

LEGISLATIVE BILL 876

Approved by the Governor April 19, 2022

Introduced by Briese, 41.

A BILL FOR AN ACT relating to gambling; to amend sections 2-1205, 2-1218, and 2-1220, Reissue Revised Statutes of Nebraska, and sections 2-1201, 2-1202, 2-1203, 2-1203.02, 2-1208, 2-1211, 2-1213, 2-1215, 2-1219, 2-1222, 9-1101, 9-1104, 9-1106, 9-1107, 9-1110, 9-1114, 9-1205, 9-1206, 9-1207, and 84-712.05, Revised Statutes Supplement, 2021; to change provisions relating to membership, powers, and duties of the State Racing and Gaming Commission and racing and gaming licensees, fines, penalties, and taxes; to eliminate a provision relating to conducting horseracing on Sunday; to rename funds; to change provisions of the Nebraska Racetrack Gaming Act relating to operation of games of chance, fees, powers and duties of the commission, applications for licensure, fines and penalties, and taxes; to provide for an annual review fee, market analyses, a socioeconomic-impact study, relocation of licensed racetrack enclosures, voluntary self-exclusion from wagering, and parimutuel wagers; to change provisions relating to documents which may be withheld from the public; to harmonize provisions; to repeal the original sections; to outright repeal section 2-1213.01, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 2-1201, Revised Statutes Supplement, 2021, is amended to read:

2-1201 (1) There hereby is created a State Racing and Gaming Commission. For purposes of sections 2-1201 to 2-1229, commission means the State Racing and Gaming Commission.

(2) The commission shall consist of seven members who shall be appointed by the Governor and subject to confirmation by a majority of the members elected to the legislature and may be for cause removed by the Governor. A violation by a member of the commission of section 2-1219 shall be considered cause for removal. One member of the commission shall be appointed from each congressional district, as such districts existed on January 1, 2010, and four members of the commission shall be appointed at large for terms as follows:

(a) The member representing the second congressional district who is appointed on or after April 1, 2010, shall serve until March 31, 2014, and until his or her successor is appointed and qualified. Thereafter the term of the member representing such district shall be four years and until his or her successor is appointed and qualified;

(b) The member representing the third congressional district who is appointed on or after April 1, 2011, shall serve until March 31, 2015, and until his or her successor is appointed and qualified. Thereafter the term of the member representing such district shall be four years and until his or her successor is appointed and qualified;

(c) The member representing the first congressional district who is appointed on or after April 1, 2012, shall serve until March 31, 2016, and until his or her successor is appointed and qualified. Thereafter the term of the member representing such district shall be four years and until his or her successor is appointed and qualified;

(d) Not later than sixty days after July 15, 2010, the Governor shall appoint one at-large member who shall serve until March 31, 2013, and until his or her successor is appointed and qualified. Thereafter the term of such member shall be four years and until his or her successor is appointed and qualified;

(e) Not later than sixty days after July 15, 2010, the Governor shall appoint one at-large member who shall serve until March 31, 2014, and until his or her successor is appointed and qualified. Thereafter the term of such member shall be four years and until his or her successor is appointed and qualified; and

(f) Not later than sixty days after May 26, 2021, the Governor shall appoint two additional at-large members who shall serve until March 31, 2025, and until their successors are appointed and qualified. One of such members shall have experience in the Nebraska gaming industry, and one shall have experience in the Nebraska horseracing industry ~~be a member of the organization representing the majority of licensed owners and trainers of horses at racetracks in Nebraska.~~ Thereafter the terms of such at-large members shall be four years and until their successors are appointed and qualified.

(3) Not more than four members of the commission shall belong to the same political party. No more than three of the members shall reside, when appointed, in the same congressional district. No more than two of the members shall reside in any one county. Any vacancy shall be filled by appointment by the Governor for the unexpired term. The compensation of the members of the commission shall be one thousand dollars per month, which may be adjusted every two years in an amount not to exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the first year to June 30 of the year of adjustment. The members shall be

reimbursed for expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177. The members of the commission shall be bonded or insured as required by section 11-201.

(4) No member shall have any personal financial interest in any licensed racetrack enclosure or authorized gaming operator as defined in the Nebraska Racetrack Gaming Act for the duration of the member's term.

Sec. 2. Section 2-1202, Revised Statutes Supplement, 2021, is amended to read:

2-1202 (1) The commission shall elect one of its members to be chairperson thereof, and it shall be authorized to employ an executive director and such other assistants and employees as may be necessary to carry out the purposes of sections 2-1201 to 2-1218, the Nebraska Racetrack Gaming Act, and sections 9-1201 to 9-1209. Such executive director shall have no other official duties. The executive director shall keep a record of the proceedings of the commission, preserve the books, records, and documents entrusted to the executive director, and perform such other duties as the commission shall prescribe; and the commission shall require the executive director to give bond in such sum as it may fix, conditioned for the faithful performance of the duties of the executive director. The commission shall be authorized to fix the compensation of the executive director, and also the compensation of its other employees, subject to the approval of the Governor. The commission shall have an office at such place within the state as it may determine and shall meet at least eight times per year such times and places as it shall find necessary and convenient for the discharge of its duties.

(2) The commission shall appoint or employ deputies, investigators, inspectors, agents, security personnel, and other persons as deemed necessary to administer and effectively enforce the regulation of horseracing, the Nebraska Racetrack Gaming Act, and sections 9-1201 to 9-1209. Any appointed or employed personnel shall perform the duties assigned by the commission.

(3) All personnel appointed or employed by the commission shall be bonded or insured as required by section 11-201. As specified by the commission, certain personnel shall be vested with the authority and power of a law enforcement officer to carry out the laws of this state administered by the commission.

Sec. 3. Section 2-1203, Revised Statutes Supplement, 2021, is amended to read:

2-1203 The commission shall have power to prescribe and enforce rules and regulations governing horseraces and race meetings licensed as provided in sections 2-1201 to 2-1229 and games of chance as provided in the Nebraska Racetrack Gaming Act. Such rules and regulations shall contain criteria to be used by the commission for decisions on approving and revoking track licenses and setting racing dates.

The commission may revoke or suspend licenses issued to racing industry participants and may, in lieu of or in addition to such suspension or revocation, impose a fine in an amount not to exceed twenty-five five thousand dollars upon a finding that a rule or regulation has been violated by a licensed racing industry participant. The exact amount of the fine shall be proportional to the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation.

The commission may delegate to a board of stewards such of the commission's powers and duties as may be necessary to carry out and effectuate the purposes of sections 2-1201 to 2-1229.

Any decision or action of such board of stewards may be appealed to the commission or may be reviewed by the commission on its own initiative. The board of stewards may impose a fine not to exceed five thousand fifteen hundred dollars upon a finding that a rule or regulation has been violated.

The commission shall remit administrative fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 4. Section 2-1203.02, Revised Statutes Supplement, 2021, is amended to read:

2-1203.02 (1) Any person between sixteen and seventy-five years of age applying for or holding a license to participate in or be employed at a horserace meeting licensed by the commission shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation for the purpose of determining whether the commission has a basis to deny the license application or to suspend, cancel, or revoke the person's license, except that the commission shall not require a person to be fingerprinted if such person has been previously fingerprinted in connection with a license application in this state ~~or any other state~~ within the last five years prior to the application for such license. Any person between sixteen and seventy-five years of age involved in the administration or management of a racetrack, including the governing body, shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation. The applicant, licensee, or person involved in the administration or management of a racetrack shall pay the actual cost of any fingerprinting or check of his or her criminal history record information. The requirements of this subsection shall not apply to employees of concessions who do not work in restricted-access areas, admissions employees whose duties involve only admissions ticket sales and verification or parking receipts sales and verification, and medical or emergency services personnel authorized to provide such services at the racetrack.

(2) If the applicant is an individual who is applying for a license to participate in or be employed at a horserace meeting, the application shall include the applicant's social security number.

Sec. 5. Section 2-1205, Reissue Revised Statutes of Nebraska, is amended to read:

2-1205 (1) If the commission is satisfied that its rules and regulations and all provisions of sections 2-1201 to 2-1218 have been and will be complied with, it may issue a license for a period of not more than five years one year. The license shall set forth the name of the licensee, the place where the races or race meetings are to be held, and the time and number of days during which racing may be conducted by such licensee. Any such license issued shall not be transferable or assignable. The commission shall have the power to revoke any license issued at any time for good cause upon reasonable notice and hearing. No license shall be granted to any corporation or association except upon the express condition that it shall not, by any lease, contract, understanding, or arrangement of whatever kind or nature, grant, assign, or turn over to any person, corporation, or association the operation or management of any racing or race meeting licensed under such sections or of the parimutuel system of wagering described in section 2-1207 or in any manner permit any person, corporation, or association other than the licensee to have any share, percentage, or proportion of the money received for admissions to the racing or race meeting or from the operation of the parimutuel system; and any violation of such conditions shall authorize and require the commission immediately to revoke such license.

(2)(a) Any racetrack for which a licensee is issued a license to conduct a race or race meeting under sections 2-1201 to 2-1218 which is in existence and operational as of the effective date of this act shall:

(i) Hold a minimum of five live racing meet days and fifty live horseraces annually beginning January 1, 2026, through December 31, 2030; and

(ii) Beginning January 1, 2031, hold a minimum of fifteen live racing meet days and one hundred twenty live horseraces annually.

(b) Any racetrack for which a licensee is issued a license to conduct a race or race meeting under sections 2-1201 to 2-1218 which is not in existence and operational until after the effective date of this act shall:

(i) Hold a minimum of one live racing meet day annually for the first three years of operation;

(ii) Hold a minimum of five live racing meet days and fifty live horseraces annually for the fourth year of operation through the seventh year of operation; and

(iii) Beginning with the eighth year of operation, hold a minimum of fifteen live racing meet days and one hundred twenty live horseraces annually.

(c) A racetrack that fails to meet the minimum requirements under this subsection is subject to discipline by the commission, including revocation of the license issued under sections 2-1201 to 2-1218.

(3) A racetrack for which a licensee is issued a license to conduct a race or race meeting under sections 2-1201 to 2-1218 in existence on November 1, 2020, which is located in the counties of Adams, Dakota, Douglas, Hall, Lancaster, and Platte, may move such racetrack location to another county in Nebraska that does not have a racetrack one time only, subject to approval by the commission as provided in subdivision (27) of section 9-1106, subsequent to the initial issuance of the market analysis and socioeconomic-impact studies conducted pursuant to section 9-1106.

Sec. 6. Section 2-1208, Revised Statutes Supplement, 2021, is amended to read:

2-1208 (1)(a) For all race meetings, every corporation or association licensed under the provisions of sections 2-1201 to 2-1218 relating to horseracing shall pay the tax imposed by section 2-1208.01 and shall also pay to the commission:

(i) Beginning on the effective date of this act through June 30, 2023, the sum of sixty-four one hundredths of one percent of the gross sum wagered by the parimutuel method at each licensed racetrack enclosure during the calendar year;

(ii) Beginning July 1, 2023, through June 30, 2024, the sum of one percent of the gross sum wagered by the parimutuel method at the licensed racetrack enclosure during the previous calendar year; and

(iii) Beginning July 1, 2024, and each year thereafter, the sum of two percent of the gross sum wagered by the parimutuel method at the licensed racetrack enclosure during the previous calendar year.

(b) For race meetings devoted principally to running live races, the licensee shall pay to the commission the sum of one hundred fifty dollars for each live racing day that the licensee serves as the host track for intrastate simulcasting and fifty twenty-five dollars for any other live racing day.

(2) No other license tax, permit tax, occupation tax, or excise tax or racing fee, except as provided in this section and in sections 2-1203 and 2-1208.01, relating to horseracing shall be levied, assessed, or collected from any such licensee by the state or by any county, township, district, city, village, or other governmental subdivision or body having power to levy, assess, or collect any such tax or fee.

Sec. 7. Section 2-1211, Revised Statutes Supplement, 2021, is amended to read:

2-1211 Every corporation or association licensed under sections 2-1201 to 2-1218 shall so keep its books and records as to clearly show the total number of admissions to races conducted by it on each racing day, ~~including the number~~

~~of admissions upon free passes or complimentary tickets, and the amount received daily from admission fees and the total amount of money wagered during the race meeting, including wagers at locations to which its races were simulcast and at races which it received via simulcast from other racetracks, and shall furnish to the commission such reports and information as it may require with respect thereto. The At the end of each race meeting, the licensee shall furnish annually by March 30 to the commission and the Governor a complete audit by a certified public accountant detailing all expenses and disbursements of the previous calendar year. Such audit shall be in the form specified by the commission and shall be filed on or before February 1 following such meet.~~

Sec. 8. Section 2-1213, Revised Statutes Supplement, 2021, is amended to read:

~~2-1213 (1)(a) No racing under sections 2-1201 to 2-1218 shall be permitted on Sunday except when approved by a majority of the members of the commission upon application for approval by any racetrack. Such approval shall be given after the commission has considered: (i) whether Sunday racing at the applicant track will tend to promote and encourage agriculture and horse breeding in Nebraska; (ii) whether the applicant track operates under a license granted by the commission; (iii) whether the applicant track is in compliance with all applicable health, safety, fire, and police rules and regulations or ordinances; (iv) whether the denial of Sunday racing at the applicant track would impair such track's economic ability to continue to function under its license; and (v) whether the record of the public hearing held on the issue of Sunday racing at the applicant track shows reasonable public support. Notice of such public hearing shall be given at least ten days prior thereto by publication in a newspaper having general circulation in the county in which the applicant track is operating, and the commission shall conduct a public hearing in such county. The commission may adopt, promulgate, and enforce rules and regulations governing the application and approval for Sunday racing in addition to its powers in section 2-1203. If the commission permits racing on Sunday, the voters may prohibit such racing in the manner prescribed in section 2-1213.01. If approval by the commission for Sunday racing at the applicant track is granted, no racing shall occur on Sunday until after 1 p.m.~~

~~(1)(a) (b) No license shall be granted for racing on more than one racetrack in any one county, except that the commission may, in its discretion, grant a license to any county agricultural society to conduct racing during its county fair notwithstanding a license may have been issued for racing on another track in such county.~~

~~(b) (c) Since the purpose of sections 2-1201 to 2-1218 is to encourage agriculture and horse breeding in Nebraska, every licensee shall hold at least one race on each racing day limited to Nebraska-bred horses, including thoroughbreds or quarterhorses quarter horses. Three percent of the first money of every purse won by a Nebraska-bred horse shall be paid to the breeder of such horse. ~~Beginning September 1, 2005, through January 1, 2008, each licensee who holds a license for quarter horseracing shall, for each live racing day, give preference to Nebraska-bred quarter horses in at least one race in lieu of the requirements of this subdivision.~~~~

~~(2) For purposes of this section, Nebraska-bred horse shall mean a horse registered with the Nebraska Thoroughbred or Quarter Horse Registry and meeting the following requirements: (a) It shall have been foaled in Nebraska; (b) its dam shall have been registered, prior to foaling, with the Nebraska Thoroughbred or Quarter Horse Registry; and (c) its dam shall have been continuously in Nebraska for ninety days immediately prior to foaling, except that such ninety-day period may be reduced to thirty days in the case of a mare in foal which is purchased at a nationally recognized thoroughbred or quarterhorse quarter horse blood stock sale, the name and pedigree of the mare being listed in the sale catalog, and which is brought into this state and remains in this state for thirty days immediately prior to foaling.~~

~~The requirement that a dam shall be continuously in Nebraska for either ninety days or thirty days, as specified in subdivision (2)(c) of this section, shall not apply to a dam which is taken outside of Nebraska to be placed for sale at a nationally recognized thoroughbred or quarterhorse quarter horse blood stock sale, the name and pedigree of the mare being listed in the sale catalog, or for the treatment of an extreme sickness or injury, if written notice of such proposed sale or treatment is provided to the secretary of the commission within three days of the date such horse is taken out of the state.~~

~~The commission may designate official registrars for the purpose of registration and to certify the eligibility of Nebraska-bred horses. An official registrar shall perform such duties in accordance with policies and procedures adopted and promulgated by the commission in the current rules and regulations of the commission. The commission may authorize the official registrar to collect specific fees as would reasonably compensate the registrar for expenses incurred in connection with registration of Nebraska-bred horses. The amount of such fee or fees shall be established by the commission and shall not be changed without commission approval. Fees shall not exceed one hundred dollars per horse.~~

~~Any decision or action taken by the official registrar shall be subject to review by the commission or may be taken up by the commission on its own initiative.~~

Sec. 9. Section 2-1215, Revised Statutes Supplement, 2021, is amended to read:

2-1215 Any person, corporation, or association holding or conducting any

horserace or horserace meeting in connection with which the parimutuel system of wagering is used or to be used, without a license duly issued by the commission; or any person, corporation, or association holding or conducting horseraces or horserace meetings in connection with which any wagering is permitted otherwise than in the manner specified in sections 2-1201 to 2-1218; or any person, corporation, or association violating any of the provisions of sections 2-1201 to 2-1218 or any of the rules and regulations prescribed by the commission, shall be guilty of a Class IV felony ~~I misdemeanor~~.

Sec. 10. Section 2-1218, Reissue Revised Statutes of Nebraska, is amended to read:

2-1218 Any person who shall violate any provisions of section 2-1217 shall be guilty of a Class IV felony ~~I misdemeanor~~.

Sec. 11. Section 2-1219, Revised Statutes Supplement, 2021, is amended to read:

2-1219 (1) When any matter comes before the commission that may cause financial benefit or detriment to a member of the commission, a member of his or her immediate family, or a business with which the member is associated, which is distinguishable from the effects of such matter on the public generally or a broad segment of the public, such member shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

(a) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict;

(b) Deliver a copy of the statement to the executive director of the commission; and

(c) Recuse himself or herself from taking any action or making any decision relating to such matter in the discharge of his or her official duties as a member of the commission.

(2) No horse in which any member or employee of the commission has any interest shall be raced at any meet under the jurisdiction of the commission.

(3) No member or employee of the commission shall have a pecuniary interest or engage in any private employment in a profession or business which is regulated by or interferes or conflicts with the performance or proper discharge of the duties of the commission.

(4) No member or employee of the commission shall wager or cause a wager to be placed on the outcome of any race at a race meeting which is under the jurisdiction and supervision of the commission.

(5) No member or employee of the commission shall have a pecuniary interest or engage in any private employment in a business which does business with any racing association licensed by the commission or in any business issued a concession operator license by the commission.

(6) Any commission employee violating this section shall forfeit his or her employment. Any violation of this section by a member of the commission shall be considered cause for removal by the Governor in accordance with subsection (2) of section 2-1201.

(7) The commission shall include in its rules and regulations prohibitions against actual or potential specific conflicts of interest on the part of racing officials and other individuals licensed by the commission.

Sec. 12. Section 2-1220, Reissue Revised Statutes of Nebraska, is amended to read:

2-1220 It shall be unlawful for any person knowingly and willfully to falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry regarding the prior racing record, pedigree, identity, or ownership of a registered animal in any matter related to the breeding, buying, selling, or racing of such animal. Whoever violates any provision of this section shall be guilty of a Class III felony ~~fined not more than ten thousand dollars or imprisoned for not more than five years, or be both so fined and imprisoned.~~

Sec. 13. Section 2-1222, Revised Statutes Supplement, 2021, is amended to read:

2-1222 There is hereby created the Racing and Gaming Commission's Racing Cash Fund from which shall be appropriated such amounts as are available therefrom and as shall be considered incident to the administration of horseracing by the State Racing and Gaming Commission's office. The fund shall contain all license fees and gross receipt taxes collected by the commission as provided under sections 2-1203, 2-1203.01, and 2-1208 relating to horseracing but shall not include taxes collected pursuant to section 2-1208.01, and such fees and taxes collected shall be remitted to the State Treasurer for credit to the Racing and Gaming Commission's Racing Cash Fund. Money in the fund may be transferred to the General Fund at the direction of the Legislature. ~~The State Treasurer shall transfer one hundred fifty thousand dollars from the fund to the General Fund on or before June 15, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.~~ Any money in the Racing and Gaming Commission's Racing Cash 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. 14. Section 9-1101, Revised Statutes Supplement, 2021, is amended to read:

9-1101 Sections 9-1101 to 9-1116 and sections 17 and 18 of this act shall be known and may be cited as the Nebraska Racetrack Gaming Act.

Sec. 15. Section 9-1104, Revised Statutes Supplement, 2021, is amended to read:

9-1104 (1) The operation of games of chance at a licensed racetrack enclosure may be conducted by an authorized gaming operator who holds an authorized gaming operator license.

(2) No more than one authorized gaming operator license shall be granted for each licensed racetrack enclosure within the state. ~~It is provided that, it~~ shall not be a requirement that the person or entity applying for or to be granted such authorized gaming operator license hold a racing license or be the same person or entity who operates the licensed racetrack enclosure at which such authorized gaming operator license shall be granted.

(3) Gaming devices, limited gaming devices, and all other games of chance may be operated by authorized gaming operators at a licensed racetrack enclosure.

(4) No person younger than twenty-one years of age shall play or participate in any way in any game of chance or use any gaming device or limited gaming device at a licensed racetrack enclosure.

(5) No authorized gaming operator shall permit an individual younger than twenty-one years of age to play or participate in any game of chance or use any gaming device or limited gaming device conducted or operated pursuant to the Nebraska Racetrack Gaming Act.

(6) If the licensed racetrack enclosure at which such authorized gaming operator conducts games of chance does not hold the minimum number of live racing meets required under section 2-1205, the authorized gaming operator shall be required to cease operating games of chance at such licensed racetrack enclosure until such time as the commission determines the deficiency has been corrected.

Sec. 16. Section 9-1106, Revised Statutes Supplement, 2021, is amended to read:

9-1106 The commission shall:

(1) License and regulate authorized gaming operators for the operation of all games of chance authorized pursuant to the Nebraska Racetrack Gaming Act, including adopting, promulgating, and enforcing rules and regulations governing such authorized gaming operators consistent with the act;

(2) Regulate the operation of games of chance in order to prevent and eliminate corrupt practices and fraudulent behavior, and thereby promote integrity, security, and honest administration in, and accurate accounting of, the operation of games of chance which are subject to the act;

(3) Establish criteria to license applicants for authorized gaming operator licenses and all other types of gaming licenses for other positions and functions incident to the operation of games of chance, including adopting, promulgating, and enforcing rules, regulations, and eligibility standards for such authorized gaming operator licenses, gaming licenses, and positions and functions incident to the operation of games of chance;

(4) Charge fees for applications for licenses and for the issuance of authorized gaming operator licenses and all other types of gaming licenses to successful applicants which shall be payable to the commission;

(5) Charge fees to authorized gaming operators in an amount necessary to offset the cost of oversight and regulatory services to be provided which shall be payable to the commission;

(6) Impose a one-time authorized gaming operator license fee of ~~five~~ one million dollars on each authorized gaming operator for each licensed racetrack enclosure payable to the commission. The license fee may be paid over a period of five years with one million dollars due at the time the license is issued;

(7) Grant, deny, revoke, and suspend authorized gaming operator licenses and all other types of gaming licenses based upon reasonable criteria and procedures established by the commission to facilitate the integrity, productivity, and lawful conduct of gaming within the state;

(8) Grant or deny for cause applications for authorized gaming operator licenses of not less than twenty years in duration, subject to an annual review by the commission and receipt by the commission of a fifty-thousand-dollar annual review fee, with no more than one such authorized gaming operator license granted for any licensed racetrack enclosure within the state;

(9) Conduct background investigations of applicants for authorized gaming operator licenses and all other types of gaming licenses;

(10) Adopt and promulgate rules and regulations for the standards of manufacture of gaming equipment;

(11) Inspect the operation of any authorized gaming operator conducting games of chance for the purpose of certifying the revenue thereof and receiving complaints from the public;

(12) Issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers or things at or prior to any hearing as is necessary to enable the commission to effectively discharge its duties;

(13) Administer oaths or affirmations as necessary to carry out the act;

(14) Have the authority to impose, subject to judicial review, appropriate administrative fines and penalties not to exceed twenty-five thousand dollars for each violation of the act or any rules and regulations adopted and promulgated pursuant to the act in an amount not to exceed: ÷

(a) For any licensed racetrack enclosure with an authorized gaming operator operating games of chance for one year or less, fifty thousand dollars per violation; or

(b) For any licensed racetrack enclosure with an authorized gaming

operator operating games of chance for more than one year, three times the highest daily amount of gross receipts derived from wagering on games of chance during the twelve months preceding the violation at such licensed racetrack enclosure gaming facility per violation;

(15) Collect and remit administrative fines and penalties collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska;

(16) Adopt and promulgate rules and regulations for any gaming taxes assessed to authorized gaming operators;

(17) Collect and account for any gaming taxes assessed to authorized gaming operators and remit such taxes to the State Treasurer or county treasurer as required by Nebraska law;

(18) Promote treatment of gaming-related behavioral disorders;

(19) Establish procedures for the governance of the commission;

(20) Acquire necessary offices, facilities, counsel, and staff;

(21) Establish procedures for an applicant for a staff position to disclose conflicts of interest as part of the application for employment;

(22) Establish a process to allow a person to be voluntarily excluded from wagering in any game of chance under the act in accordance with section 17 of this act;

(23) Remit all license and application fees collected under the Nebraska Racetrack Gaming Act to the State Treasurer for credit to the Racing and Gaming Commission's Racetrack Gaming Fund; and

(24) Conduct or cause to be conducted a statewide horseracing market analysis to study the racing market as it currently exists across the state and within the locations in Nebraska of the racetracks in Adams, Dakota, Douglas, Hall, Lancaster, and Platte counties as of the date of the market analysis. Such market analysis shall be completed as soon as practicable but not later than January 1, 2025, and every five years thereafter and shall be submitted electronically to the General Affairs Committee of the Legislature and to the Governor. Such market analysis shall examine the market potential and make recommendations involving:

(a) The number of live racing days per track, number of races run, and number of horses that should be entered per race;

(b) The number of Nebraska-bred horses available in the market for running races, including foals dropped in the state for the past three years at the time of the market analysis;

(c) The circuit scheduled in the state and if any overlapping dates would be beneficial to the circuit and market as a whole;

(d) The total number of horses available for the total annual schedule, with separate analysis for thoroughbred races and quarterhorse races;

(e) The purse money available per race and per track;

(f) The strength of the potential and ongoing simulcast market;

(g) The staffing patterns and problems that exist at each track, including unfilled positions;

(h) The positive and negative effects, including financial, on each existing racetrack at the time of the market analysis in the event the commission approves a new racetrack application;

(i) The potential to attract new owners and horses from other states;

(j) The market potential for expansion at each licensed racetrack enclosure to the live race meet days and the number of live horseraces required by section 2-1205, and the room for expansion, if any, for additional licensed racetrack enclosures into the market in Nebraska and the locations most suitable for such expansion; and

(k) Any other data and analysis required by the commission;

(25) Conduct or cause to be conducted a statewide casino gaming market analysis study across the state and within each location of a racetrack in Adams, Dakota, Douglas, Hall, Lancaster, and Platte counties. Such market analysis study shall be completed as soon as practicable but not later than January 1, 2025, and every five years thereafter and shall be submitted electronically to the General Affairs Committee of the Legislature and to the Governor. The market analysis study shall include:

(a) A comprehensive assessment of the potential casino gaming market conditions;

(b) An evaluation of the effects on the Nebraska market from competitive casino gaming locations outside of the state;

(c) Information identifying underperforming or underserved markets within Nebraska;

(d) A comprehensive study of potential casino gaming revenue in Nebraska; and

(e) Any other data and analysis required by the commission;

(26) Conduct or cause to be conducted a statewide socioeconomic-impact study of horseracing and casino gaming across the state and at each licensed racetrack enclosure and gaming facility in Adams, Dakota, Douglas, Hall, Lancaster, and Platte counties. Such socioeconomic-impact study shall be completed as soon as practicable but not later than January 1, 2025, and shall be submitted electronically to the General Affairs Committee of the Legislature and to the Governor. The study shall include:

(a) Information on financial and societal impacts of horseracing and casino gaming, including crime and local businesses;

(b) An analysis of problem gambling within the state; and

(c) A comparison of the economy of counties which contain a licensed racetrack enclosure operating games of chance and counties which do not contain

such a licensed racetrack enclosure as of the date of the study, which comparison shall include:

- (i) The population of such counties;
- (ii) Jobs created by each licensed racetrack enclosure operating games of chance in such counties;
- (iii) Unemployment rates in such counties;
- (iv) Information on family and household income in such counties;
- (v) Retail sales in such counties;
- (vi) Property values in such counties;
- (vii) An analysis of the impact on community services, including police protection expenditures, fire protection expenditures, road, bridge, and sidewalk expenditures, and capital project expenditures in such counties;
- (viii) Impact on community health in such counties;
- (ix) Divorce rates in such counties;
- (x) Information on available education and education levels in such counties;
- (xi) Life expectancy in such counties;
- (xii) Homelessness in such counties; and
- (xiii) Any other data and analysis required by the commission;

(27) Approve or deny an application for any licensed racetrack enclosure which is not in existence or operational as of the effective date of this act, or any licensed racetrack enclosure in existence and operational as of November 1, 2020, that applies to move such licensed racetrack enclosure pursuant to section 2-1205, on the basis of the placement and location of such licensed racetrack enclosure and based on the market as it exists as of the most recent issuance of the statewide horseracing market analysis, statewide casino gaming market analysis, and statewide socioeconomic-impact studies conducted by the commission pursuant to this section. The commission shall deny a licensed racetrack enclosure or gaming operator license application if it finds that approval of such application in such placement and location would be detrimental to the racing or gaming market that exists across the state based on the most recent statewide horseracing market analysis, statewide casino gaming market analysis, and statewide socioeconomic-impact studies; and

(28) (24) Do all things necessary and proper to carry out its powers and duties under the Nebraska Racetrack Gaming Act, including the adoption and promulgation of rules and regulations and such other actions as permitted by the Administrative Procedure Act.

Sec. 17. (1) The commission shall establish a list of persons self-excluded from licensed racetrack enclosures in Nebraska. A person may request such person's name to be placed on the list of self-excluded persons by filing an application with the commission, on forms prescribed by the commission, requesting to be self-excluded and agreeing to take personal responsibility for not visiting licensed racetrack enclosures in Nebraska. The application shall specify that, by applying to be a person self-excluded from licensed racetrack enclosures, the applicant agrees that during any period of voluntary exclusion the person is not eligible to collect any winnings or recover any losses resulting from any gaming activity at a licensed racetrack enclosure or be present at a licensed racetrack enclosure.

(2) The commission shall adopt and promulgate rules and regulations for the list of self-excluded persons, including:

- (a) Procedures for placement on the list;
- (b) The terms for self-removal from the list;
- (c) Procedures for providing the list to licensed racetrack enclosures;

and

(d) Other such procedures the commission determines are necessary for the effective and efficient administration of the list.

(3) The commission may revoke, limit, condition, suspend, or fine an authorized gaming operator or any officer, employee, or agent of the operator if such licensee knowingly or recklessly fails to exclude or eject from its premises any person on the list of self-excluded persons.

(4) An authorized gaming operator or the officers, agents, and employees of the operator shall not market directly to any person on any list of self-excluded persons. An authorized gaming operator shall deny access to complimentary check-cashing privileges, club programs, and other similar benefits to any person on the list of self-excluded persons.

(5) The list of self-excluded persons shall not be open to public inspection. Nothing in this section shall prohibit an authorized gaming operator from disclosing the identity of any person on the list of self-excluded persons to any affiliated gaming facility operator or other jurisdiction for the limited purpose of assisting in the proper administration of responsible gaming programs in Nebraska or as authorized by law in another jurisdiction.

(6) A person placed on the list of self-excluded persons is prohibited from entering a licensed racetrack enclosure in Nebraska and is ineligible to place a legal wager in Nebraska at such licensed racetrack enclosure. A person on the list of self-excluded persons shall not collect any winnings or recover losses resulting from prohibited gaming activity, and such winnings shall be forfeited to the commission to be used for problem gambling treatment, prevention, and education programs.

Sec. 18. (1) Any applicant for an authorized gaming operator license shall include in the application to the commission the following:

- (a) A market assessment that includes the feasibility and sustainability of the proposed licensed racetrack enclosure for operating games of chance in

such proposed location as part of the market in Nebraska at the time of the application, including a study of the impact of such facility on both horseracing and the operation of games of chance in the state;

(b) An analysis of the anticipated impact on infrastructure, including water, electricity, natural gas, roads, and public safety, including police and fire departments;

(c) Zoning and initial planning approval from the city nearest the site of the proposed licensed racetrack enclosure;

(d) A full disclosure of the applicant's record as a racetrack and games of chance operator, including multi-jurisdictional experience;

(e) Evidence of how the proposed licensed racetrack enclosure will improve and give back in a meaningful and sustained way to the community in which the applicant is proposing to build such facility; and

(f) Any other information required by the commission.

(2) The commission may reject an application that does not meet the requirements of this section.

Sec. 19. Section 9-1107, Revised Statutes Supplement, 2021, is amended to read:

9-1107 The Racing and Gaming Commission's Racetrack Gaming Fund is created. The fund shall consist of all license, and application, and other fees collected under the Nebraska Racetrack Gaming Act. The fund shall be used for administration of the Nebraska Racetrack Gaming Act. Any money in the Racing and Gaming Commission's Racetrack Gaming 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. 20. Section 9-1110, Revised Statutes Supplement, 2021, is amended to read:

9-1110 (1) The commission may permit an authorized gaming operator to conduct sports wagering. Any sports wager shall be placed in person or at a wagering kiosk in the designated sports wagering area at the licensed racetrack enclosure. A parimutuel wager in accordance with sections 2-1201 to 2-1218 may be placed in the designated sports wagering area at the licensed racetrack enclosure.

(2) A floor plan identifying the designated sports wagering area, including the location of any wagering kiosks, shall be filed with the commission for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation. The area shall not be accessible to persons under twenty-one years of age and shall have a sign posted to restrict access. Exceptions to this subsection must be approved in writing by the commission.

(3) The authorized gaming operator shall submit controls for approval by the commission, that include the following for operating the designated sports wagering area:

(a) Specific procedures and technology partners to fulfill the requirements set forth by the commission;

(b) Other specific controls as designated by the commission;

(c) A process to easily and prominently impose limitations or notification for wagering parameters, including, but not limited to, deposits and wagers; and

(d) An easy and obvious method for a player to make a complaint and to enable the player to notify the commission if such complaint has not been or cannot be addressed by the sports wagering operator.

(4) The commission shall develop policies and procedures to ensure a prohibited participant is unable to place a sports wager or parimutuel wager.

Sec. 21. Section 9-1114, Revised Statutes Supplement, 2021, is amended to read:

9-1114 A person who, in an application, book, or record required to be maintained or in a report required to be submitted by the Nebraska Racetrack Gaming Act or a rule or regulation adopted and promulgated by the commission, knowingly makes a statement or entry that is false or misleading or fails to maintain or make an entry the person knows is required to be maintained or made is guilty of a Class IV felony ~~I misdemeanor~~.

Sec. 22. Section 9-1205, Revised Statutes Supplement, 2021, is amended to read:

9-1205 Every authorized gaming operator subject to taxation as set forth in sections 9-1201 to 9-1209 shall pay such tax by the fifteenth of each month to the gaming commission and make report thereof to the gaming commission under such rules and regulations as may be prescribed by the gaming commission.

Sec. 23. Section 9-1206, Revised Statutes Supplement, 2021, is amended to read:

9-1206 If the tax provided for in sections 9-1201 to 9-1209 is not paid within such time as provided in section 9-1205 or as may be prescribed for payment thereof by rules and regulations prescribed by the gaming commission, the same shall become delinquent and a penalty of ten percent shall be added thereto, together with interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, until paid.

Sec. 24. Section 9-1207, Revised Statutes Supplement, 2021, is amended to read:

9-1207 Any authorized gaming operator that willfully fails, neglects, or refuses to make any report required by sections 9-1201 to 9-1209, or by rules and regulations adopted and promulgated under sections 9-1201 to 9-1209, or that knowingly makes any false statement in any such report, is guilty of a Class IV felony ~~I misdemeanor~~.

Sec. 25. Section 84-712.05, Revised Statutes Supplement, 2021, is amended to read:

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

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on February 1, 2013, and regulations adopted thereunder;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person; records of elections filed under section 44-2821; and patient safety work product under the Patient Safety Improvement Act;

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

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

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received:

(a) Relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person; or

(b) Relating to the cause of or circumstances surrounding the death of an employee arising from or related to his or her employment if, after an investigation is concluded, a family member of the deceased employee makes a request for access to or copies of such records. This subdivision does not require access to or copies of informant identification, the names or identifying information of citizens making complaints or inquiries, other information which would compromise an ongoing criminal investigation, or information which may be withheld from the public under another provision of law. For purposes of this subdivision, family member means a spouse, child, parent, sibling, grandchild, or grandparent by blood, marriage, or adoption;

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

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

(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; lock combinations; or public utility infrastructure specifications or design drawings the public disclosure of which would create a substantial likelihood of endangering public safety or property, unless otherwise provided by state or federal law;

(9) Information that relates details of physical and cyber assets of critical energy infrastructure or critical electric infrastructure, including (a) specific engineering, vulnerability, or detailed design information about proposed or existing critical energy infrastructure or critical electric infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy, (ii) could be useful to a person in planning an attack on such critical infrastructure, and (iii) does not simply give the general location of the critical infrastructure and (b) the identity of personnel whose primary job function makes such personnel responsible for (i) providing or granting individuals access to physical or cyber assets or (ii) operating and maintaining physical or cyber assets, if a reasonable person, knowledgeable of the electric utility or energy industry, would conclude that the public disclosure of such identity could create a substantial likelihood of risk to such physical or cyber assets. Subdivision (9)(b) of this section shall not apply to the identity of a chief executive officer, general manager, vice president, or board member of a public entity that manages critical energy infrastructure or critical electric infrastructure. The lawful custodian of the records must provide a detailed job description for any personnel whose identity is withheld pursuant to subdivision (9)(b) of this section. For purposes of subdivision (9) of this section, critical energy infrastructure and critical electric infrastructure mean existing and proposed systems and assets, including a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security,

public health or safety, or any combination of such matters;

(10) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

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

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

(13) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

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

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

(16) Library, archive, and museum materials acquired from nongovernmental entities and preserved solely for reference, research, or exhibition purposes, for the duration specified in subdivision (16)(b) of this section, if:

(a) Such materials are received by the public custodian as a gift, purchase, bequest, or transfer; and

(b) The donor, seller, testator, or transferor conditions such gift, purchase, bequest, or transfer on the materials being kept confidential for a specified period of time;

(17) Job application materials submitted by applicants, other than finalists or a priority candidate for a position described in section 85-106.06 selected using the enhanced public scrutiny process in section 85-106.06, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant who is not an applicant for a position described in section 85-106.06 and (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants;

(18)(a) Records obtained by the Public Employees Retirement Board pursuant to section 84-1512 and (b) records maintained by the board of education of a Class V school district and obtained by the board of trustees or the Public Employees Retirement Board for the administration of a retirement system provided for under the Class V School Employees Retirement Act pursuant to section 79-989;

(19) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments by citizens;

(20) Information exchanged between a jurisdictional utility and city pursuant to section 66-1867;

(21) Draft records obtained by the Nebraska Retirement Systems Committee of the Legislature and the Governor from Nebraska Public Employees Retirement Systems pursuant to subsection (4) of section 84-1503;

(22) All prescription drug information submitted pursuant to section 71-2454, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system;
and

(23) Information obtained by any government entity, whether federal,

state, county, or local, regarding firearm registration, possession, sale, or use that is obtained for purposes of an application permitted or required by law or contained in a permit or license issued by such entity. Such information shall be available upon request to any federal, state, county, or local law enforcement agency; and -

(24) The security standards, procedures, policies, plans, specifications, diagrams, and access lists and other security-related records of the State Racing and Gaming Commission, those persons or entities with which the commission has entered into contractual relationships, and the names of any individuals placed on the list of self-excluded persons with the commission as provided in section 17 of this act. Nothing in this subdivision shall allow the commission to withhold from the public any information relating to the amount paid any person or entity with which the commission has entered into a contractual relationship, the amount of any prize paid, the name of the prize winner, and the city, village, or county where the prize winner resides.

Sec. 26. Original sections 2-1205, 2-1218, and 2-1220, Reissue Revised Statutes of Nebraska, and sections 2-1201, 2-1202, 2-1203, 2-1203.02, 2-1208, 2-1211, 2-1213, 2-1215, 2-1219, 2-1222, 9-1101, 9-1104, 9-1106, 9-1107, 9-1110, 9-1114, 9-1205, 9-1206, 9-1207, and 84-712.05, Revised Statutes Supplement, 2021, are repealed.

Sec. 27. The following section is outright repealed: Section 2-1213.01, Reissue Revised Statutes of Nebraska.

Sec. 28. Since an emergency exists, this act takes effect when passed and approved according to law.