

CORRECTED COPY

LEGISLATIVE BILL 138

Approved by the Governor February 24, 1993

Introduced by Will, 8, Baack, 47, Schellpeper, 18, Withem, 14, at the request of the Governor

AN ACT relating to the State Lottery Act; to amend sections 9-1,104, 9-204, 9-226, 9-312, 9-315, 9-322, 9-402, 9-411, 9-415, 9-422, 9-502, 9-507, 9-509, 9-607, 9-620, 9-629, 9-801 to 9-806, 9-808 to 9-811, 9-813, 9-814, 9-816 to 9-822, 9-824 to 9-830, 9-832 to 9-841, 15-258, 16-226, 17-120, 17-207, 77-27,160, 77-27,166 to 77-27,169, 77-27,171, and 77-27,172, Reissue Revised Statutes of Nebraska, 1943, sections 9-812, 9-823, 14-102, 28-1101, 28-1105, 28-1113, 77-27,161, 81-15,170, 81-15,171, 81-15,175, and 81-15,176, Revised Statutes Supplement, 1992, section 9-807, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 14, Ninety-second Legislature, Third Special Session, 1992, and section 77-2701, Revised Statutes Supplement, 1992, as amended by section 22, Legislative Bill 1, Ninety-second Legislature, Fourth Special Session, 1992; to change and reenact provisions of Laws 1991, L.B 849; to create a division and a commission; to create and rename funds; to change penalty provisions; to provide a sales and use tax exemption; to provide for setoffs for child support debts; to change provisions relating to membership of the Nebraska Environmental Trust Board; to provide restrictions on priorities for allocation of funds; to eliminate an operative date provision, a provision on use of General Funds, and compensation provisions for lottery game retailers; to harmonize provisions; to repeal the original sections, and also sections 9-815, 9-831, and 9-842, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. That section 9-1,104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-1,104. (1) Any person applying for or holding a contract or license (a) as a distributor, gaming manager, or manufacturer pursuant to the Nebraska Bingo Act, (b) as a distributor, manufacturer, pickle card operator, or sales agent pursuant to the Nebraska Pickle Card Lottery Act, (c) as a lottery operator or manufacturer-distributor pursuant to the Nebraska County and City Lottery Act, or (d) pursuant to the State

Lottery Act shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation through the Nebraska State Patrol for the purpose of determining whether the Department of Revenue has a basis to deny the contract or license application or to suspend, cancel, ~~or~~ revoke, or terminate the person's contract or license. Each manufacturer, distributor, manufacturer-distributor, and lottery operator shall also submit a personal history report to the department on a form provided by the department.

(2) If the applicant, party to the contract, or licensee is a corporation or organization, the persons subject to such requirement shall include any officer or director of the corporation or organization, his or her spouse, and, if applicable, any stockholder owning in the aggregate more than ten percent of the stock of the corporation. If any stockholder owning more than ten percent of the stock of the applicant or licensee corporation is a corporation or partnership, every partner of such partnership or officer of such corporation and stockholder owning more than ten percent of the stock of such corporation shall also be subject to such requirement. If the applicant, party to the contract, or licensee is a partnership, the persons subject to such requirement shall include any partner and his or her spouse.

(3) A person applying for or holding a license as a pickle card operator shall be subject to such requirement only if such an investigation has not been performed by the Nebraska Liquor Control Commission.

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

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

Sec. 2. That section 9-204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-204. Bingo shall mean that form of gambling in which:

(1) The winning chances are determined by a random selection of a subset of numbers or designators or objects numbered, lettered, or otherwise designated by some medium among a total set of numbers or designators or objects numbered, lettered, or otherwise designated by some medium; and

(2) The card or cards held by the player by which a winner or winners are ascertained are sold, rented, or used only at the time and place of the gambling activity.

Bingo shall not mean or include any activity which is authorized or regulated under 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,

section 9-701, or Chapter 2, article 12, nor shall bingo mean or include any activity which is prohibited under Chapter 28, article 11.

Sec. 3. That section 9-226, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) To issue licenses;

(2) To deny any license application or renewal application for cause. Cause for denial of an application for or renewal of a license shall include instances in which the applicant or licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act or any rules or regulations adopted and promulgated pursuant to the acts; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of such acts or any rules or regulations adopted and promulgated pursuant to such acts; (c) obtained a license or permit pursuant to such acts by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to governmental agencies at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or involving moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where bingo activity required to be licensed under the Nebraska Bingo Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) failed to prove by clear and convincing evidence his or her qualifications to be licensed in accordance with the Nebraska Bingo Act; (h) failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; or (i) failed to pay an administrative fine imposed pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(3) To revoke, cancel, or suspend for cause any license.

Cause for revocation, cancellation, or suspension of a license shall include instances in which the licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act or any rules or regulations adopted and promulgated pursuant to the act; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate

any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act; (c) obtained a license pursuant to the act by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon the charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where bingo activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) failed to pay any taxes and additions to taxes, including penalties and interest, required by the act; or (h) failed to pay an administrative fine imposed pursuant to the act;

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

(5) To impose an administrative fine of not more than one thousand dollars on a licensee for cause. For purposes of this subdivision, cause shall include instances in which the licensee violated the provisions, requirements, conditions, limitations, or duties imposed by the act or rules and regulations adopted and promulgated pursuant to the act. In determining whether to impose an administrative fine and the amount of the fine if any fine is imposed, the department shall take into consideration the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation. If an administrative fine is imposed, the fine shall not be paid from bingo receipts of a licensed organization and shall be remitted by the licensee to the department within thirty days from the date of the order issued by the department imposing such fine;

(6) To enter or to authorize any law enforcement officer to enter at any time upon any premises where bingo activity required to be licensed under the act is being conducted to determine whether any of the provisions of the act or any rules or regulations adopted and promulgated

under it have been or are being violated and at such time to examine such premises;

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

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

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

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

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

Sec. 4. That section 9-312, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-312. Lottery by the sale of pickle cards shall mean any gambling scheme in which participants pay or agree to pay something of value for a pickle card. Any lottery by the sale of pickle cards shall be conducted pursuant to and in accordance with the Nebraska Pickle Card Lottery Act.

Lottery by the sale of pickle cards shall not mean or include any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, section 9-701, or Chapter 2, article 12, nor shall lottery by the sale of pickle cards mean or include any activity prohibited under Chapter 28, article 11.

Sec. 5. That section 9-315, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-315. Pickle card shall mean any disposable card, board, or ticket which accords a person an opportunity to win something of value by opening, pulling, detaching, or otherwise removing one or more tabs

from the card, board, or ticket to reveal a set of numbers, letters, symbols, or configurations, or any combination thereof, and shall include, but not be limited to, any card known as a pickle ticket, pickle, break-open, pull-tab, pull-tab board, punchboard, pull card, or any other similar card, board, or ticket which is included under this section, whether referred to by any other name.

Pickle card shall not mean or include any: (1) Card used in connection with bingo conducted pursuant to the Nebraska Bingo Act; (2) racing ticket or wager in connection with any horserace conducted pursuant to Chapter 2, article 12; (3) scrape-off or rub-off ticket; (4) any card, ticket, or other device used in connection with any kind of gambling, lottery, raffle, or gift enterprise authorized or regulated under the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or section 9-701; or (5) any card, ticket, or other device prohibited under Chapter 28, article 11.

Sec. 6. That section 9-322, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) To issue licenses;

(2) To deny any license application or renewal application for cause. Cause for denial of an application for or renewal of a license shall include instances in which the applicant or licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act or any rules or regulations adopted and promulgated pursuant to such acts; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of such acts or any rules or regulations adopted and promulgated pursuant to such acts; (c) obtained a license or permit pursuant to such acts by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where pickle card activity required to be licensed under the Nebraska Pickle Card Lottery Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed in accordance with the Nebraska Pickle Card Lottery Act; (h) failed to

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

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include instances in which the licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Pickle Card Lottery Act or any rules or regulations adopted and promulgated pursuant to the act; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act; (c) obtained a license pursuant to the act by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where pickle card activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) failed to pay any taxes and additions to taxes, including penalties and interest, required by the act; or (h) failed to pay an administrative fine imposed pursuant to the act;

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

(5) To impose an administrative fine of not more than one

thousand dollars on a licensee for cause. For purposes of this subdivision, cause shall include instances in which the licensee violated the provisions, requirements, conditions, limitations, or duties imposed by the act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to impose an administrative fine and the amount of the fine if any fine is imposed, the department shall take into consideration the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation. If an administrative fine is imposed, the fine shall not be paid from pickle card lottery proceeds of a licensed organization and shall be remitted by the licensee to the department within thirty days from the date of the order issued by the department imposing such fine;

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

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

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

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

(10) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid as taxes pursuant to section 9-344 in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

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

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

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

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

Sec. 7. That section 9-402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-402. (1) The purpose of the Nebraska Lottery and Raffle Act is to protect the health and welfare of the public, to protect the economic welfare and interest in certain lotteries with gross proceeds greater than one thousand dollars and certain raffles with gross proceeds greater than five thousand dollars, to insure that the profits derived from the operation of any such lottery or raffle are accurately reported in order that their revenue-raising potential be fully exposed, to insure that the profits are used for legitimate purposes, and to prevent the purposes for which the profits of any such lottery or raffle are to be used from being subverted by improper elements.

(2) The purpose of the Nebraska Lottery and Raffle Act is also to completely and fairly regulate each level of the traditional marketing scheme of tickets or stubs for such lotteries and raffles to insure fairness, quality, and compliance with the Constitution of Nebraska. To accomplish such purpose, the regulation and licensure of nonprofit organizations and any other person involved in the marketing scheme are necessary.

(3) The Nebraska Lottery and Raffle Act shall apply to all lotteries with gross proceeds in excess of one thousand dollars, except for lotteries by the sale of pickle cards conducted in accordance with the Nebraska Pickle Card Lottery Act, lotteries conducted by a county, city, or village in accordance with the Nebraska County and City Lottery Act, and lottery games conducted in accordance with the State Lottery Act, and to all raffles with gross proceeds in excess of five thousand dollars. All such lotteries and raffles shall be played and conducted only by the methods permitted in the act. No other form, means of selection, or method of play shall be allowed.

Sec. 8. That section 9-411, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-411. (1) Lottery shall mean a gambling scheme in which (a) participants pay or agree to pay something of value for an opportunity to win, (b) winning opportunities are represented by tickets differentiated by sequential enumeration, and (c) winners are determined by a random drawing of the tickets.

(2) Lottery shall not include (a) any raffle as defined in section 9-415, (b) any gambling scheme which uses any mechanical, computer, electronic, or video gaming device which has the capability of awarding something of value, free games redeemable for something of

value, or tickets or stubs redeemable for something of value, (c) any activity which is authorized or regulated under the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, section 9-701, or Chapter 2, article 12, or (d) any activity which is prohibited under Chapter 28, article 11.

Sec. 9. That section 9-415, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-415. (1) Raffle shall mean a gambling scheme in which (a) participants pay or agree to pay something of value for an opportunity to win, (b) winning opportunities are represented by tickets differentiated by sequential enumeration, (c) winners are determined by a random drawing of the tickets, and (d) at least eighty percent of all of the prizes to be awarded are merchandise prizes which are not directly or indirectly redeemable for cash by the licensed organization conducting the raffle or any agent of the organization.

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

Sec. 10. That section 9-422, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-422. No person, except a licensed organization operating pursuant to the Nebraska Lottery and Raffle Act, shall conduct any lottery with gross proceeds in excess of one thousand dollars or any raffle with gross proceeds in excess of five thousand dollars. Any lottery or raffle conducted in violation of this section is hereby declared to be a public nuisance. Any person who violates this section shall be guilty of a Class III misdemeanor. Nothing in this section shall be construed to apply to any lottery conducted in accordance with the Nebraska County and City Lottery Act, any lottery by the sale of pickle cards conducted in accordance with the Nebraska Pickle Card Lottery Act, or any lottery game conducted pursuant to the State Lottery Act.

Sec. 11. That section 9-502, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-502. The purpose of the Nebraska Small Lottery and Raffle Act is to allow qualifying nonprofit organizations to conduct lotteries with gross proceeds not greater than one thousand dollars or raffles with gross proceeds not greater than five thousand dollars subject to minimal regulation. The Nebraska Small Lottery and Raffle Act shall apply to all lotteries with gross proceeds not greater than one thousand dollars, except for lotteries by the sale of pickle cards conducted in accordance with the Nebraska Pickle Card Lottery Act, lotteries

conducted by a county, city, or village in accordance with the Nebraska County and City Lottery Act, and lottery games conducted pursuant to the State Lottery Act, and to all raffles with gross proceeds not greater than five thousand dollars. All such lotteries and raffles shall be played and conducted only by the methods permitted in the act. No other form or method shall be authorized or permitted.

Sec. 12. That section 9-507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

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

Sec. 13. That section 9-509, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

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

Sec. 14. That section 9-607, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-607. (1) Lottery shall mean a gambling scheme in which (a) the players pay or agree to pay something of value for an opportunity to win, (b) winning opportunities are represented by tickets, (c) winners are solely determined by one of the following two methods: (i) By a

random drawing of tickets differentiated by sequential enumeration from a receptacle by hand whereby each ticket has an equal chance of being chosen in the drawing; or (ii) by use of a game known as keno in which a player selects up to twenty numbers from a total of eighty numbers on a paper ticket and a computer, other electronic selection device, or electrically operated blower machine which is not player-activated randomly selects up to twenty numbers from the same pool of eighty numbers and the winning players are determined by the correct matching of the numbers on the paper ticket selected by the players with the numbers randomly selected by the computer, other electronic selection device, or electrically operated blower machine, except that no keno game shall permit or require player access or activation of lottery equipment and the random selection of numbers by the computer, other electronic selection device, or electrically operated blower machine shall not occur within five minutes of the completion of the previous selection of random numbers, and (d) the holders of the winning paper tickets are to receive cash or prizes redeemable for cash. Selection of a winner or winners shall be predicated solely on chance.

(2) Lottery shall not include (a) any gambling scheme which uses 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, or tickets or stubs redeemable for something of value, (b) any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, section 9-701, or Chapter 2, article 12, or (c) any activity prohibited under Chapter 28, article 11.

(3) Notwithstanding subsections (1) and (2) of this section, any county, city, or village lottery operation in existence and operating on March 1, 1989, which would not meet the requirements of subsection (1) of this section or the requirement in section 9-625 that only one scheme or type of lottery be conducted may continue in operation until January 1, 1991. Such operation shall be restricted to operation upon the same terms as existed on March 1, 1989, and the operation of the lottery shall comply with the other provisions of the Nebraska County and City Lottery Act.

Sec. 15. That section 9-620, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) To issue licenses;

(2) To deny any license application or renewal application for cause. Cause for denial of an application for or renewal of a license shall include instances in which the applicant or licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the

Nebraska Small Lottery and Raffle Act, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to such acts; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of such acts or any rules or regulations adopted and promulgated pursuant to such acts; (c) obtained a license or permit pursuant to such acts by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the Nebraska County and City Lottery Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed in accordance with the Nebraska County and City Lottery Act; (h) failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; or (i) failed to pay an administrative fine imposed pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include instances in which the licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska County and City Lottery Act or any rules or regulations adopted and promulgated pursuant to the act; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act; (c) obtained a license pursuant to the act by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation; (f) made a

misrepresentation of or failed to disclose a material fact to the department; (g) failed to pay any taxes and additions to taxes, including penalties and interest, required by the act; or (h) failed to pay an administrative fine imposed pursuant to the act;

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

(5) To impose an administrative fine of not more than one thousand dollars on a licensee for cause. For purposes of this subdivision, cause shall include instances in which the licensee violated the provisions, requirements, conditions, limitations, or duties imposed by the act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to impose an administrative fine and the amount of the fine if any fine is imposed, the department shall take into consideration the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation. If an administrative fine is imposed, the fine shall not be paid from lottery proceeds of the county, city, or village and shall be remitted by the licensee to the department within thirty days from the date of the order issued by the department imposing such fine;

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

(7) To require periodic reports of lottery activity from licensed counties, cities, villages, manufacturer-distributors, and lottery operators and any other persons, organizations, or corporations as the department deems necessary to carry out the act;

(8) To audit, examine, or cause to have examined, by any agent or representative designated by the department for such purpose, any books, papers, records, or memoranda relating to the conduct of a lottery, to require by administrative order or summons the production of such documents or the attendance of any person having knowledge in the premises, to take testimony under oath, and to require proof material for

its information. If any such person willfully refuses to make documents available for examination by the department or its agent or representative or willfully fails to attend and testify, the department may apply to a judge of the district court of the county in which such person resides for an order directing such person to comply with the department's request. If any documents requested by the department are in the custody of a corporation, the court order may be directed to any principal officer of the corporation. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

(9) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid as taxes pursuant to section 9-648 in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

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

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

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

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

Sec. 16. That section 9-629, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-629. (1) Except as provided in section 9-629.02, the gross proceeds of any lottery conducted by a county, city, or village shall be used solely for community betterment purposes, awarding of prizes, taxes, and expenses.

(2) Not less than sixty-five percent of the gross proceeds shall be used for the awarding of prizes, except that for purposes of conducting a lottery authorized by subdivision (1)(c)(ii) of section 9-607, not less than sixty-five percent of the gross proceeds during an annual period from July 1 to June 30 of each year shall be used for the awarding of prizes.

(3) Not more than fourteen percent of the gross proceeds shall be used to pay the expenses of operating the lottery, except that license fees paid to the department and audit or legal expenses incurred by the county, city, or village which relate directly to the conduct of operating

such lottery shall not be included in determining the fourteen-percent limitation on expenses.

Sec. 17. That section 9-801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-801. Sections 9-801 to ~~9-842~~ 9-841 and sections 29 to 33 of this act shall be known and may be cited as the State Lottery Act.

Sec. 18. That section 9-802, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-802. The purpose of the State Lottery Act is to establish lottery games ~~in the state which will enable the people of Nebraska to benefit from the additional money raised through such lottery games. The additional money shall be used for educational and other community betterment purposes~~ raise revenue for the purposes set forth in section 9-812.

Sec. 19. That section 9-803, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-803. For purposes of the State Lottery Act:

(1) Deputy director shall mean the Deputy Director of the Lottery Division;

(2) Director shall mean the Director of the Lottery Division;

(3) Division shall mean the Lottery Division of the Department of Revenue;

(4) Lottery contractor shall mean a lottery vendor or lottery game retailer with whom the division has contracted for the purpose of providing goods or services for the state lottery;

(5) Lottery game shall mean any variation of the following types of games:

(a) An instant-win game in which disposable tickets contain certain preprinted winners which are determined by rubbing or scraping an area or areas on the tickets to match numbers, letters, symbols, or configurations, or any combination thereof, as provided by the rules of the game. An instant-win game may also provide for preliminary and grand prize drawings conducted pursuant to the rules of the game. An instant-win game shall not include the use of any pickle card as defined in section 9-315; and

(b) An on-line lottery game in which a lottery game is hooked up to a central computer via a telecommunications lines system through which a player selects a specified group of numbers or symbols out of a predetermined range of numbers or symbols and purchases a ticket bearing the player-selected numbers or symbols for eligibility in a drawing regularly scheduled in accordance with game rules.

Lottery game shall not be construed to mean any video lottery game;

(6) Lottery game retailer ~~or applicant~~ shall mean a person who contracts with or seeks to contract with the division to sell tickets in lottery games to the public; ~~and shall include an organization, a sole proprietor, a partner in a partnership, an officer of a corporation, and~~

~~a shareholder owning ten percent or more of the stock of a corporation so contracting or seeking to contract;~~

(7) Lottery vendor shall mean any person who submits a bid, proposal, or offer as part of a major procurement;

(8) Major procurement shall mean any procurement or contract for the purchase or lease of goods or services unique to or used primarily for the operation of the state lottery in excess of fifteen thousand dollars, including the printing of tickets, the provision of terminals and other computer equipment, and transportation, accounting, consulting, and advertising services; and

(9) Ticket or lottery ticket shall mean any tangible evidence authorized by the division to prove participation in a lottery game.

Sec. 20. That section 9-804, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-804. The Lottery Division of the Department of Revenue is hereby established. The division shall be administered by the Director of the Lottery Division who shall be appointed by and serve at the pleasure of the Tax Commissioner. The division shall administer and regulate the lottery games conducted pursuant to the State Lottery Act.

Sec. 21. That section 9-805, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-805. The Tax Commissioner may enter into written agreements with one or more government-authorized lotteries ~~any other state or governmental entity~~ to participate in the conduct and operation of ~~other~~ lottery games when necessary or desirable to make lottery games more remunerative for the State of Nebraska, except that no lottery game may be introduced in this state which is inconsistent with the intent and purpose of or which violates the State Lottery Act.

Sec. 22. That section 9-806, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-806. In construing the State Lottery Act, it is the intent of the Legislature that the following policies be implemented:

(1) The lottery games shall be operated by the division;

(2) ~~Except for the initial two years after the act becomes operative as provided in section 9-842, the~~ The lottery games shall be operated as a self-sufficient, revenue-raising operation after money generated from the conduct of the lottery is used to repay the initial appropriation plus interest;

(3) All contracts entered into by the division for the provision of goods and services shall be subject to the act and shall be exempt from any other state law concerning the purchase of goods or services;

(4) Preference for contracts shall be given to bidders and applicants ~~for contracts~~ based in Nebraska if the costs and benefits are equal or superior to those available from competing persons. All major procurements of contracts ~~for~~ goods or services essential to the operation of a lottery shall require that the person awarded the contract establish a permanent office in this state;

(5) Every entity submitting a bid, proposal, or offer to the division shall disclose all information required by the Tax Commissioner; and

(6) Every entity submitting a bid, proposal, or offer to the division shall be required to meet such other requirements as established by the Tax Commissioner, including the posting of a bond.

Sec. 23. That section 9-807, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 14, Ninety-second Legislature, Third Special Session, 1992, be amended to read as follows:

9-807. (1) ~~The director shall hire at least one full-time staff attorney. One such attorney shall be designated the~~ division shall employ a Deputy Director of the Lottery Division and who shall serve as director in the director's absence. The deputy director shall be compensated at a rate not less than ninety percent of the director's salary at the time the deputy director is hired. Other than the director, all employees of the division shall be classified employees under the rules and regulations of the personnel division of the Department of Administrative Services.

(2) Before entering upon the duties of the office, the director, deputy director, and each employee of the division ~~who is accountable for funds~~ shall be bonded under the blanket surety bond required by section 11-201.

Sec. 24. That section 9-808, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-808. (1) The Tax Commissioner shall employ or contract with such personnel as necessary to carry out the responsibilities of the division. ~~The division Tax Commissioner shall employ investigators and inspectors or security personnel who shall be appointed deputy state sheriffs by the Governor and who shall, upon qualifying as deputy state sheriffs, possess all the powers and duties which attach to deputy state sheriffs, except that such powers and duties shall be limited to the enforcement of the State Lottery Act and the rules and regulations adopted pursuant to the act 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.~~

(2) Investigators ~~and inspectors~~ or security personnel of the division may enter and search premises and seize all relevant materials pursuant to a warrant issued by a court.

(3)(a) Investigators ~~and inspectors~~ or security personnel shall, as deemed necessary, conduct background investigations of all individuals seeking employment in the division. Such background investigations shall include, but not be limited to, police records checks, conviction records checks, national and statewide criminal records clearinghouse checks, and fingerprint checks.

(b) It shall be a condition of employment in the division that an individual supply investigators ~~and inspectors~~ or security personnel with his or her fingerprints for the purpose of conducting a

background ~~investigations~~ investigation for employment purposes.

(c) Any individual convicted of ~~a~~ any crime involving moral turpitude, ~~including~~ fraud, theft, theft of services, and theft by deception; and any individual whose constitutional rights have been forfeited and not restored shall not be eligible for employment in the division.

(d) All information obtained through a background investigation performed by the division shall be confidential, except that the Tax Commissioner may exchange such confidential information with state, federal, and local law enforcement agencies.

Sec. 25. That section 9-809, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-809. (1) The books, records, funds, and accounts of the division shall be audited at least annually by or under the direction of the Auditor of Public Accounts who shall submit a report of the audit to the Governor and the Legislature. The expenses of the audit shall be paid from the State Lottery Operation ~~Trust~~ Fund.

(2) The Tax Commissioner shall make an annual written report by ~~January 21~~ December 1 of each year to the Governor and the Legislature, which report shall include a summary of the activities of the division for the previous fiscal year through ~~November~~ June 30, a statement detailing lottery revenue, prize disbursements, expenses of the division, and allocation of remaining revenue, and any recommendations for change in the statutes which the Tax Commissioner deems necessary or desirable. The report shall be a public record.

Sec. 26. That section 9-810, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-810. (1) A person under nineteen years of age shall not purchase a lottery ticket. No lottery ticket shall be sold to any person under nineteen years of age. For purposes of making a gift, a person nineteen years of age or older may purchase a lottery ticket for the benefit of a person under nineteen years of age.

(2) No lottery ticket shall be sold and no prize shall be awarded to ~~the Tax Commissioner, the director, or any officer or~~ employee of the Department of Revenue division or any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of ~~the Tax Commissioner, the director, or any officer or~~ employee of the department division.

(3) With respect to a lottery game retailer under contract to sell lottery tickets whose rental payment for premises is contractually computed in whole or in part on the basis of a percentage of retail sales and when the computation of retail sales is not explicitly defined to include the sale of lottery tickets, the amount of retail sales for lottery tickets by the retailer for purposes of such a computation may not exceed the amount of compensation received by the retailer from the division.

(4) Once any prize is awarded in conformance with the State Lottery Act and any rules and regulations adopted under the act, the state shall have no further liability with respect to that prize. All liability

~~which may result from the conduct of lottery games pursuant to the State Lottery Act shall terminate at the time a prize is awarded to a winning ticket holder or winning ticket holders.~~

(5) Prior to the payment of any lottery prize in excess of five hundred dollars for a winning lottery ticket presented for redemption to the division, the division shall check the name and social security number of the winner with a list provided by the Department of Revenue of people identified as having an outstanding state tax liability and a list of people certified by the Department of Social Services as owing a debt as defined in section 77-27,161. The division shall credit any such lottery prize against any outstanding state tax liability owed by such winner and the balance of such prize amount, if any, shall be paid to the winner by the division. The division shall credit any such lottery prize against any certified debt in the manner set forth in sections 77-27,160 to 77-27,173. If the winner has both an outstanding state tax liability and a certified debt, the division shall add the liability and the debt together and pay the appropriate agency or person a share of the prize in the proportion that the liability or debt owed to the agency or person is to the total liability and debt.

Sec. 27. That section 9-811, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-811. Lottery games conducted pursuant to the State Lottery Act shall be exempt from any local or occupation tax levied or assessed by any political subdivision having the power to levy, assess, or collect such a tax.

Sec. 28. That section 9-812, Revised Statutes Supplement, 1992, be amended to read as follows:

9-812. (1) All money received from the operation of lottery games conducted pursuant to the State Lottery Act in Nebraska shall be deposited in the State Lottery Operation Trust Fund, which fund is hereby created. All payments of expenses of the operation of the lottery games shall be made from the State Lottery Operation Trust Fund, except that in accordance with legislative appropriations, money for payments for internal operating expenses of the division shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Operation Revolving Fund, which fund is hereby created. All money necessary for the payment of lottery prizes shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Prize Trust Fund, which fund is hereby created. The amount used for the payment of lottery prizes shall not be less than forty percent of the dollar amount of the lottery tickets which have been sold. Of the money remaining after the payment of prizes and operating expenses, the State Treasurer shall transfer from the State Lottery Operation Trust Fund to the General Fund an amount equal to the initial appropriation to the State Lottery Operation Trust Fund with interest at the rate specified in section 5, Legislative Bill 1, Ninety-second Legislature, Fourth Special Session, 1992, as such rate may from time to time be adjusted. After the General Fund is repaid, at least twenty-five percent of the dollar amount of the lottery tickets which have

been sold on an annualized basis shall be transferred to the Education Innovation Fund, the Solid Waste Landfill Closure Assistance Fund, the Nebraska Environmental Trust Fund, and the Compulsive Gamblers Assistance Fund. Forty-nine ~~forty-nine~~ and one-half percent of such the money remaining after the payment of prizes and operating expenses shall be transferred to the Education Innovation Fund. Beginning on July 15, 1992 ~~1993~~, and continuing through July 1, 1997, twenty-four and one-half percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Solid Waste Landfill Closure Assistance Fund and twenty-five percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act. After July 1, 1997, forty-nine and one-half percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act. One percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Compulsive Gamblers Assistance Fund to be used as provided in subsection (4) of this section.

(2) The Education Innovation Fund is hereby created. Each fiscal year beginning with fiscal year 1994-95, at least seventy-five percent of the lottery proceeds allocated to the Education Innovation Fund shall be available for disbursement. The Education Innovation Fund shall be allocated by the Governor through incentive grants to encourage the development of strategic plans by school districts for accomplishing high performance learning and to encourage schools to establish innovations in programs or practices that result in restructuring of school organization, school management, and instructional programs which bring about improvement in the quality of education. Such grants are intended to provide selected school districts, teachers or groups of teachers, educational foundations, educational service units, or cooperatives funding for the allowable costs of implementing pilot projects and model programs.

Minigrants shall be available to school districts to support the development of local strategic plans which shall include statements of purposes and goals for the districts. The plans shall also include the specific statements of improvement or strategic initiatives designed to improve quality learning for every student.

Major competitive grants shall be available to support innovative programs which are directly related to the local strategic plans. The development of a local strategic plan by a school district shall be required before a grant is awarded. Annual reports shall be made by program recipients documenting the effectiveness of the program in improving the quality of education as designed in the local strategic plans. Special consideration shall be given to plans which contain public or private matching funds and cooperative agreements, including agreements for in-kind services. Purposes for which incentives would be offered shall include:

(a) Professional staff development programs to provide funds for teacher and administrator training and continuing education to upgrade teaching and administrative skills;

(b) The development of local strategic plans by school districts;

(c) ~~(b)~~ Educational technology assistance to public schools for the purchase and operation of computers, telecommunications equipment and services, and other forms of technological innovation which may enhance classroom teaching, instructional management, and districtwide administration;

~~(e) Professional staff development programs to provide funds for teacher and administrator training and continuing education to upgrade teaching and administrative skills;~~

(d) An educational accountability program to develop an educational indicators system to measure the performance and outcomes of public schools and to ensure efficiency in operations;

(e) Alternative programs for students, including underrepresented groups, at-risk students, and dropouts;

(f) Programs that demonstrate improvement of student performance against valid national and international achievement standards;

(g) Early childhood education and parent education which emphasize child development;

(h) Programs using decisionmaking models that increase involvement of parents, teachers, and students in school management;

(i) Increased involvement of the community in order to achieve increased confidence in and satisfaction with its schools;

(j) Development of magnet or model programs designed to facilitate desegregation;

(k) Programs that address family and social issues impairing the learning productivity of students;

(l) Programs enhancing critical and higher-order thinking capabilities;

(m) Programs which produce the quality of education necessary to guarantee a competitive work force; and

(n) Programs designed to increase productivity of staff and students through innovative use of time.

The Governor shall establish the Excellence in Education Council. The Governor shall appoint eleven members to the council including representatives of educational organizations, postsecondary educational institutions, the business community, and the general public, members of school boards and parent education associations, school administrators, and at least four teachers who are engaged in classroom teaching. The council which shall have the following powers and duties:

(i) Develop and publish criteria for the awarding of grants for programs pursuant to this subsection;

(ii) Provide recommendations to the Governor regarding the selection of projects to be funded and the distribution and duration of

project funding;

(iii) Establish standards, formats, procedures, and timelines for the successful implementation of approved programs funded by the Education Innovation Fund;

(iv) Assist school districts in determining the effectiveness of the innovations in programs and practices and measure the subsequent degree of improvement in the quality of education;

(v) Consider the reasonable distribution of funds across the state and all classes of school districts; and

(vi) Provide annual reports to the Governor concerning programs funded by the fund. Each report shall include the number of applicants and approved applicants, an overview of the various programs, objectives, and anticipated outcomes, and detailed reports of the cost of each program.

(3) Recipients of grants from the Education Innovation Fund shall be required to provide, upon request, such data relating to the funded programs and initiatives as the Governor deems necessary.

(4) The Compulsive Gamblers Assistance Fund is hereby created. The fund shall be administered by the Director of ~~Social Services and shall be used to provide assistance and counseling to individuals and families experiencing difficulty as a result of gambling losses and to promote awareness of other gamblers assistance programs~~ the Division on Compulsive Gambling to carry out the purposes of sections 29 to 33 of this act.

(5) Any money in the State Lottery Operation Trust Fund, the State Lottery Operation Revolving Fund, the State Lottery Prize Trust Fund, the Education Innovation Fund, or the Compulsive Gamblers Assistance Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

(6) Unclaimed prize money on a winning lottery ticket shall be retained ~~by the Tax Commissioner in the State Lottery Prize Fund for payment to the person entitled thereto for one hundred eighty days after the drawing in which the prize was won for a period of time prescribed by rules and regulations.~~ If no claim is made within such period, the prize money shall be used at the discretion of the Tax Commissioner for any of the purposes prescribed in this section.

Sec. 29. There is hereby created the Division on Compulsive Gambling which shall be a division of the Department of Revenue. The Division on Compulsive Gambling shall consist of a director appointed by the Tax Commissioner and such other additional employees as may be necessary to provide clerical assistance to the Director of the Division on Compulsive Gambling in carrying out the duties of the Division on Compulsive Gambling.

Sec. 30. The Nebraska Advisory Commission on Compulsive Gambling is hereby created. The commission shall advise and provide recommendations to the Director of the Division on Compulsive Gambling with regard to matters relating to problem or pathological gambling to assist him or her in the performance of his or her

duties. The commission shall evaluate agencies, groups, organizations, and individuals that have applied to the Division on Compulsive Gambling to receive funds from the Compulsive Gamblers Assistance Fund and shall make recommendations to the Director of the Division on Compulsive Gambling concerning disbursements from the fund.

Sec. 31. (1) The Nebraska Advisory Commission on Compulsive Gambling shall consist of eleven members to be appointed by the Governor with the approval of a majority of the Legislature. Three of the initial appointees shall serve for a four-year term, three of the initial appointees shall serve for a three-year term, three of the initial appointees shall serve for a two-year term, and two of the initial appointees shall serve for a one-year term. As the terms of initial appointees expire, their successors and all future members of the commission shall be appointed to serve four-year terms. Members of the commission shall be selected by the Governor so as to achieve a reasonable balance of representation from all geographic areas of the state. Individuals appointed to the commission shall possess some experience, expertise, or knowledge of the causes, treatment, or prevention of problem or pathological gambling, the providing of services to assist affected individuals and their families, or the education of the public to increase its awareness of the disorders and available gamblers assistance programs.

(2) The members of the commission shall receive no pay for their service on the commission but shall be reimbursed from the Compulsive Gamblers Assistance Fund for the actual and necessary expenses incurred in carrying out their duties as provided in sections 81-1174 to 81-1177.

(3) The members of the commission shall select from their number a chairperson to serve for a one-year term. The chairperson shall serve as the principal liaison between the Director of the Division on Compulsive Gambling and the commission. The Director of the Division on Compulsive Gambling shall call the members of the commission together for meetings at least four times in each calendar year and shall prepare and distribute to members of the commission all relevant materials necessary to enable the commission to review and evaluate requests for funds and to make recommendations to the Director of the Division on Compulsive Gambling.

(4) Upon receiving the written approval of the Director of the Division on Compulsive Gambling, the chairperson may appoint and utilize a task force of commission members and nonmembers to report to the commission on specific areas relevant to the problem of compulsive gambling.

(5) The commission shall evaluate the requests submitted to it by the Director of the Division on Compulsive Gambling from the various agencies, groups, organizations, and individuals that are seeking funding from such fund to provide education, assistance, and counseling to individuals and families experiencing difficulties as the result of problem or pathological gambling and shall recommend to the Director of the Division on Compulsive Gambling funding for those which have

demonstrated their capacity to efficiently and effectively provide the necessary services. The commission may also recommend funding for the purpose of promoting public awareness of the availability of qualified assistance programs.

Sec. 32. The Director of the Division on Compulsive Gambling shall be responsible for:

(1) Establishing standards for the types of agencies, groups, organizations, and individuals that will be eligible to receive funding from the Compulsive Gamblers Assistance Fund;

(2) Establishing standards for the types of activities which will be eligible for funding;

(3) Developing standards for the appropriate documentation of past performance of such agencies, groups, organizations, and individuals and the activities which they have conducted;

(4) Requesting and receiving applications for funding;

(5) Distributing appropriate materials regarding such applications to the Nebraska Advisory Commission on Compulsive Gambling;

(6) Evaluating the recommendations of the commission and certifying to the Department of Administrative Services appropriate vouchers for the disbursement of funds from such fund to those agencies, groups, organizations, and individuals for the providing of services to problem or pathological gamblers and their families in conformity with subsection (5) of section 31 of this act;

(7) Requesting and receiving from the recipients of such funding appropriate documentation of the manner in which funds from such fund have been expended, including audits; and

(8) Taking such other and further action as may be necessary and appropriate to carry out the provisions of subsection (5) of section 31 of this act.

Sec. 33. The State Treasurer is hereby designated as the custodian of the Compulsive Gamblers Assistance Fund and is authorized to provide for the proper custody of funds therein. In addition to money transferred to the fund from the State Lottery Operation Trust Fund, the State Treasurer is authorized to accept funds, donations, gifts, devises, or bequests from any federal, state, local, public, or private source to be used by the Division on Compulsive Gambling in the performance of its duties and in carrying out the provisions of the State Lottery Act. The Director of Administrative Services shall draw warrants upon the Compulsive Gamblers Assistance Fund upon the presentation of proper vouchers by the Division on Compulsive Gambling. Money from the Compulsive Gamblers Assistance Fund shall be used exclusively for the purpose of providing assistance to agencies, groups, organizations, and individuals that provide education, assistance, and counseling to individuals and families experiencing difficulty as a result of problem or pathological gambling, to promote the awareness of gamblers assistance programs, and to pay the costs and expenses of the Division on Compulsive Gambling

and the Nebraska Advisory Commission on Compulsive Gambling. Neither the Director of the Division on Compulsive Gambling nor the Division on Compulsive Gambling shall provide any direct services to problem or pathological gamblers or their families.

Sec. 34. That section 9-813, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-813. (1) The Tax Commissioner may require each lottery game retailer to deposit all money received by the lottery game retailer from the sale of lottery tickets, less the amount, if any, retained as compensation for the sale of lottery tickets and less the amount, if any, paid in prizes, in financial institutions designated by the State Treasurer for credit to the State Lottery Operation Trust Fund and to file with the Tax Commissioner or his or her designated agent reports of the lottery game retailer's receipts and transactions regarding the sale of lottery tickets in such form and containing such information as the Tax Commissioner requires.

(2) The Tax Commissioner may make such arrangements for any person, including a financial institution, to perform any functions, activities, or services in connection with the operation of lottery games pursuant to the State Lottery Act and the rules and regulations as he or she deems advisable, and such functions, activities, or services shall constitute lawful functions, activities, and services of such person.

(3) The Tax Commissioner may authorize the electronic transfer of funds from the accounts of lottery game retailers to the State Lottery Operation Trust Fund.

(4) All lottery game retailers shall be fully liable for the face value of all lottery tickets in their possession and shall deliver to the division upon demand all unsold lottery tickets or all money that would have been received by the lottery game retailers had the lottery tickets been sold less the amount, if any, retained as compensation for the sale of lottery tickets and less the amount, if any, paid in prizes.

Sec. 35. That section 9-814, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-814. (1) It shall be a Class II misdemeanor for a lottery game retailer to fail to separate and keep separate all money received from the sale of lottery tickets less the amount, if any, retained as compensation for the sale of lottery tickets and less the amount, if any, paid in prizes or to fail to make available to the division all records pertaining to separate accounts maintained for revenue derived from the sale of lottery tickets.

(2) It shall be a Class II misdemeanor for any lottery game retailer or his or her employee to knowingly sell a lottery ticket to any person under nineteen years of age.

(3) It shall be a Class I misdemeanor for any person to sell lottery tickets without ~~contracting~~ holding a valid contract with the division to sell such tickets.

(4) It shall be a Class I misdemeanor for a lottery game retailer to sell lottery tickets at any price other than that established by the

division.

(5) It shall be a Class I misdemeanor to release any information obtained through a background investigation performed by the division without the prior written consent of the subject of the investigation except as provided in subdivision (3)(d) of section 9-808.

(6) It shall be a Class III felony to alter or attempt to alter a lottery ticket for the purpose of defrauding a lottery game conducted pursuant to the State Lottery Act.

(7) It shall be a Class IV felony to falsify information provided to the division for purposes of applying for a contract with the division to sell lottery tickets or for purposes of completing a background investigation pursuant to the act.

~~(8) It shall be a Class II misdemeanor for any person or entity to use the word lotto or lottery in advertising without the prior written consent of the Tax Commissioner.~~

Sec. 36. That section 9-816, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-816. (1) The Tax Commissioner, the director, and other employees of the division or their immediate families shall not, while employed with the division, directly or indirectly (a) knowingly hold a financial interest or acquire stocks, bonds, or any other interest in any entity doing substantial business which is a party or subcontracts with a party to a major procurement with the division; or (b) have a financial interest in any contract with the state lottery, or (c) have a financial interest in the ownership or leasing of property used by or for the division.

(2) Neither the director, any employee of the division, nor any member of their immediate families shall ask for, offer to accept, or receive any gift, gratuity, or other thing of value which would inure to that person's benefit from (a) any entity contracting or seeking to contract with the state to supply equipment or materials for use by the division, (b) any applicant for a contract to act as a lottery game retailer to be awarded by the division, or (c) any lottery game retailer.

(3) No (a) person, corporation, association, or firm organization contracting or seeking to contract to supply equipment or materials for use by the division, (b) applicant for a contract to act as a lottery game retailer to be awarded by the division, or (c) lottery game retailer shall offer or give the Tax Commissioner, the director, or any employee of the division or a member of his or her immediate family any gift, gratuity, or other thing of value which would inure to the recipient's personal benefit.

(4) For purposes of this section:

(a) Gift, gratuity, or other thing of value shall mean a payment, subscription, advance, forbearance, honorarium, campaign contribution, or rendering of deposit of money, services, or anything of value, the value of which exceeds twenty-five dollars in any one-month period, unless consideration of equal or greater value is received in return. Gift, gratuity, or other thing of value shall not include:

(i) A campaign contribution otherwise reported as required

by the Nebraska Political Accountability and Disclosure Act;

(ii) A commercially reasonable loan made in the ordinary course of business;

(iii) A gift received from a member of the recipient's immediate family or the spouse of any such family member;

(iv) A breakfast, luncheon, dinner, or other refreshment consisting of food and beverage provided for immediate consumption;

(v) Any admission to a facility or event;

(vi) Any occasional provision of transportation within the State of Nebraska; or

(vii) Any thing of value received in legitimate furtherance of the objectives of the State Lottery Act; and

(b) Member of his or her immediate family shall mean such person's parent, child, brother, sister, or spouse.

(5) The director and other employees of the division shall comply with all state laws applicable to ethics in government, conflict of interest, and financial disclosure.

(6) Any ~~director or other~~ employee of the division other than the director who violates this section may be removed from his or her position after notice and a hearing before the Tax Commissioner or his or her representative.

Sec. 37. That section 9-817, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-817. The director and any employee of the division, when authorized by the director or Tax Commissioner, shall have the power (1) to make a thorough investigation into all the records and affairs of any person, ~~firm~~ organization, or corporation when, in the judgment of the director, such investigation is necessary to the proper performance of the division's duties and the efficient enforcement of the laws, including the power to administer oaths, (2) to examine under oath any person or any officer, employee, or agent of any ~~firm~~ organization or corporation, (3) to compel by subpoena the production of records, and (4) to compel by subpoena the attendance of any person in this state to testify before the Tax Commissioner or his or her designated representative. If any person willfully refuses to testify or obey a subpoena, the director may apply to a judge of the district court of Lancaster County for an order directing such person to comply with the subpoena. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court.

Sec. 38. That section 9-818, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-818. ~~Any staff attorney, in conjunction with the director and~~ The Tax Commissioner; or the director may confer with the Attorney General or his or her designee as he or she deems necessary and advisable to carry out the responsibilities of the division. Upon request of the director ~~or staff attorney~~ with the approval of the Tax Commissioner, it shall be the duty of the Attorney General and any other law enforcement authority to whom a violation is reported to investigate and cause appropriate proceedings to be instituted without delay.

Sec. 39. That section 9-819, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-819. (1) The director shall develop rules and regulations concerning lottery administration for consideration by the Tax Commissioner. Rules and regulations shall be adopted, promulgated, amended, or repealed only after a public hearing by the Tax Commissioner. Notice of the hearing shall be given at least twenty days in advance in a newspaper of general circulation in the state. The Tax Commissioner shall either approve or disapprove the proposed adoption, promulgation, amendment, or repeal of such rules and regulations within ten days of the hearing.

(2) Certified copies of any rules and regulations, for informational purposes only, shall be submitted to the Attorney General and the Secretary of State. Copies of the rules and regulations in force shall be made available to any person; upon request, ~~at a price fixed to cover costs of printing, copying, publishing, and mailing.~~

(3) The Tax Commissioner shall adopt and promulgate rules and regulations for the conduct of all hearings.

(4) For the purpose of adopting, amending, or repealing rules and regulations pursuant to the State Lottery Act, the Tax Commissioner and the division shall be exempt from the Administrative Procedure Act.

Sec. 40. That section 9-820, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-820. Notices of hearings related to contracts awarded by the Tax Commissioner and copies of all orders and decisions of the Tax Commissioner concerning such contracts shall be sent by certified or registered mail, return receipt requested, to the address of record of the appropriate party or parties.

Sec. 41. That section 9-821, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-821. The district court of Lancaster County shall have exclusive original jurisdiction of all legal proceedings, except criminal actions, related to the administration, enforcement, or fulfillment of the responsibilities, duties, or functions of the division. An aggrieved party seeking review of an order or decision of the Tax Commissioner shall file an appeal with the district court of Lancaster County within thirty days after the date of such order or decision. All such proceedings shall be considered contested cases pursuant to the Administrative Procedure Act.

Sec. 42. That section 9-822, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-822. The director shall make and keep books and records which accurately and fairly reflect transactions of the lottery games conducted pursuant to the State Lottery Act, including the distribution of tickets to lottery game retailers, receipt of funds, prize claims, prizes paid, expenses, and all other activities and financial transactions involving revenue generated by such lottery games, so as to permit preparation of financial statements in conformity with generally

accepted accounting principles and to maintain daily accountability.

Sec. 43. That section 9-823, Revised Statutes Supplement, 1992, be amended to read as follows:

9-823. The Tax Commissioner shall adopt and promulgate rules and regulations necessary to carry out the State Lottery Act. The rules and regulations shall include provisions relating to the following:

(1) The lottery games to be conducted subject to the following conditions:

~~(a) Any lottery game that has been conducted by any state government operated lottery in the United States or any other lottery game that will achieve the revenue objectives of the State Lottery Act consonant with the public good may be authorized except for a video lottery game;~~

~~(b)~~ No lottery game shall use the theme of dog racing or horseracing;

~~(b)~~ ~~(c)~~ In any lottery game utilizing tickets, each ticket in such game shall bear a unique number distinguishing it from every other ticket in such lottery game; ~~and~~

~~(c)~~ ~~(d)~~ No name of an elected official shall appear on the tickets of any lottery game; ~~and~~

(d) In any instant-win game, the overall estimated odds of winning some prize shall be printed on each ticket and shall also be available at the office of the division at the time such lottery game is offered for sale to the public;

(2) The retail sales price for ~~each ticket for each lottery game~~ lottery tickets;

~~(3) The number and value of the types and manner of payment of prizes to be awarded for winning tickets in each lottery game; game, including cash prizes, prizes consisting of deferred payments or annuities, and prizes of tickets in the same lottery game or other lottery games, subject to the following conditions:~~

~~(a) In any instant win game, the overall estimated odds of winning some prize shall be printed on each ticket; and~~

~~(b) A detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each lottery game or the estimated odds of winning such prizes shall be available at the office of the division at the time such lottery game is offered for sale to the public;~~

~~(4) The rules of each lottery game;~~

~~(5)~~ The method for determining winners, the frequency of drawings, if any, or other selection of winning tickets subject to the following conditions:

~~(a) Any existing or future method or technology for determining winners may be used as provided in subdivision (1)(a) of this section;~~

~~(b)~~ No lottery game shall be based on the results of a dog race, horserace, or other sports event;

~~(b)~~ ~~(c)~~ If the lottery game utilizes the drawing of winning

numbers, a drawing among entries, or a drawing among finalists (i) such drawings shall be witnessed by an independent certified public accountant, (ii) any equipment used in such drawings shall be inspected by the independent certified public accountant and an employee of the division or designated agent both before and after such drawing, and (iii) such drawing shall be recorded on both videotape and audiotape; and

(c) ~~(d)~~ Drawings in an instant-win game, other than grand prize drawings or other runoff drawings, shall not be held more often than weekly. Drawings or selections in an on-line game shall not be held more often than daily;

(5) ~~(6)~~ The validation and manner of payment of prizes to the holders of winning tickets subject to the following conditions:

(a) The prize shall be given to the person who presents a winning ticket, except that for awards in excess of five ~~thousand~~ hundred dollars, the winner shall also provide his or her social security number or tax identification number;

(b) A prize may be given to only one person per winning ticket, except that a prize shall be divided between the holders of winning tickets if there is more than one winning ticket per prize;

(c) For the convenience of the public, the director may authorize lottery game retailers to pay winners of up to five hundred dollars after performing validation procedures on their premises appropriate to the lottery game involved;

(d) No prize shall be paid to any person under nineteen years of age, and any prize resulting from a lottery ticket held by a person under nineteen years of age shall be awarded to the parent or guardian or custodian of such person under the Nebraska Uniform Transfers to Minors Act;

(e) No prize shall be paid for tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the division by acceptable deadlines, lacking in captions that confirm and agree with the lottery play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and regulations and public or confidential validation and security tests appropriate to the particular lottery game involved;

(f) No particular prize in any lottery game shall be paid more than once. In the event of a binding determination by the director that more than one claimant is entitled to a particular prize, the sole right of such claimants shall be the award to each of them of an equal share in the prize; and

(g) After the expiration of the claim period for prizes for each lottery game, the director shall make available a detailed tabulation of the total number of tickets actually sold in the lottery game and the total number of prizes of each prize denomination that were actually claimed and paid; ~~directly by the director;~~

(6) ~~(7)~~ Requirements for eligibility for participation in grand-prize drawings or other runoff drawings, including requirements for

submission of evidence of eligibility;

~~(7)~~ ~~(8)~~ The locations at which tickets may be sold except that no ticket may be sold at a retail liquor establishment holding a license for the sale of alcoholic liquor at retail for consumption on the licensed premises;

~~(8)~~ ~~(9)~~ The method to be used in selling tickets;

~~(9)~~ ~~(10)~~ The contracting with persons as lottery game retailers to sell tickets and the manner and amount of compensation to be paid to such retailers;

~~(10)~~ ~~(11)~~ The form and type of marketing of informational and educational material;

~~(12)~~ ~~The apportionment of the total revenue accruing from the sale of lottery tickets and all other lottery games among (a) the payment of prizes to the holders of winning tickets, (b) the payment of costs incurred in the operation and administration of lottery games, including the expenses of the division and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, (c) the repayment to the General Fund of money appropriated to the State Lottery Operation Fund, (d) the Solid Waste Landfill Closure Assistance Fund, (e) the Gamblers Assistance Fund, (f) the Nebraska Environmental Trust Fund, and (g) the Education Innovation Fund for use for educational purposes as the Governor deems appropriate, except that at least twenty five percent of the total revenue accruing from lottery games shall be dedicated to educational or other community betterment purposes. Each year seventy five percent of the revenue appropriated to the Education Innovation Fund shall be available for disbursement;~~

~~(11)~~ ~~(13)~~ Any arrangements or methods to be used in providing proper security in the storage and distribution of tickets or lottery games; and

~~(12)~~ ~~(14)~~ All other matters necessary or desirable for the efficient and economical operation and administration of lottery games and for the convenience of the purchasers of tickets and the holders of winning tickets.

Sec. 44. That section 9-824, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-824. No person shall sell tickets without first contracting with the division as a lottery game retailer. Persons shall be awarded contracts as lottery game retailers in a manner which best serves the public convenience. Before awarding a contract, the director shall consider the financial responsibility and security of the applicant, the applicant's business or activity, the accessibility of the applicant's place of business or activity to the public, the efficiency of existing lottery game retailers in serving the public convenience, and the volume of expected sales. Political subdivisions or agencies or departments of such political subdivisions may be awarded contracts as lottery game retailers. Notwithstanding this or any other section of the State Lottery Act, nothing shall prohibit an onsite employee of a lottery game retailer from selling

lottery tickets.

Sec. 45. That section 9-825, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-825. A lottery game retailer shall not engage in business exclusively to sell tickets, except that the director or Tax Commissioner may award a temporary contract to permit a lottery game retailer to sell tickets to the public at special events approved by the Tax Commissioner. Nothing in the State Lottery Act shall prohibit the division or employees of the division from selling tickets to the public.

Sec. 46. That section 9-826, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-826. A contract may be awarded to an applicant to operate as a lottery game retailer only after the director finds all of the following:

- (1) The applicant is at least nineteen years of age;
- (2) The applicant has not been convicted of ~~fraud or a felony or misdemeanor unless, in the case of a felony, the Tax Commissioner, after conferring with the director, Attorney General, and Nebraska State Patrol, authorizes the director to award a contract to the applicant involving gambling, moral turpitude, dishonesty, or theft and the applicant has not been convicted of any other felony within ten years preceding the date such applicant applies for a contract;~~
- (3) The applicant has not been convicted of ~~or been found to have committed~~ a violation of 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 Chapter 28, article 11;
- (4) The applicant has not previously had a license revoked ~~under any of such acts or denied under the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or Chapter 28, article 11;~~
- (5) The applicant has not had a license or contract to sell tickets for a lottery in another jurisdiction revoked by the authority regulating such lottery or by a court of such jurisdiction;
- (6) The applicant has demonstrated financial responsibility, as determined in rules and regulations of the division, sufficient to meet the requirements of a lottery game retailer;
- (7) The applicant is the true owner of ~~his or her own~~ the business or activity and the outlet at which tickets will be sold and all persons holding at least a ten percent ownership interest in the applicant's business or activity have been disclosed;
- (8) The applicant ~~has been in substantial compliance with Nebraska tax laws as determined by the director based on the severity of any possible violation for the five years prior to applying,~~ is not delinquent in the payment of any Nebraska taxes at the time of application, and is in compliance with Nebraska tax laws at the time of application; and
- (9) The applicant has not knowingly made a false statement

of material fact to the director. ~~If after a contract is awarded the director finds that the applicant has knowingly made a false statement of material fact, the director may, after notice and hearing, revoke the contract.~~

For purposes of this section, applicant shall include the entity seeking the contract and every sole proprietor, partner in a partnership, officer of a corporation, shareholder owning in the aggregate ten percent or more of the stock of a corporation, and governing officer of an organization or political subdivision.

Sec. 47. That section 9-827, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-827. A lottery game retailer shall cooperate with the director by using point-of-purchase materials, posters, and other educational, informational, and marketing materials when requested to do so by the director. Lack of cooperation shall be sufficient cause for ~~suspension or revocation~~ termination of a contract.

Sec. 48. That section 9-828, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-828. The director may contract with lottery game retailers on a permanent, seasonal, or temporary basis and may require payment of an initial application fee or an annual fee, or both, as provided in rules and regulations. ~~The fees established by the division shall not be greater than the costs incurred in processing and administering contracts.~~ All fees shall be credited to the State Lottery Operation Trust Fund.

Sec. 49. That section 9-829, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-829. A lottery game retailer shall sell tickets only on the premises stated in the contract. No ticket shall be sold over a telephone ~~or through the mail.~~ ~~The retailer shall accept payment in cash only.~~ No credit shall be extended by the lottery game retailer ~~or arranged for the purchase of a ticket.~~ ~~No lottery tickets shall be sold through a vending or dispensing device.~~ ~~For purposes of this section, cash shall mean United States currency and shall not mean any other form of payment, including check, credit card, or negotiable instrument.~~

Sec. 50. That section 9-830, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-830. (1) The director may require a bond from each lottery game retailer in an amount, as provided by rule or regulation, graduated according to the volume of expected sales of tickets by the retailer or may purchase a blanket surety bond or bonds covering the activities of all or selected retailers. The total and aggregate liability of a surety on any bond shall be limited to the amount specified in the bond.

(2) A bond shall not be canceled by a surety on less than thirty days' notice in writing to the director. If a bond is canceled following proper written notice, the lottery game retailer shall file a new bond with the director in the required amount on or before the effective date of cancellation of the previous bond. Failure to do so shall result in the automatic suspension of the lottery game retailer's contract. A

suspended contract shall be ~~revoked~~ terminated upon proper notice if the requirements of this subsection are not met within thirty days of the suspension.

Sec. 51. That section 9-832, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-832. The director may refuse to award a contract to any applicant and may ~~suspend, cancel, or revoke~~ terminate the contract of or levy a fine against a lottery game retailer who violates any provision of the State Lottery Act or any rule or regulation adopted pursuant to the act. A fine levied against a lottery game retailer shall not exceed one thousand dollars per violation. In determining whether to impose a fine and the amount of the fine if any fine is imposed, the director shall take into consideration the seriousness of the violation and the extent to which the lottery game retailer derived financial gain as a result of the violation. All money collected by the division as a fine shall be remitted on a monthly basis to the State Treasurer for credit to the permanent school fund. Any fine imposed by the director and unpaid shall constitute a debt to the State of Nebraska which may be collected by lien foreclosure or sued for and recovered in any proper form of action, in the name of the State of Nebraska, in the district court of the county in which the violator resides or owns property. If the director ~~refuses to award or suspends, cancels, or revokes~~ decides to terminate a contract or levy a fine, the aggrieved party shall be entitled to a hearing before the Tax Commissioner or his or her designee by filing a written request with the ~~director~~ Tax Commissioner within ten days after notification of the director's intention to terminate a contract or levy a fine. Upon receipt of such request, the ~~director~~ Tax Commissioner shall set a hearing date which shall be within thirty days of receipt of the request and shall notify the aggrieved party, in writing, of the time and place for the hearing. Such notice shall be given as soon as the date is set and at least seven days in advance of the hearing date. The Tax Commissioner or his or her designee may stay the ~~revocation or suspension~~ termination of a contract pending the outcome of the hearing if so requested by the aggrieved party at the time of filing the written request for hearing.

The Tax Commissioner ~~or his or her designee~~ may affirm, reverse, or modify the action of the director. The order or decision of the Tax Commissioner may be appealed to the district court of Lancaster County in the manner prescribed in section 9-821.

Sec. 52. That section 9-833, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-833. The director may contract for, purchase, or lease goods or services necessary for effectuating the purpose of the State Lottery Act. All procurements shall be subject to the act and shall be exempt from any other state law concerning the purchase of any goods or services, and all purchases in excess of fifteen thousand dollars shall be subject to approval by the Tax Commissioner.

Sec. 53. That section 9-834, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-834. (1) To enable the division to review and evaluate the competence, integrity, background, character, and nature of the ownership and control of lottery vendors for major procurements, such vendors shall disclose the following information:

(a) The lottery vendor's name, address, and type of business entity and, as applicable, the name and address of the following:

(i) If the lottery vendor is a corporation, the officers, directors, and each stockholder in the corporation, except that in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own or have a beneficial interest in five percent or more of such securities need to be disclosed;

(ii) If the lottery vendor is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(iii) If the lottery vendor is an association, the members, officers, and directors;

(iv) If the lottery vendor is a subsidiary, the officers, directors, and each stockholder of the parent corporation, except that in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own or have a beneficial interest in five percent or more of such securities need to be disclosed;

(v) If the lottery vendor is a partnership or joint venture, the general partners, limited partners, or joint venturers;

(vi) If the parent company, general partner, limited partner, or joint venturer of the lottery vendor is itself a corporation, trust, association, subsidiary, partnership, or joint venture, all the information required in subdivision (a) of this subsection shall be disclosed for such other entity as if it were itself a lottery vendor so that full disclosure of ultimate ownership is achieved;

(vii) If any parent, child, brother, sister, or spouse of the lottery vendor is involved in the vendor's business in any capacity, all of the information required in subdivision (a) of this subsection shall be disclosed for such family member as if he or she was a lottery vendor; and

(viii) If the lottery vendor subcontracts any substantial portion of the work to be performed to a subcontractor, all of the information required in subdivision (a) of this subsection shall be disclosed for each subcontractor as if it were itself a lottery vendor;

(b) The place of the lottery vendor's incorporation, if any;

(c) The states in which the lottery vendor is qualified to do business and the nature of any business done in each state;

(d) The name, address, and telephone number of a resident agent to contact regarding matters of the lottery vendor and for service of process;

(e) The name, address, and telephone number of each attorney and law firm representing the lottery vendor in this state;

(f) The name, address, and telephone number of each of the lottery vendor's accountants;

(g) The name, address, and telephone number of each attorney, law firm, accountant, accounting firm, public relations firm, consultant, sales agent, or other person engaged by the lottery vendor or involved in aiding the vendor's efforts to obtain the contract and the procurement involved at the time of disclosure or during the prior year;

(h) The states and jurisdictions in which the lottery vendor does business and the nature of the business for each such state or jurisdiction;

(i) The states and jurisdictions in which the lottery vendor has contracts to supply goods or services related to lottery games and the nature of the goods or services involved for each such state or jurisdiction;

(j) The states and jurisdictions in which the lottery vendor has applied for, sought renewal of, received, been denied, or had revoked a gaming contract or license of any kind, and the status of such application, contract, or license in each state or jurisdiction. If any gaming contract or license has been revoked or has not been renewed or if any gaming contract or license application either has been denied or is pending and has remained pending for more than six months, all of the facts and circumstances underlying the failure to receive or retain such a contract or license shall be disclosed. For purposes of this subdivision, gaming contract or license shall mean a contract or license for the conduct of or any activity related to the operation of any lottery game or other gambling scheme;

(k) The details of any conviction or judgment of any state or federal court against the lottery vendor relating to any felony and any other criminal offense other than a traffic violation;

(l) The details of any bankruptcy, insolvency, reorganization, or pending litigation involving the lottery vendor;

(m) The identity of any entity with which the lottery vendor has a joint venture or other contractual agreement to supply any state or jurisdiction with goods or services related to lottery games, including, with regard to such entity, all the information requested under subdivisions (a) through (l) of this subsection;

(n) The lottery vendor's financial statements for the three years prior to disclosure;

(o) At the director's request, the lottery vendor's federal and state income tax returns for the three years prior to disclosure. Such information shall be considered confidential in any review in conjunction with any pending major procurement and shall not be disclosed except pursuant to appropriate judicial order;

(p) The identity and nature of any interest known to the lottery vendor of any past or present director or other employee of the division who, directly or indirectly, is an officer, director, agent, consultant, independent contractor, stockholder, debt holder, principal, or employee of or who has any direct or indirect financial interest in any lottery vendor. For purposes of this subdivision, financial interest shall mean ownership of any interest or involvement in any relationship from which or as a result of which a person within the five years prior to disclosure

has received, is receiving at the time of disclosure, or in the future will be entitled to receive over a five-year period more than one thousand dollars or its equivalent; and

(q) Such additional disclosures and information as the Tax Commissioner may determine to be appropriate for the major procurement involved.

(2) The disclosures required by subsection (1) of this section may be required only once of a lottery vendor. The vendor shall file an addendum to the original filing by August 1 of each year showing any changes from the original filing or the latest addendum.

(3) No contract shall be approved by the Tax Commissioner or signed or entered into by the director unless the lottery vendor has complied with this section. Any contract entered into with a vendor who has not complied with this section shall be void.

(4) If a contract is to be entered into as a result of competitive procurement procedures, the required disclosures, if not already on file with the director, shall be made prior to or concurrent with the submission of a bid, proposal, or offer. If the contract is entered into without a competitive procurement procedure, such disclosures shall be required prior to execution of the contract.

(5) No major procurement with any lottery vendor shall be entered into if any person with a substantial interest in the lottery vendor has been convicted of a felony or misdemeanor unless the Tax Commissioner, after conferring with the director, Attorney General, and Nebraska State Patrol makes an affirmative finding that entering into such a contract would not be contrary to the public interest involving gambling, moral turpitude, dishonesty, or theft. No major procurement with any lottery vendor shall be entered into if any person with a substantial interest in the lottery vendor has been convicted of any other felony within ten years preceding the date of submission of information required under this section. For purposes of this subsection, person with a substantial interest shall mean any sole proprietor, partner in a partnership, officer of a corporation, shareholder owning in the aggregate ten percent or more of the stock in a corporation, or governing officer of an organization or other entity.

(6) This section shall be construed broadly and liberally to achieve the end of full disclosure of all information necessary to allow for a full and complete evaluation by the director of the competence, integrity, background, character, and nature of the ownership and control of lottery vendors for major procurements.

Sec. 54. That section 9-835, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-835. Subject to the approval of the Tax Commissioner, the director may request proposals for or enter into major procurements for effectuating the purpose of the State Lottery Act. In awarding contracts in response to requests for proposals, the director shall award such contracts to the responsible vendor who submits the lowest and best proposal which maximizes the benefits to the state in relation to the cost in

the areas of security, competence, quality of product, capability, timely performance, and maximization of net revenue to benefit the public purpose of the act. All contract awards made by the director exceeding fifteen thousand dollars shall be approved by the Tax Commissioner. No contract may be assigned by a lottery contractor except by a written agreement approved by the Tax Commissioner and signed by the director.

Sec. 55. That section 9-836, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-836. Each lottery contractor for a major procurement shall, at the time of executing the contract with the director, post a performance bond with the director, using a surety acceptable to the director, in an amount equal to the full amount estimated to be paid annually to the contractor under the contract.

Sec. 56. That section 9-837, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-837. Each lottery contractor shall perform its contract consistent with the laws of this state, federal laws, and the laws of the state or states in which such contractor is performing or producing, in whole or in part, any of the goods or services for which the division contracted. No contracts with any lottery contractor who fails to comply with such laws shall be entered into by the director or shall be enforceable by the contractor.

Sec. 57. That section 9-838, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-838. Upon request of the director or Tax Commissioner, the Attorney General and the Nebraska State Patrol shall furnish to the director and deputy director any information which they may have in their possession as may be necessary to ensure security, honesty, fairness, and integrity in the operation and administration of lottery games conducted pursuant to the State Lottery Act, including investigative reports and computerized information or data. For the purpose of requesting and receiving such information, the division shall be considered to be a criminal justice agency and shall be furnished such information without charge upon proper written request.

Sec. 58. That section 9-839, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-839. The failure to do any act required by or pursuant to or the performance of any act prohibited by the State Lottery Act shall be deemed an act in part in the principal office of the division. Any criminal prosecution under the act may be conducted in any county where the defendant resides or has a place of business or in any county in which any violation occurred or is deemed to have occurred.

Sec. 59. That section 9-840, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-840. (1) The director shall make a continuous study of the State Lottery Act to ascertain any defects in the act or in the rules and regulations promulgated pursuant to the act which could result in abuses in the administration and operation of lottery games or the act or in any

evasion of such act or rules and regulations and shall report his or her findings to the Tax Commissioner for the purpose of making recommendations for improvement in the act.

(2) The director shall make a continuous study of the operation and the administration of similar laws which may be in effect in other states, any written materials on the subject which are published or available, any federal laws which may affect the operation of the state lottery, and the reaction of citizens to existing and potential features of the state lottery in order to recommend changes which will serve the purposes of the act.

Sec. 60. That section 9-841, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-841. It is the intent of the State Lottery Act that all matters related to the operation of the lottery games conducted pursuant to the act shall be governed solely by the act and shall be free from regulation or legislation by all local governments. No other state or local law or regulation providing any penalty, restriction, regulation, or prohibition on the manufacture, transportation, storage, distribution, advertisement, possession, or sale of any tickets or for the operation of any lottery game shall apply to the tickets or lottery games conducted pursuant to the act.

Sec. 61. That section 14-102, Revised Statutes Supplement, 1992, be amended to read as follows:

14-102. In addition to the powers granted in section 14-101, cities of the metropolitan class shall have power by ordinance:

Taxes, special assessments.

(1) To levy any tax or special assessment authorized by law;

Corporate seal.

(2) To provide a corporate seal for the use of the city, and also any official seal for the use of any officer, board, or agent of the city, whose duties under this act or under any ordinance require an official seal to be used. Such corporate seal shall be used in the execution of municipal bonds, warrants, conveyances, and other instruments and proceedings as this act or the ordinances of the city require;

Regulation of public health.

(3) To provide all needful rules and regulations for the protection and preservation of health within the city; and for this purpose they may provide for the enforcement of the use of water from public water supplies when the use of water from other sources shall be deemed unsafe;

Appropriations for debts and expenses.

(4) To appropriate money and provide for the payment of debts and expenses of the city;

Protection of strangers and travelers.

(5) To adopt all such measures as they may deem necessary for the accommodation and protection of strangers and the traveling public in person and property;

Concealed weapons, firearms, fireworks, explosives.

(6) To punish and prevent the carrying of concealed weapons and the discharge of firearms, fireworks, or explosives of any description within the city;

Sale of foodstuffs.

(7) To regulate the inspection and sale of meats, flour, poultry, fish, milk, vegetables, and all other provisions or articles of food exposed or offered for sale in the city;

Official bonds.

(8) To require all officers or servants elected or appointed in pursuance of this act to give bond and security for the faithful performance of their duties; but no officer shall become security upon the official bond of another or upon any bond executed to the city;

Official reports of city officers.

(9) To require from any officer of the city at any time a report, in detail, of the transactions of his or her office or any matter connected therewith;

Cruelty to children and animals.

(10) To provide for the prevention of cruelty to children and animals;

Dogs; taxes and restrictions.

(11) To regulate, license, or prohibit the running at large of dogs and other animals within the city as well as in areas within three miles of the corporate limits of the city, to guard against injuries or annoyance from such dogs and other animals, and to authorize the destruction of the dogs and other animals when running at large contrary to the provisions of any ordinance;

Cleaning sidewalks.

(12) To provide for keeping sidewalks clean and free from obstructions and accumulations, to provide for the assessment and collection of taxes on real estate and for the sale and conveyance thereof, and to pay the expenses of keeping the sidewalk adjacent to such real estate clean and free from obstructions and accumulations as herein provided;

Planting and trimming of trees; protection of birds.

(13) To provide for the planting and protection of shade or ornamental and useful trees upon the streets or boulevards, to assess the cost thereof to the extent of benefits upon the abutting property as a special assessment, and to provide for the protection of birds and animals and their nests; to provide for the trimming of trees located upon the streets and boulevards or when the branches of trees overhang the streets and boulevards when in the judgment of the mayor and council such trimming is made necessary to properly light such street or boulevard or to furnish proper police protection and to assess the cost thereof upon the abutting property as a special assessment;

Naming and numbering streets and houses.

(14) To provide for, regulate, and require the numbering or renumbering of houses along public streets or avenues; to care for and

control and to name and rename streets, avenues, parks, and squares within the city;

Weeds.

(15) To require weeds and worthless vegetation growing upon any lot or piece of ground within the city to be cut and destroyed so as to abate any nuisance occasioned thereby, to prohibit and control the throwing, depositing, or accumulation of litter on any lot or piece of ground within the city and to require the removal thereof so as to abate any nuisance occasioned thereby, and if the owner fails to cut and destroy weeds and worthless vegetation or remove litter, or both, after notice as required by ordinance, to assess the cost thereof upon the lots or lands as a special assessment. The notice required to be given may be by publication in the official newspaper of the city and may be directed in general terms to the owners of lots and lands affected without naming such owners;

Animals running at large.

(16) To prohibit and regulate the running at large or the herding or driving of domestic animals, such as hogs, cattle, horses, sheep, goats, fowls, or animals of any kind or description within the corporate limits and provide for the impounding of all animals running at large, herded, or driven contrary to such prohibition; and to provide for the forfeiture and sale of animals impounded to pay the expense of taking up, caring for, and selling such impounded animals, including the cost of advertising and fees of officers;

Use of streets.

(17) To regulate the transportation of articles through the streets, to prevent injuries to the streets from overloaded vehicles, and to regulate the width of wagon tires and tires of other vehicles;

Playing on streets and sidewalks.

(18) To prevent or regulate the rolling of hoops, playing of ball, flying of kites, the riding of bicycles or tricycles, or any other amusement or practice having a tendency to annoy persons passing in the streets or on the sidewalks or to frighten teams or horses; to regulate the use of vehicles propelled by steam, gas, electricity, or other motive power, operated on the streets of the city;

Combustibles and explosives.

(19) To regulate or prohibit the transportation and keeping of gunpowder, oils, and other combustible and explosive articles;

Public sale of chattels on streets.

(20) To regulate, license, or prohibit the sale of domestic animals or of goods, wares, and merchandise at public auction on the streets, alleys, highways, or any public ground within the city;

Signs and obstruction in streets.

(21) To regulate and prevent the use of streets, sidewalks, and public grounds for signs, posts, awnings, awning posts, scales, or other like purposes; to regulate and prohibit the exhibition or carrying or conveying of banners, placards, advertisements, or the distribution or posting of advertisements or handbills in the streets or public grounds or

upon the sidewalks;

Disorderly conduct.

(22) To provide for the punishment of persons disturbing the peace and good order of the city by clamor and noise, intoxication, drunkenness, fighting, or using obscene or profane language in the streets or other public places or otherwise violating the public peace by indecent or disorderly conduct or by lewd and lascivious behavior;

Vagrants and tramps.

(23) To provide for the punishment of vagrants, tramps, common street beggars, common prostitutes, habitual disturbers of the peace, pickpockets, gamblers, burglars, thieves, or persons who practice any game, trick, or device with intent to swindle, persons who abuse their families, and suspicious persons who can give no reasonable account of themselves; and to punish trespassers upon private property;

Disorderly houses, gambling, offenses against public morals.

(24) To prohibit, restrain, and suppress tipping shops, houses of prostitution, opium joints, gambling houses, prize fighting, dog fighting, cock fighting, and other disorderly houses and practices, all games and gambling and desecration of the Sabbath, commonly called Sunday, and all kinds of indecencies; to regulate and license or prohibit the keeping and use of billiard tables, ten pins or ball alleys, shooting galleries, and other similar places of amusement; and to prohibit and suppress all lotteries and gift enterprises of all kinds under whatsoever name carried on, except that nothing in this subdivision shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act;

Police regulation in general.

(25) To make and enforce all police regulations for the good government, general welfare, health, safety, and security of the city and the citizens thereof in addition to the police powers expressly granted herein; and in the exercise of the police power, to pass all needful and proper ordinances and impose fines, forfeitures, penalties, and imprisonment at hard labor for the violation of any ordinance, and to provide for the recovery, collection, and enforcement thereof; and in default of payment to provide for confinement in the city or county prison, workhouse, or other place of confinement with or without hard labor as may be provided by ordinance;

Fast driving on streets.

(26) To prevent horseracing and immoderate driving or riding on the street and to compel persons to fasten their horses or other animals attached to vehicles while standing in the streets;

Libraries, art galleries, and museums.

(27) To establish and maintain public libraries, reading rooms, art galleries, and museums and to provide the necessary grounds or buildings therefor; to purchase books, papers, maps, manuscripts, works of art, and objects of natural or of scientific curiosity, and

instruction therefor; to receive donations and bequests of money or property for the same in trust or otherwise and to pass necessary bylaws and regulations for the protection and government of the same;

Hospitals, workhouses, jails, firehouses, etc.; garbage disposal.

(28) To erect, designate, establish, maintain, and regulate hospitals or workhouses, houses of correction, jails, station houses, fire engine houses, asphalt repair plants, and other necessary buildings; and to erect, designate, establish, maintain, and regulate plants for the removal, disposal, or recycling of garbage and refuse or to make contracts for garbage and refuse removal, disposal, or recycling, or all of the same, and to charge equitable fees for such removal, disposal, or recycling, or all of the same, except as hereinafter provided. The fees collected pursuant to this subdivision shall be credited to a single fund to be used exclusively by the city for the removal, disposal, or recycling of garbage and refuse, or all of the same, including any costs incurred for collecting the fee. Before any contract for such removal, disposal, or recycling is let, the city council shall make specifications therefor, bids shall be advertised for as now provided by law, and the contract shall be let to the lowest and best bidder, who shall furnish bond to the city conditioned upon his or her carrying out the terms of the contract, the bond to be approved by the city council. Nothing in this act, and no contract or regulation made by the city council, shall be so construed as to prohibit any person, firm, or corporation engaged in any business in which garbage or refuse accumulates as a byproduct from selling, recycling, or otherwise disposing of his, her, or its garbage or refuse or hauling such garbage or refuse through the streets and alleys under such uniform and reasonable regulations as the city council may by ordinance prescribe for the removal and hauling of garbage or refuse;

Market places.

(29) To erect and establish market houses and market places and to provide for the erection of all other useful and necessary buildings for the use of the city and for the protection and safety of all property owned by the city; and such market houses and market places and buildings aforesaid may be located on any street, alley, or public ground or on land purchased for such purpose;

Cemeteries, registers of births and deaths.

(30) To prohibit the establishment of additional cemeteries within the limits of the city, to regulate the registration of births and deaths, to direct the keeping and returning of bills of mortality, and to impose penalties on physicians, sextons, and others for any default in the premises;

Plumbing, etc., inspection.

(31) To provide for the inspection of steam boilers, electric light appliances, pipefittings, and plumbings, to regulate their erection and construction, to appoint inspectors, and to declare their powers and duties, except as herein otherwise provided;

Fire limits and fire protection.

(32) To prescribe fire limits and regulate the erection of all

buildings and other structures within the corporate limits; to provide for the removal of any buildings or structures or additions thereto erected contrary to such regulations, to provide for the removal of dangerous buildings, and to provide that wooden buildings shall not be erected or placed or repaired in the fire limits; but such ordinance shall not be suspended or modified by resolution nor shall exceptions be made by ordinance or resolution in favor of any person, firm, or corporation or concerning any particular lot or building; to direct that all and any building within such fire limits, when the same shall have been damaged by fire, decay, or otherwise, to the extent of fifty percent of the value of a similar new building above the foundation, shall be torn down or removed; and to prescribe the manner of ascertaining such damages and to assess the cost of removal of any building erected or existing contrary to such regulations or provisions, against the lot or real estate upon which such building or structure is located or shall be erected, or to collect such costs from the owner of any such building or structure and enforce such collection by civil action in any court of competent jurisdiction;

Building regulations.

(33) To regulate the construction, use, and maintenance of party walls, to prescribe and regulate the thickness, strength, and manner of constructing stone, brick, wood, or other buildings and the size and shape of brick and other material placed therein, to prescribe and regulate the construction and arrangement of fire escapes and the placing of iron and metallic shutters and doors therein and thereon, and to provide for the inspection of elevators and hoist-way openings to avoid accidents; to prescribe, regulate, and provide for the inspection of all plumbing, pipefitting, or sewer connections in all houses or buildings now or hereafter erected; to regulate the size, number, and manner of construction of halls, doors, stairways, seats, aisles, and passageways of theaters, tenement houses, audience rooms, and all buildings of a public character, whether now built or hereafter to be built, so that there may be convenient, safe, and speedy exit in case of fire; to prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers, and heating appliances used in or about any building or a manufactory and to cause the same to be removed or placed in safe condition when they are considered dangerous; to regulate and prevent the carrying on of manufactures dangerous in causing and promoting fires; to prevent the deposit of ashes in unsafe places and to cause such buildings and enclosures as may be in a dangerous state to be put in a safe condition; to prevent the disposing of and delivery or use in any building or other structure, of soft, shelly, or imperfectly burned brick or other unsuitable building material within the city limits and provide for the inspection of the same; to provide for the abatement of dense volumes of smoke; to regulate the construction of areaways, stairways, and vaults and to regulate partition fences; to enforce proper heating and ventilation of buildings used for schools, workhouses, or shops of every class in which labor is employed or large numbers of persons are liable to congregate;

Warehouses and street railways.

(34) To regulate levees, depots and depot grounds, and places for storing freight and goods and to provide for and regulate the laying of tracks and the passage of steam or other railways through the streets, alleys, and public grounds of the city;

Lighting railroad property.

(35) To require the lighting of any railway within the city, the cars of which are propelled by steam, and to fix and determine the number, size, and style of lamp posts, burners, lamps, and all other fixtures and apparatus necessary for such lighting and the points of location for such lamp posts; and in case any company owning or operating such railways shall fail to comply with such requirements, the council may cause the same to be done and may assess the expense thereof against such company, and the same shall constitute a lien upon any real estate belonging to such company and lying within such city and may be collected in the same manner as taxes for general purposes;

City publicity.

(36) To provide for necessary publicity and to appropriate money for the purpose of advertising the resources and advantages of the city;

Offstreet parking.

(37) To erect, establish, and maintain offstreet parking areas on publicly owned property located beneath any elevated segment of the National System of Interstate and Defense Highways or portion thereof, or public property title to which is in the city on May 12, 1971, or property owned by the city and used in conjunction with and incidental to city-operated facilities, and to regulate parking thereon by time limitation devices or by lease; and

Public passenger transportation systems.

(38) To acquire, by the exercise of the power of eminent domain or otherwise, lease, purchase, construct, own, maintain, operate, or contract for the operation of public passenger transportation systems, excluding taxicabs and railroad systems, including all property and facilities required therefor, within and without the limits of the city, to redeem such property from prior encumbrance in order to protect or preserve the interest of the city therein, to exercise all powers granted by the Constitution of Nebraska and laws of the State of Nebraska or exercised by or pursuant to a home rule charter adopted pursuant thereto, including but not limited to receiving and accepting from the government of the United States or any agency thereof, from the State of Nebraska or any subdivision thereof, and from any person or corporation donations, devises, gifts, bequests, loans, or grants for or in aid of the acquisition, operation, and maintenance of such public passenger transportation systems and to administer, hold, use, and apply the same for the purposes for which such donations, devises, gifts, bequests, loans, or grants may have been made, to negotiate with employees and enter into contracts of employment, to employ by contract or otherwise individuals singularly or collectively, to enter into agreements authorized under the Interlocal Cooperation Act, to contract with an operating and management

company for the purpose of operating, servicing, and maintaining any public passenger transportation systems any city of the metropolitan class shall acquire under the provisions of this act, and to exercise such other and further powers as may be necessary, incident, or appropriate to the powers of such city.

Sec. 62. That section 15-258, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-258. A city of the primary class may restrain, prohibit, and suppress unlicensed tipping shops, billiard tables, bowling alleys, houses of prostitution, opium joints, dens, and other disorderly houses and practices, games, gambling houses, desecration of the Sabbath day, commonly called Sunday, and may prohibit all public amusements, shows, exhibitions, or ordinary business pursuits upon such day, all lotteries, all fraudulent devices and practices for the purposes of obtaining money or property, all shooting galleries, and all kinds of public indecencies, except that nothing in this section shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act.

Sec. 63. That section 16-226, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-226. A city of the first class by ordinance may regulate, prohibit, and suppress unlicensed tipping shops, billiard tables, and bowling alleys, may restrain houses of prostitution, opium joints, dens, and other disorderly houses and practices, games, gambling houses, desecration of the Sabbath day, commonly called Sunday, and may prohibit all public amusements, shows, exhibitions, or ordinary business pursuits upon such day, all lotteries, all fraudulent devices and practices for the purpose of obtaining money or property, all shooting galleries, and all kinds of public indecencies, except that nothing in this section shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act.

Sec. 64. That section 17-120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-120. A city of the second class shall have power to restrain, prohibit, and suppress houses of prostitution and unlicensed tipping shops, gambling and gambling houses, and other disorderly houses and practices, and all kinds of public indecencies, and all lotteries or fraudulent devices and practices for the purpose of obtaining money or property, except that nothing in this section shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act. It may license, regulate, or prohibit billiard halls and billiard tables, pool halls and pool tables, and

bowling alleys.

Sec. 65. That section 17-207, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-207. The board of trustees shall have power to pass ordinances to prevent and remove nuisances; to prevent, restrain, and suppress bawdy houses, gambling houses, and other disorderly houses; to license, regulate, or prohibit billiard halls, pool halls, or bowling alleys within the limits of such village; to restrain and prohibit gambling; to provide for licensing and regulating theatrical and other amusements within such village; to establish night watches; to provide pest houses; to prevent the introduction and spread of contagious diseases; to establish and regulate markets; to erect and repair bridges; to erect, repair, and regulate wharves and the rates of wharfage; to regulate the landing of steamboats, rafts, and other watercraft; to provide for the inspection of lumber, building materials, and provisions to be used or offered for sale in such village, or to be exported therefrom; to require and regulate the planting and protection of shade trees in the streets, the building of stairways, railways, doorways, awnings, hitching posts and rails, lamp posts, awning posts, and all other structures projecting upon or over and adjoining, and all excavations through and under, the sidewalks of such village; and in addition to the special powers herein conferred and granted, to maintain the peace, good government, and welfare of the town or village, and its trade, commerce, and manufactories, and to enforce all ordinances by inflicting penalties upon inhabitants or other persons, for the violation thereof, not exceeding one hundred dollars for any one offense, recoverable with costs, together with judgment of imprisonment until the amount of the judgment and costs shall be paid. Nothing in this section shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act.

Sec. 66. That section 28-1101, Revised Statutes Supplement, 1992, be amended to read as follows:

28-1101. 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 or (b) the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor;

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

(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 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, 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 bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise conducted in accordance with 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;

(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 bingo, lottery by the sale of pickle cards, other lottery, raffle, or gift enterprise conducted in accordance with 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 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. 67. That section 28-1105, Revised Statutes Supplement, 1992, be amended to read as follows:

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 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 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. 68. That section 28-1113, Revised Statutes Supplement, 1992, be amended to read as follows:

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; or

(2) Prohibit or punish the conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with 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.

Sec. 69. That section 77-2701, Revised Statutes Supplement, 1992, as amended by section 22, Legislative Bill 1, Ninety-second Legislature, Fourth Special Session, 1992, be amended to read as follows:

77-2701. Sections 77-2701 to 77-27,135 and sections 24, 25, and 34 of this act and section 70 of this act shall be known and may be cited as the Nebraska Revenue Act of 1967.

Sec. 70. Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or

other consumption in this state of lottery tickets purchased pursuant to the State Lottery Act.

Sec. 71. That section 77-27,160, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,160. It is the intent of the Legislature to establish and maintain a procedure to set off against a debtor's income tax refund or state lottery prize any debt which is assigned to the Department of Social Services or which any individual not eligible as a public assistance recipient is attempting to collect, which has accrued through written contract, subrogation, or court judgment and is in the form of a liquidated amount due and owing for the care, support, or maintenance of a child.

Sec. 72. That section 77-27,161, Revised Statutes Supplement, 1992, be amended to read as follows:

77-27,161. For purposes of sections 77-27,160 to 77-27,173, unless the context otherwise requires:

(1) Debt shall mean any liquidated amount due and owing any claimant which has accrued through assignment, contract, subrogation, court judgment, or operation of law, regardless of whether there is an outstanding judgment for such amount, and which is for the care, support, or maintenance of a child;

(2) Debtor shall mean any individual owing money to or having a delinquent account with any claimant which has not been satisfied by court order, set aside by court order, or discharged in bankruptcy;

(3) Claimant shall mean:

(a) The Department of Social Services with respect to collection of a debt owed by a parent in a case involving a recipient of aid to dependent children in which rights to child or medical support payments have been assigned to this state;

(b) An individual who is not eligible as a public assistance recipient and to whom a child or medical support debt is owed; or

(c) Any person or entity entitled to receive child support, spousal support as defined in section 43-1715, or medical support as defined in section 43-1712.01 pursuant to an order issued by a court or agency of another state or jurisdiction, including an agency of another state or jurisdiction to which a person has assigned his or her right to receive such support. Such a claimant shall submit certification and documentation sufficient to satisfy the requirements of section 43-1730;
and

(4) Refund shall mean any Nebraska state income tax refund which the Department of Revenue determines to be due an individual taxpayer. In the case of a joint income tax return, it is presumed that each partner to the marriage submitting such return contributed one-half of the earnings upon which the refund is based. The presumption may be contested by the state, the delinquent taxpayer, and the innocent spouse by virtue of the hearing process prescribed in section 77-27,169; and

(5) State lottery prize shall mean any lottery prize in excess

of five hundred dollars to be awarded to an individual pursuant to the State Lottery Act upon presentation of a winning lottery ticket to the Lottery Division of the Department of Revenue for redemption.

Sec. 73. That section 77-27,166, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,166. (1) By December 1 of each year, the Department of Social Services may submit any certified debt of twenty-five dollars or more to the Department of Revenue; except when the validity of the debt is legitimately in dispute. Any submission shall be effective only to initiate setoff for a claim against a refund that would be made for the calendar year subsequent to the year in which such submission is made.

(2) The Lottery Division of the Department of Revenue shall review all current debts on the records of the Department of Social Services at the time of redeeming a lottery ticket for a state lottery prize to certify a debt owed by a winner of a state lottery prize.

Sec. 74. That section 77-27,167, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,167. If a debtor identified by the Department of Social Services pursuant to section 77-27,165 or 77-27,166 is determined by the Department of Revenue to be entitled to a refund of twenty-five dollars or more or a state lottery prize, the Department of Social Services shall be notified that a refund or prize is pending.

Sec. 75. That section 77-27,168, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,168. (1) Upon receipt of notification pursuant to section 77-27,167 that a debtor is entitled to a refund or a state lottery prize, the Department of Social Services shall, within twenty days, send written notification to the debtor of an assertion of its rights, or of the rights of an individual not eligible as a public assistance recipient, to all or a portion of the debtor's refund or state lottery prize.

(2) The written notification shall clearly set forth the basis for the claim to the refund or state lottery prize, the intention to apply the refund or state lottery prize against the debt to a claimant, the debtor's opportunity to give written notice of intent to contest the validity of the claim before the Department of Social Services within thirty days of the date of the mailing of the notice, the mailing address to which the application for a hearing must be sent, and notice that failure to apply for a hearing in writing within the thirty-day period will be deemed a waiver of the opportunity to contest the claim, causing a setoff by default.

In the case of a joint tax return, the notice shall also state the name of the taxpayer named in the return if any, against whom no debt is claimed. There shall be no affirmative duty placed upon the non-owing spouse of an intercepted tax return to initiate an action to receive payment of the noninterceptable amount.

Sec. 76. That section 77-27,169, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,169. A written application, pursuant to sections

77-27,165 and 77-27,168, by a debtor for a hearing shall be effective upon mailing the application, postage prepaid and properly addressed, to the Department of Social Services.

If the Department of Social Services receives a written application contesting a claim, it shall grant a hearing to the taxpayer or state lottery prize winner to determine whether the claim is valid. If the amount asserted as due and owing is not correct, an adjustment to the claimed amount shall be made. No issues shall be reconsidered at the hearing which have been previously litigated.

Sec. 77. That section 77-27,171, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,171. (1) Upon final determination of the amount and validity of the debt due and owing; by means of the hearing provided for in section 77-27,169; or by the taxpayer's default through failure to request a hearing pursuant to section 77-27,168, the Department of Social Services shall certify the debt to the Department of Administrative Services within twenty days from the date of the final determination. The final determination shall not delay ~~the~~ a refund beyond the period prescribed in section 77-2794.

(2) Upon receipt of the certified debt amount from the Department of Social Services, the Department of Administrative Services shall deduct an amount equal to the certified debt from the refund or state lottery prize due the debtor, up to the amount of the refund or state lottery prize, and shall transfer such amount, by noncash voucher, to the Department of Social Services. In nonpublic assistance cases, the Department of Social Services shall transmit the funds collected to the clerk of the district court for dispersal to the payee. The Department of Administrative Services shall refund or award any remaining balance to the debtor as if the setoff had not occurred.

Sec. 78. That section 77-27,172, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,172. When the Department of Social Services receives all or a portion of a certified debt pursuant to section 77-27,171, the department shall notify the debtor of the completion of the setoff. Such notice shall include the final amount of the refund or state lottery prize to which the debtor was entitled prior to the setoff, the amount of the certified debt, and the amount of the refund or state lottery prize in excess of the debt, if any.

Sec. 79. That section 81-15,170, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,170. The Nebraska Environmental Trust Board is hereby created. The board shall consist of the Director of Environmental Quality, the Director of Health, the Director of Water Resources, the Director of Natural Resources, the Director of Agriculture, the secretary of the Game and Parks Commission, and ~~six~~ nine citizens appointed by the Governor with the approval of a majority of the Legislature. The citizen members shall begin serving immediately following notice of nomination and prior to approval by the Legislature. The citizen

members shall represent the general public and shall have demonstrated competence, experience, and interest in the environment of the state. Two of the citizen appointees shall also have experience with private financing of public-purpose projects. ~~Two~~ Three appointees shall be chosen from each of the three congressional districts. For administrative purposes only, the board shall be part of the Game and Parks Commission.

Sec. 80. That section 81-15,171, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,171. The citizen members of the board shall be appointed for terms of six years, except that of the members first appointed, except directors of agencies, the terms of ~~two~~ three shall expire at the end of the second year, ~~two~~ three at the end of the fourth year, and ~~two~~ three at the end of the sixth year, as designated at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. A vacancy on the board shall exist in the event of the death, disability, or resignation of a member. All members shall be reimbursed for their actual and necessary travel expenses as provided in sections 81-1174 to 81-1177.

Sec. 81. That section 81-15,175, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,175. (1) The board shall make annual allocations from the fund for projects which conform to the environmental priorities of the board established pursuant to section 81-15,176 and to the extent the board determines those projects to have merit. The board shall establish an annual calendar for receiving and evaluating proposals and awarding grants. To evaluate the economic, financial, and technical feasibility of proposals, the board may establish subcommittees, request or contract for assistance, or establish advisory groups. Private citizens serving on advisory groups shall be reimbursed for their actual and necessary expenses pursuant to sections 81-1174 to 81-1177.

(2) The board shall establish a rating system for ranking proposals which meet the board's environmental priorities and other criteria. The rating system shall include, but not be limited to, the following considerations:

(a) Conformance with priorities established pursuant to section 81-15,176;

(b) Amount of funds committed from other funding sources;

(c) Encouragement of public-private partnerships;

(d) Geographic mix of projects over time;

(e) Cost effectiveness and economic impact;

(f) Direct environmental impact; and

(g) Environmental benefit to the general public and the long-term nature of such public benefit.

(3) The results of the annual rating of proposals shall guide the board's allocation of funds, except that the board may assign a higher rating to any proposal with an affirmative vote of ~~eight~~ eleven members.

The motion for such an action shall specify the reasons for such action. The board may commit funds to multiyear projects, subject to available funds and appropriations. No commitment shall exceed three years without formal action by the board to renew the grant or contract. Multiyear commitments may be exempt from the rating process, except for the initial application and requests to renew the commitment.

(4) The board shall adopt and promulgate rules and regulations and publish guidelines governing allocations from the fund. The board shall conduct annual reviews of existing projects for compliance with project goals and grant requirements.

Sec. 82. That section 81-15,176, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,176. (1) Subject to subsection (3) of this section, the board shall establish environmental priorities for the trust. The board, after allowing opportunity for public comment, shall designate as priorities those environmental goals which most affect the natural physical and biological environment in Nebraska, including the air, land, ground water and surface water, flora and fauna, prairies and forests, wildlife and wildlife habitat, and areas of aesthetic or scenic values. In designating environmental priorities, the board shall attempt to focus on the areas which promise the greatest opportunities for effective action to achieve and preserve the future environmental quality in the state. The board shall establish priorities for five-year periods beginning July 1, 1995, except that the board may make annual modifications to refine and clarify its priorities. The board shall provide for public involvement in developing the priorities for such five-year periods, including public meetings in each of the three congressional districts.

(2) The board shall establish criteria for determining the eligibility of projects for assistance from the fund, which criteria shall include the following:

(a) The fund shall not provide direct assistance to regulatory programs or to implement actions mandated by regulations except remediation;

(b) Before January 1, 1997, no more than twenty-five percent of allocations in any year shall assist remediation of soils or ground water, and no allocation for this purpose shall occur unless all other available sources of funding are, in the opinion of the board, being substantially utilized. On and after January 1, 1997, no more than sixty percent of allocations in any year shall assist remediation of soils or ground water, and no allocation for this purpose shall occur unless all other available sources of funding are, in the opinion of the board, being substantially utilized;

(c) The fund shall not pay for private benefits or to relieve private liability for environmental damage;

(d) The fund shall not pay for projects which have direct beneficiaries who could afford the costs of the benefits without experiencing serious financial hardship;

(e) The fund should assist those projects which offer the

greatest environmental benefits relative to cost;

(f) The fund should assist those projects which provide clear and direct environmental benefits;

(g) The fund should assist those projects which will make a real contribution to achieving the board's environmental priorities; and

(h) The fund should assist those projects which offer the greatest public benefits.

(3) Until the first five-year priorities become effective on July 1, 1995, the board shall observe the following initial priorities for allocating funds:

(a) Critical habitat areas, including wetlands acquisition, preservation, and restoration and acquisition and easements of areas critical to rare or endangered species. Land and easements shall not be acquired without the full and express consent of the landowner;

(b) Surface water quality, including actions to preserve lakes and streams from degradation;

(c) Ground water quality, including fostering best management practices as defined in section 46-657, actions to preserve ground water from degradation, and remediation of soils or ground water; and

(d) Development of recycling markets and reduction of solid waste volume and toxicity.

(4) The board may refine and clarify these initial priorities.

Sec. 83. That original sections 9-1,104, 9-204, 9-226, 9-312, 9-315, 9-322, 9-402, 9-411, 9-415, 9-422, 9-502, 9-507, 9-509, 9-607, 9-620, 9-629, 9-801 to 9-806, 9-808 to 9-811, 9-813, 9-814, 9-816 to 9-822, 9-824 to 9-830, 9-832 to 9-841, 15-258, 16-226, 17-120, 17-207, 77-27,160, 77-27,166 to 77-27,169, 77-27,171, and 77-27,172, Reissue Revised Statutes of Nebraska, 1943, sections 9-812, 9-823, 14-102, 28-1101, 28-1105, 28-1113, 77-27,161, 81-15,170, 81-15,171, 81-15,175, and 81-15,176, Revised Statutes Supplement, 1992, section 9-807, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 14, Ninety-second Legislature, Third Special Session, 1992, and section 77-2701, Revised Statutes Supplement, 1992, as amended by section 22, Legislative Bill 1, Ninety-second Legislature, Fourth Special Session, 1992, and also sections 9-815, 9-831, and 9-842, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 84. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.