines or devices subject to the Mechanical Amusement Device Tax Act, without having paid the occupation tax or obtained the required license as provided, shall constitute a separate offense.

Sec. 21. Section 77-3011, Revised Statutes Cumulative Supplement, 2020, is amended to read:

77-3011 Sections 77-3001 to 77-3011 and section 16 of this act shall be known and may be cited as the Mechanical Amusement Device Tax Act.
Sec. 22. Section 77-3442, Revised Statutes Cumulative Supplement, 2020, is amended to read:

77-3442 (1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this section, school districts and multiple-district school systems may levy a maximum levy of (i) for fiscal years prior to fiscal year 2023-24, one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy and (ii) for fiscal year 2023-24 and each fiscal year thereafter, one dollar and five cents less any games of skill school property tax reduction factor calculated for such fiscal year pursuant to section 24 of this act per one hundred dollars of taxable valuation of property subject to the levy.

(b) For each fiscal year prior to fiscal year 2017-18, learning communities may levy a maximum levy for the general fund budgets of member school districts of ninety-five cents per one hundred dollars of taxable valuation of property subject to the levy. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.

(c) Except as provided in subdivision (2)(e) of this section, for each fiscal year prior to fiscal year 2017-18, school districts that are members of learning communities may levy for purposes of such districts' general fund budget and special building funds a maximum combined levy of the difference of one dollar and five cents on each one hundred dollars of taxable property subject to the levy minus the learning community levy pursuant to subdivision (2)(b) of this section for such learning community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c) of this section are (i) amounts levied to pay for current and future sums
agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment occurring prior to September 1, 2017, (ii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for current and future qualified voluntary termination incentives for certificated teachers pursuant to subsection (3) of section 79-8,142 that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for seventy-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2017, and August 31, 2018, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for fifty percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for twenty-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (vi) amounts levied in compliance with sections 79-10,110 and 79-10,110.02, and (vii) amounts levied to pay for special building
funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(e) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) or (2)(c) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(f) For each fiscal year, learning communities may levy a maximum levy of one-half cent on each one hundred dollars of taxable property subject to the levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to section 79-2111.

(g) For each fiscal year, learning communities may levy a maximum levy of one and one-half cents on each one hundred dollars of taxable property subject to the levy for early childhood education programs for children in poverty, for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects, except that no more than ten percent of such levy may be used for elementary learning center employees.

(3) For each fiscal year, community college areas may levy the levies provided in subdivisions (2)(a) through (c) of section 85-1517, in accordance with the provisions of such subdivisions. A community college
area may exceed the levy provided in subdivision (2)(b) of section 85-1517 by the amount necessary to retire general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997.

(4)(a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition, natural resources districts located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.
(5) Any educational service unit authorized to levy a property tax pursuant to section 79-1225 may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6)(a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-
five cents per hundred dollars of taxable valuation of property subject
to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per
one hundred dollars of taxable valuation of property subject to the levy,
except that five cents per one hundred dollars of taxable valuation of
property subject to the levy may only be levied to provide financing for
the county's share of revenue required under an agreement or agreements
executed pursuant to the Interlocal Cooperation Act or the Joint Public
Agency Act. The maximum levy shall include amounts levied to pay for sums
to support a library pursuant to section 51-201 or museum pursuant to
section 51-501. The county may allocate up to fifteen cents of its
authority to other political subdivisions subject to allocation of
property tax authority under subsection (1) of section 77-3443 and not
specifically covered in this section to levy taxes as authorized by law
which do not collectively exceed fifteen cents per one hundred dollars of
taxable valuation on any parcel or item of taxable property. The county
may allocate to one or more other political subdivisions subject to
allocation of property tax authority by the county under subsection (1)
of section 77-3443 some or all of the county's five cents per one hundred
dollars of valuation authorized for support of an agreement or agreements
to be levied by the political subdivision for the purpose of supporting
that political subdivision's share of revenue required under an agreement
or agreements executed pursuant to the Interlocal Cooperation Act or the
Joint Public Agency Act. If an allocation by a county would cause another
county to exceed its levy authority under this section, the second county
may exceed the levy authority in order to levy the amount allocated.

(9) Municipal counties may levy or authorize a maximum levy of one
dollar per one hundred dollars of taxable valuation of property subject
to the levy. The municipal county may allocate levy authority to any
political subdivision or entity subject to allocation under section
77-3443.
(10) Beginning July 1, 2016, rural and suburban fire protection districts may levy a maximum levy of ten and one-half cents per one hundred dollars of taxable valuation of property subject to the levy if (a) such district is located in a county that had a levy pursuant to subsection (8) of this section in the previous year of at least forty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) such district had a levy request pursuant to section 77-3443 in any of the three previous years and the county board of the county in which the greatest portion of the valuation of such district is located did not authorize any levy authority to such district in such year.

(11) A regional metropolitan transit authority may levy a maximum levy of ten cents per one hundred dollars of taxable valuation of property subject to the levy for each fiscal year that commences on the January 1 that follows the effective date of the conversion of the transit authority established under the Transit Authority Law into the regional metropolitan transit authority.

(12) Property tax levies (a) for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, (b) for preexisting lease-purchase contracts approved prior to July 1, 1998, (c) for bonds as defined in section 10-134 approved according to law and secured by a levy on property except as provided in section 44-4317 for bonded indebtedness issued by educational service units and school districts, and (d) for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.
(13) The limitations on tax levies provided in this section are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this section are those provided by or authorized by sections 77-3442 to 77-3444.

(14) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

(15) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

(16) For school districts that file a binding resolution on or before May 9, 2008, with the county assessors, county clerks, and county treasurers for all counties in which the school district has territory pursuant to subsection (7) of section 79-458, if the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, are in excess of the greater of (a) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) the maximum levy authorized by a vote pursuant to section 77-3444, all school district levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, shall be considered unauthorized levies under section 77-1606.

Sec. 23. Section 79-1001, Revised Statutes Cumulative Supplement, 2020, is amended to read:

79-1001 Sections 79-1001 to 79-1033 and section 24 of this act shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Sec. 24. (1) For school fiscal years 2023-24 and each school fiscal year thereafter, each school district shall receive games of skill school
property tax reduction aid in an amount calculated by:

(a) Dividing the balance in the Games of Skill School Property Tax Reduction Fund as of the October 1 immediately preceding the certification of aid pursuant to section 79-1022 for such school fiscal year by the statewide adjusted valuation to arrive at the games of skill school property tax reduction factor; and

(b) Multiplying the adjusted valuation for such school district by the games of skill school property tax reduction factor to arrive at games of skill school property tax reduction aid for such school district.

(2) Games of skill school property tax reduction aid shall not be included in the calculation of either formula needs or formula resources.

Sec. 25. Section 3, Initiative Law 2020, No. 430, is amended to read:

Sec. 3. For purposes of the Nebraska Racetrack Gaming Act:

(1) Authorized gaming operator means a person or entity licensed pursuant to the act to operate games of chance within a licensed racetrack enclosure;

(2) Authorized gaming operator license means a license to operate games of chance as an authorized gaming operator at a licensed racetrack enclosure;

(3) Game of chance means, except as otherwise provided in this subdivision, any game which has the elements of chance, prize, and consideration, including any wager on a slot machine, table game, counter game, or card game. Game of chance does not include any game the operation of which is regulated under the Games of Skill Act or the Mechanical Amusement Device Tax Act as a game of skill or which is prohibited at a casino by federal law;

(4) Gaming device means an electronic, mechanical, or other device which plays a game of chance when activated by a player using currency, a token, or other item of value;
(5) Licensed racetrack enclosure means premises at which licensed live horseracing is conducted in accordance with the Constitution of Nebraska and applicable Nebraska law;

(6) Limited gaming device means an electronic gaming device which (a) offers games of chance, (b) does not dispense currency, tokens, or other items of value, and (c) does not have a cash winnings hopper, mechanical or simulated spinning reel, or side handle; and

(7) Racing license means a license issued by the State Racing Commission.

Sec. 26. This act becomes operative on January 1, 2022.

Sec. 27. Original sections 77-3004, 77-3005, and 77-3009, Reissue Revised Statutes of Nebraska, sections 9-1, 101, 77-3007, 77-3011, 77-3442, and 79-1001, Revised Statutes Cumulative Supplement, 2020, sections 28-1101, 28-1105, 28-1113, and 77-3001, Reissue Revised Statutes of Nebraska, as amended by sections 8, 9, 10, and 12, respectively, Initiative Law 2020, No. 430, and section 3, Initiative Law 2020, No. 430, are repealed.