

AMENDMENTS TO LB775

Introduced by General Affairs.

1 1. Strike the original sections and insert the following new
2 sections:

3 Sec. 4. Section 9-606, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 9-606 Gross proceeds shall mean the total aggregate receipts
6 received from the conduct of any lottery conducted by any county, city,
7 or village without any reduction for prizes, discounts, taxes, or
8 expenses and shall include receipts from admission costs, any
9 consideration necessary for participation, and the value of any free
10 tickets, games, or plays used, except that gross proceeds shall not
11 include any admission costs collected at any location where the lottery
12 is also available to the public free of any admission charge.

13 Sec. 9. Section 9-1103, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 9-1103 For purposes of the Nebraska Racetrack Gaming Act:

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

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

22 (3)(a) Except as otherwise provided in subdivision (b) of this
23 subdivision, authorized sporting event means a professional sporting
24 event, a collegiate sporting event, an international sporting event, a
25 professional motor race event, a professional sports draft, an individual
26 sports award, an electronic sport, or a simulated game; and

27 (b) Authorized sporting event does not include an instate collegiate

1 sporting event in which an instate collegiate or university team is a
2 participant, a parimutuel wager, a fantasy sports contest, a minor league
3 sporting event, a sporting event at the high school level or below
4 regardless of the age of any individual participant, or any sporting
5 event excluded by the commission;

6 (4) Collegiate sporting event means an athletic event or competition
7 of an intercollegiate sport played at the collegiate level for which
8 eligibility requirements for participation by a student athlete are
9 established by a national association for the promotion or regulation of
10 collegiate athletics;

11 (5) Commission means the State Racing and Gaming Commission;

12 (6) Designated sports wagering area means an area, as approved by
13 the commission, in which sports wagering is conducted;

14 (7) Game of chance means any game which has the elements of chance,
15 prize, and consideration, including any wager on a slot machine, table
16 game, counter game, or card game, a keno lottery conducted in accordance
17 with the Nebraska County and City Lottery Act, or sports wagering. Game
18 of chance does not include any game the operation of which is prohibited
19 at a casino by federal law;

20 (8) Gaming device means an electronic, mechanical, or other device
21 which plays a game of chance when activated by a player using currency, a
22 token, or other item of value;

23 (9) International sporting event means an international team or
24 individual sporting event governed by an international sports federation
25 or sports governing body, including sporting events governed by the
26 International Olympic Committee and the International Federation of
27 Association Football;

28 (10) Licensed racetrack enclosure means all real property licensed
29 and utilized for the conduct of a race meeting, including the racetrack
30 and any grandstand, concession stand, office, barn, barn area, employee
31 housing facility, parking lot, and additional area designated by the

1 ~~commission premises at which licensed live horseracing is conducted~~ in
2 accordance with the Constitution of Nebraska and applicable Nebraska law;

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

7 (12) Prohibited participant means any individual whose participation
8 may undermine the integrity of the wagering or the sporting event or any
9 person who is prohibited from sports wagering for other good cause shown
10 as determined by the commission, including, but not limited to: (a) Any
11 individual placing a wager as an agent or proxy; (b) any person who is an
12 athlete, a coach, a referee, or a player in any sporting event overseen
13 by the sports governing body of such person based on publicly available
14 information; (c) a person who holds a paid position of authority or
15 influence sufficient to exert influence over the participants in a
16 sporting event, including, but not limited to, any coach, manager,
17 handler, or athletic trainer, or a person with access to certain types of
18 exclusive information, on any sporting event overseen by the sports
19 governing body of such person based on publicly available information; or
20 (d) a person identified as prohibited from sports wagering by any list
21 provided by a sports governing body to the commission;

22 (13) Racing license means a license issued for a licensed racetrack
23 enclosure by the commission; and

24 (14) Sports wagering means the acceptance of wagers on an authorized
25 sporting event by any system of wagering as authorized by the commission.
26 Sports wagering does not include (a) placing a wager on the performance
27 or nonperformance of any individual athlete participating in a single
28 game or match of a collegiate sporting event in which a collegiate team
29 from this state is participating, (b) placing an in-game wager on any
30 game or match of a collegiate sporting event in which a collegiate team
31 from this state is participating, (c) placing a wager on the performance

1 or nonperformance of any individual athlete under eighteen years of age
2 participating in a professional or international sporting event, or (d)
3 placing a wager on the performance of athletes in an individual sporting
4 event excluded by the commission.

5 Sec. 10. Section 9-1106, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 9-1106 The commission shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (14) Have the authority to impose, subject to judicial review,
30 appropriate administrative fines and penalties for each violation of the
31 act or any rules and regulations adopted and promulgated pursuant to the

1 act in an amount not to exceed:

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

5 (b) For any licensed racetrack enclosure with an authorized gaming
6 operator operating games of chance for more than one year, three times
7 the highest daily amount of gross receipts derived from wagering on games
8 of chance during the twelve months preceding the violation at such
9 licensed racetrack enclosure gaming facility per violation;

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

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

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

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

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

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

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

23 (22) Establish a process to allow a person to be voluntarily
24 excluded from wagering in any game of chance under the act in accordance
25 with section 9-1118;

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

29 (24) Conduct or cause to be conducted a statewide horseracing market
30 analysis to study the racing market as it currently exists across the
31 state and within the locations in Nebraska of the racetracks in Adams,

1 Dakota, Douglas, Hall, Lancaster, and Platte counties as of the date of
2 the market analysis. Such market analysis shall be completed as soon as
3 practicable but not later than January 1, 2025, and every five years
4 thereafter and shall be submitted electronically to the General Affairs
5 Committee of the Legislature and to the Governor. Such market analysis
6 shall examine the market potential and make recommendations involving:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (c) A comparison of the economy of counties which contain a licensed
30 racetrack enclosure operating games of chance and counties which do not
31 contain such a licensed racetrack enclosure as of the date of the study,

1 which comparison shall include:

2 (i) The population of such counties;

3 (ii) Jobs created by each licensed racetrack enclosure operating
4 games of chance in such counties;

5 (iii) Unemployment rates in such counties;

6 (iv) Information on family and household income in such counties;

7 (v) Retail sales in such counties;

8 (vi) Property values in such counties;

9 (vii) An analysis of the impact on community services, including
10 police protection expenditures, fire protection expenditures, road,
11 bridge, and sidewalk expenditures, and capital project expenditures in
12 such counties;

13 (viii) Impact on community health in such counties;

14 (ix) Divorce rates in such counties;

15 (x) Information on available education and education levels in such
16 counties;

17 (xi) Life expectancy in such counties;

18 (xii) Homelessness in such counties; and

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

20 (27) Approve or deny an application for any licensed racetrack
21 enclosure which is not in existence or operational as of April 20, 2022,
22 or any licensed racetrack enclosure in existence and operational as of
23 November 1, 2020, that applies to move such licensed racetrack enclosure
24 pursuant to section 2-1205, on the basis of the placement and location of
25 such licensed racetrack enclosure and based on the market as it exists as
26 of the most recent issuance of the statewide horseracing market analysis,
27 statewide casino gaming market analysis, and statewide socioeconomic-
28 impact studies conducted by the commission pursuant to this section. The
29 commission shall deny a licensed racetrack enclosure or gaming operator
30 license application if it finds that approval of such application in such
31 placement and location would be detrimental to the racing or gaming

1 market that exists across the state based on the most recent statewide
2 horseracing market analysis, statewide casino gaming market analysis, and
3 statewide socioeconomic-impact studies;~~and~~

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

8 (29) Recommend to the Governor and to the General Affairs Committee
9 of the Legislature amendments to all laws administered by the commission;
10 and

11 (30) As appropriate and as recommended by the executive director of
12 the commission, delegate to an adjudication subcommittee of the
13 commission those powers and duties of the commission as necessary to
14 carry out and effectuate the purposes of the Nebraska Racetrack Gaming
15 Act and investigate and respond to violations of the Nebraska Racetrack
16 Gaming Act. The adjudication subcommittee staff shall be appointed by the
17 executive director. No person may be appointed to the adjudication
18 subcommittee if such person is involved in the investigation of any
19 violation being heard or investigated by the subcommittee. Any action of
20 the adjudication subcommittee may be appealed to the commission or may be
21 reviewed by the commission on its own initiative. The adjudication
22 subcommittee may impose a fine, consistent with the Nebraska Racetrack
23 Gaming Act, not to exceed fifteen thousand dollars, upon a finding that
24 the act or any rule or regulation adopted and promulgated under the act
25 has been violated. The commission shall remit any fines collected under
26 this subdivision to the State Treasurer for distribution in accordance
27 with Article VII, section 5, of the Constitution of Nebraska.

28 Sec. 11. Section 81-3717, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 81-3717 (1) The governing body of the county shall after a public
31 hearing adopt a resolution establishing a County Visitors Promotion Fund

1 and a visitors committee which shall serve as an advisory committee to
2 the governing body in administering the proceeds from the taxes provided
3 to the county by the Nebraska Visitors Development Act. The governing
4 body of a county may also after a public hearing adopt a resolution
5 establishing a County Visitors Improvement Fund. The proceeds of the
6 County Visitors Promotion Fund shall be used generally to promote,
7 encourage, and attract visitors to come to the county and use the travel
8 and tourism facilities within the county. The proceeds of the County
9 Visitors Improvement Fund shall be used to improve the visitor
10 attractions and facilities in the county, except that no proceeds shall
11 be used to improve a facility in which parimutuel wagering is conducted
12 unless such facility also serves as the site of a state fair or district
13 or county agricultural society fair. If the visitors committee determines
14 that the visitor attractions in the county are adequate and do not
15 require improvement, the governing body of the county, with the advice of
16 the committee, may only use the County Visitors Improvement Fund to
17 promote, encourage, and attract visitors to the county to use the
18 county's travel and tourism facilities or, with the advice of the
19 visitors committee, make grants to organizations to promote, encourage,
20 and attract visitors to the county to use the county's travel and tourism
21 facilities, ~~except that no proceeds shall be granted to an organization~~
22 ~~to promote parimutuel wagering.~~ The committee shall consist of five or
23 seven members appointed by the governing body of the county. If the
24 committee has five members, at least one but no more than two members of
25 the committee shall be in the hotel industry. If the committee has seven
26 members, at least two but no more than three members of the committee
27 shall be in the hotel industry.

28 (2) The members of the committee shall serve without compensation,
29 except for reimbursement for necessary expenses. Committee members shall
30 serve for terms of four years, except that at least half of those
31 appointed shall be appointed for initial terms of two years. Vacancies

1 shall be filled in the same manner as the initial appointments. The
2 committee shall elect a chairperson and vice-chairperson from among its
3 members to serve for terms of two years.

4 Sec. 12. Section 81-3720, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 81-3720 (1)(a) The County Visitors Improvement Fund shall be
7 administered by the governing body of the county with the advice of the
8 visitors committee created pursuant to section 81-3717. The fund shall be
9 used to make grants for expanding and improving facilities at any
10 existing visitor attraction, acquiring or expanding exhibits for existing
11 visitor attractions, constructing visitor attractions, or planning or
12 developing such expansions, improvements, or construction.

13 (b) Grants shall be available for any visitor attraction in the
14 county owned by the public or any nonprofit organization, the primary
15 purpose of which is to operate the visitor attraction, ~~except that grants~~
16 ~~shall not be available for any visitor attraction where parimutuel~~
17 ~~wagering is conducted.~~

18 (c) Grants may be made for a specified annual amount not to exceed
19 the proceeds derived from a sales tax rate of one percent imposed by a
20 county for a County Visitors Improvement Fund for a term of years not to
21 exceed twenty years and may be pledged by the recipient to secure bonds
22 issued to finance expansion, improvement, or construction of a visitor
23 attraction. Any grant made for a term of years shall be funded each year
24 in accordance with any agreement contained in the grant contract.

25 (d) No bonds issued by a grant recipient which pledges grant funds
26 shall constitute a debt, liability, or general obligation of the county
27 levying the tax or a pledge of the faith and credit of the county levying
28 the tax but shall be payable solely from grant funds. Each bond issued by
29 any grant recipient which pledges grant funds shall contain on the face
30 thereof a statement that neither the faith and credit nor the taxing
31 power of the county levying the tax is pledged to the payment of the

1 principal of or the interest on such bond.

2 (2) For purposes of this section and section 81-3717, visitor
3 attraction means a defined location open to the public, which location is
4 of educational, cultural, historical, artistic, or recreational
5 significance or provides entertainment or in which are exhibits,
6 displays, or performances of educational, cultural, historic, artistic,
7 or entertainment value.

8 Sec. 13. Original sections 9-601, 9-603, 9-606, 9-607, 9-646.01,
9 9-651, 9-1103, 9-1106, 81-3717, and 81-3720, Reissue Revised Statutes of
10 Nebraska, are repealed.