

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 996**

Introduced by General Affairs Committee: McDonald, 41, Chairperson;  
Dierks, 40; Dubas, 34; Janssen, 15; Karpisek, 32.

Read first time January 16, 2008

Committee: General Affairs

A BILL

1 FOR AN ACT relating to bingo and other gambling; to amend  
2 sections 9-255.09, 9-255.10, 9-335, 9-340, and 9-635,  
3 Reissue Revised Statutes of Nebraska, and sections  
4 9-1,104, 9-226, 9-322, 9-620, and 9-653, Revised Statutes  
5 Cumulative Supplement, 2006; to provide for independent  
6 testing laboratories for gaming-related equipment and  
7 services; to change and eliminate provisions relating to  
8 bingo and lotteries; to harmonize provisions; to repeal  
9 the original sections; and to outright repeal section  
10 9-237, Reissue Revised Statutes of Nebraska.

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

1           Section 1. Section 9-1,104, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           9-1,104 (1) Any person applying for certification or  
4 certified as an independent testing laboratory or applying for  
5 or holding a contract as an independent testing laboratory and  
6 any person applying for or holding a contract or license (a) as  
7 a distributor, gaming manager, or manufacturer pursuant to the  
8 Nebraska Bingo Act, (b) as a distributor, manufacturer, pickle  
9 card operator, or sales agent pursuant to the Nebraska Pickle  
10 Card Lottery Act, (c) as a lottery operator, lottery worker  
11 who is designated as a keno manager or who has authority over  
12 the verification of winning number selection by an electrically  
13 operated blower machine, manufacturer-distributor, or sales outlet  
14 location pursuant to the Nebraska County and City Lottery Act,  
15 or (d) pursuant to the State Lottery Act shall be subject  
16 to fingerprinting and a check of his or her criminal history  
17 record information maintained by the Identification Division of  
18 the Federal Bureau of Investigation through the Nebraska State  
19 Patrol for the purpose of determining whether the Department  
20 of Revenue has a basis to deny the certification, contract,  
21 or license application or to suspend, cancel, revoke, or  
22 terminate the person's certification, contract, or license. Each  
23 applicant for certification as an independent testing laboratory,  
24 each certified laboratory, each party applying for or holding  
25 a contract as an independent testing laboratory, and each

1 applicant for or party holding a license as a manufacturer,  
2 distributor, manufacturer-distributor, or lottery operator shall  
3 also submit a personal history report to the department on a form  
4 provided by the department and may be subject to a background  
5 investigation, an inspection of the applicant's, contractor's,  
6 certified laboratory's, or licensee's facilities, or both. If the  
7 applicant is an individual, the application shall also include the  
8 applicant's social security number.

9 (2)(a) If the applicant, certified laboratory, party to  
10 the contract, or licensee is a corporation, the persons subject  
11 to such requirements shall include any officer or director of  
12 the corporation, his or her spouse, any person or entity directly  
13 or indirectly associated with such corporation in a consulting  
14 or other capacity which may impair the security, honesty, or  
15 integrity of the operation or conduct of the activities for which  
16 the application is made or certification, contract, or license  
17 is held, and, if applicable, any person or entity holding in  
18 the aggregate ten percent or more of the debt or equity of the  
19 corporation. If any person or entity holding ten percent or more  
20 of the debt or equity of the applicant, certified laboratory,  
21 contractor, or licensee corporation is a corporation, partnership,  
22 or limited liability company, every partner of such partnership,  
23 every member of such limited liability company, every officer  
24 or director of such corporation or partnership, every person or  
25 entity holding ten percent or more of the debt or equity of

1 such corporation, partnership, or limited liability company, and  
2 every person or entity directly or indirectly associated with  
3 such corporation, partnership, or limited liability company in  
4 a consulting or other capacity which may impair the security,  
5 honesty, or integrity of the operation or conduct of the activities  
6 for which the application is made or certification, contract, or  
7 license is held may also be subject to such requirements. If  
8 the applicant, certified laboratory, party to the contract, or  
9 licensee is a partnership, the persons subject to such requirements  
10 shall include any partner, his or her spouse, any officer or  
11 director of the partnership, or any person or entity directly or  
12 indirectly associated with such partnership in a consulting or  
13 other capacity which may impair the security, honesty, or integrity  
14 of the operation or conduct of the activities for which the  
15 application is made or certification, contract, or license is held.  
16 If the applicant, certified laboratory, party to the contract, or  
17 licensee is a limited liability company, the persons subject to  
18 such requirement shall include any member and his or her spouse.  
19 If the applicant, certified laboratory, party to the contract, or  
20 licensee is a nonprofit organization or nonprofit corporation, the  
21 person subject to such requirement shall be the person designated  
22 by such nonprofit organization or nonprofit corporation as the  
23 manager.

24 (b) Notwithstanding the provisions of this section,  
25 background investigations shall not be required of any debt holder

1 which is a financial institution organized or chartered under the  
2 laws of this state, any other state, or the United States relating  
3 to banks, savings institutions, trust companies, savings and loan  
4 associations, credit unions, installment loan licensees, or similar  
5 associations organized under the laws of this state and subject to  
6 supervision by the Department of Banking and Finance.

7 (c) Notwithstanding the provisions of this section, if  
8 an applicant for or party holding a license as a pickle card  
9 operator, sales agent, gaming manager, lottery operator, lottery  
10 worker, or sales outlet location is issued a license by the  
11 Nebraska Liquor Control Commission, the Department of Revenue may  
12 waive the fingerprinting requirements for criminal history record  
13 investigation purposes.

14 (3)(a) The applicant, certified laboratory, party to  
15 the contract, or licensee shall pay the actual cost of any  
16 fingerprinting or check of ~~his or her~~ the criminal history record  
17 information.

18 (b) The Department of Revenue may require an applicant,  
19 certified laboratory, party to a contract, or licensee subjected  
20 under subsection (1) of this section to a background investigation,  
21 a facilities inspection, or both to pay the actual costs incurred  
22 by the department in conducting the investigation or inspection.  
23 The department may require payment of the estimated costs in  
24 advance of beginning the investigation or inspection. If an  
25 applicant does not wish to pay the estimated costs, it may

1 withdraw its application and its application fee will be refunded.  
2 After completion of the investigation or inspection, the department  
3 shall refund any overpayment or shall charge and collect an amount  
4 sufficient to reimburse the department for any underpayment of  
5 actual costs. The department may establish by rule and regulation  
6 the conditions and procedures for payment of the costs.

7 (4) Refusal to comply with this section by any person  
8 certified, contracted with, licensed, or seeking to be certified,  
9 to enter into a contract, or to hold a license under the Nebraska  
10 Bingo Act, the Nebraska County and City Lottery Act, the Nebraska  
11 Pickle Card Lottery Act, or the State Lottery Act shall be  
12 a violation of the act under which such person is certified,  
13 contracted with, licensed, or seeking to be certified, to enter  
14 into a contract, or to hold a license.

15 Sec. 2. Section 9-226, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17 9-226 The department shall have the following powers,  
18 functions, and duties:

19 (1) To issue licenses, temporary licenses, and permits;

20 (2) To deny any license or permit application or  
21 renewal license application for cause. Cause for denial of an  
22 application or renewal of a license shall include instances  
23 in which the applicant individually or, in the case of a  
24 business entity or a nonprofit organization, any officer, director,  
25 employee, or limited liability company member of the applicant,

1 licensee, or permittee, other than an employee whose duties  
2 are purely ministerial in nature, any other person or entity  
3 directly or indirectly associated with such applicant, licensee, or  
4 permittee which directly or indirectly receives compensation other  
5 than distributions from a bona fide retirement or pension plan  
6 established pursuant to Chapter 1, subchapter D of the Internal  
7 Revenue Code from such applicant for past or present services in a  
8 consulting capacity or otherwise, the licensee, or any person with  
9 a substantial interest in the applicant, licensee, or permittee:

10 (a) Violated the provisions, requirements, conditions,  
11 limitations, or duties imposed by the Nebraska Bingo Act, the  
12 Nebraska County and City Lottery Act, the Nebraska Lottery and  
13 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska  
14 Small Lottery and Raffle Act, or the State Lottery Act or any rules  
15 or regulations adopted and promulgated pursuant to the acts;

16 (b) Knowingly caused, aided, abetted, or conspired with  
17 another to cause any person to violate any of the provisions of  
18 such acts or any rules or regulations adopted and promulgated  
19 pursuant to such acts;

20 (c) Obtained a license or permit pursuant to such acts by  
21 fraud, misrepresentation, or concealment;

22 (d) Was convicted of, forfeited bond upon a charge of, or  
23 pleaded guilty or nolo contendere to any offense or crime, whether  
24 a felony or misdemeanor, involving any gambling activity or fraud,  
25 theft, willful failure to make required payments or reports, or

1 filing false reports with a governmental agency at any level;

2 (e) Was convicted of, forfeited bond upon a charge of, or  
3 pleaded guilty or nolo contendere to any felony other than those  
4 described in subdivision (d) of this subdivision within the ten  
5 years preceding the filing of the application;

6 (f) Denied the department or its authorized  
7 representatives, including authorized law enforcement agencies,  
8 access to any place where bingo activity required to be licensed  
9 or for which a permit is required under the Nebraska Bingo Act  
10 is being conducted or failed to produce for inspection or audit  
11 any book, record, document, or item required by law, rule, or  
12 regulation;

13 (g) Made a misrepresentation of or failed to disclose a  
14 material fact to the department;

15 (h) Failed to prove by clear and convincing evidence his,  
16 her, or its qualifications to be licensed or granted a permit in  
17 accordance with the Nebraska Bingo Act;

18 (i) Failed to pay any taxes and additions to taxes,  
19 including penalties and interest, required by the Nebraska Bingo  
20 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery  
21 and Raffle Act, or the Nebraska Pickle Card Lottery Act or any  
22 other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

23 (j) Failed to pay an administrative fine levied pursuant  
24 to the Nebraska Bingo Act, the Nebraska County and City Lottery  
25 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle



1 Card Lottery Act;

2 (k) Failed to demonstrate good character, honesty, and  
3 integrity;

4 (l) Failed to demonstrate, either individually or, in the  
5 case of a business entity or a nonprofit organization, through  
6 its managers, employees, or agents, the ability, experience, or  
7 financial responsibility necessary to establish or maintain the  
8 activity for which the application is made; or

9 (m) Was cited and whose liquor license was suspended,  
10 canceled, or revoked by the Nebraska Liquor Control Commission for  
11 illegal gambling activities that occurred on or after July 20,  
12 2002, on or about a premises licensed by the commission pursuant  
13 to the Nebraska Liquor Control Act or the rules and regulations  
14 adopted and promulgated pursuant to such act.

15 No renewal of a license under the Nebraska Bingo Act  
16 shall be issued when the applicant for renewal would not be  
17 eligible for a license upon a first application;

18 (3) To revoke, cancel, or suspend for cause any license  
19 or permit. Cause for revocation, cancellation, or suspension of a  
20 license or permit shall include instances in which the licensee or  
21 permittee individually or, in the case of a business entity or a  
22 nonprofit organization, any officer, director, employee, or limited  
23 liability company member of the licensee or permittee, other than  
24 an employee whose duties are purely ministerial in nature, any  
25 other person or entity directly or indirectly associated with

1 such licensee or permittee which directly or indirectly receives  
2 compensation other than distributions from a bona fide retirement  
3 or pension plan established pursuant to Chapter 1, subchapter D of  
4 the Internal Revenue Code from such licensee or permittee for past  
5 or present services in a consulting capacity or otherwise, or any  
6 person with a substantial interest in the licensee or permittee:

7 (a) Violated the provisions, requirements, conditions,  
8 limitations, or duties imposed by the Nebraska Bingo Act, the  
9 Nebraska County and City Lottery Act, the Nebraska Lottery and  
10 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska  
11 Small Lottery and Raffle Act, the State Lottery Act, or any rules  
12 or regulations adopted and promulgated pursuant to such acts;

13 (b) Knowingly caused, aided, abetted, or conspired with  
14 another to cause any person to violate any of the provisions of  
15 the Nebraska Bingo Act or any rules or regulations adopted and  
16 promulgated pursuant to the act;

17 (c) Obtained a license or permit pursuant to the Nebraska  
18 Bingo Act by fraud, misrepresentation, or concealment;

19 (d) Was convicted of, forfeited bond upon the charge of,  
20 or pleaded guilty or nolo contendere to any offense or crime,  
21 whether a felony or a misdemeanor, involving any gambling activity  
22 or fraud, theft, willful failure to make required payments or  
23 reports, or filing false reports with a governmental agency at any  
24 level;

25 (e) Was convicted of, forfeited bond upon a charge of, or

1 pleaded guilty or nolo contendere to any felony other than those  
2 described in subdivision (d) of this subdivision within the ten  
3 years preceding the filing of the application;

4 (f) Denied the department or its authorized  
5 representatives, including authorized law enforcement agencies,  
6 access to any place where bingo activity required to be licensed  
7 or for which a permit is required under the Nebraska Bingo Act  
8 is being conducted or failed to produce for inspection or audit  
9 any book, record, document, or item required by law, rule, or  
10 regulation;

11 (g) Made a misrepresentation of or failed to disclose a  
12 material fact to the department;

13 (h) Failed to pay any taxes and additions to taxes,  
14 including penalties and interest, required by the Nebraska Bingo  
15 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery  
16 and Raffle Act, or the Nebraska Pickle Card Lottery Act or any  
17 other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

18 (i) Failed to pay an administrative fine levied pursuant  
19 to the Nebraska Bingo Act, the Nebraska County and City Lottery  
20 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle  
21 Card Lottery Act;

22 (j) Failed to demonstrate good character, honesty, and  
23 integrity;

24 (k) Failed to demonstrate, either individually or, in the  
25 case of a business entity or a nonprofit organization, through

1 its managers, employees, or agents, the ability, experience, or  
2 financial responsibility necessary to maintain the activity for  
3 which the license was issued; or

4 (1) Was cited and whose liquor license was suspended,  
5 canceled, or revoked by the Nebraska Liquor Control Commission for  
6 illegal gambling activities that occurred on or after July 20,  
7 2002, on or about a premises licensed by the commission pursuant  
8 to the Nebraska Liquor Control Act or the rules and regulations  
9 adopted and promulgated pursuant to such act;

10 (4) To issue an order requiring a licensee, permittee, or  
11 other person to cease and desist from violations of the Nebraska  
12 Bingo Act or any rules and regulations adopted and promulgated  
13 pursuant to such act. The order shall give reasonable notice of the  
14 rights of the licensee, permittee, or other person to request a  
15 hearing and shall state the reason for the entry of the order. The  
16 notice of order to cease and desist shall be mailed by certified  
17 mail to or personally served upon the licensee, permittee, or other  
18 person. If the notice of order is mailed by certified mail, the  
19 date the notice is mailed shall be deemed to be the date of service  
20 of notice to the licensee, permittee, or other person. A request  
21 for a hearing by the licensee, permittee, or other person shall be  
22 in writing and shall be filed with the department within thirty  
23 days after the service of the cease and desist order. If a request  
24 for hearing is not filed within the thirty-day period, the cease  
25 and desist order shall become permanent at the expiration of such

1 period. A hearing shall be held not later than thirty days after  
2 the request for the hearing is received by the Tax Commissioner,  
3 and within twenty days after the date of the hearing, the Tax  
4 Commissioner shall issue an order vacating the cease and desist  
5 order or making it permanent as the facts require. All hearings  
6 shall be held in accordance with the rules and regulations adopted  
7 and promulgated by the department. If the licensee, permittee, or  
8 other person to whom a cease and desist order is issued fails  
9 to appear at the hearing after being duly notified, the licensee,  
10 permittee, or other person shall be deemed in default and the  
11 proceeding may be determined against the licensee, permittee, or  
12 other person upon consideration of the cease and desist order, the  
13 allegations of which may be deemed to be true;

14 (5) To levy an administrative fine on an individual,  
15 partnership, limited liability company, corporation, or  
16 organization for cause. For purposes of this subdivision,  
17 cause shall include instances in which the individual, partnership,  
18 limited liability company, corporation, or organization violated  
19 the provisions, requirements, conditions, limitations, or duties  
20 imposed by the act or any rule or regulation adopted and  
21 promulgated pursuant to the act. In determining whether to levy  
22 an administrative fine and the amount of the fine if any fine  
23 is levied, the department shall take into consideration the  
24 seriousness of the violation, the intent of the violator, whether  
25 the violator voluntarily reported the violation, whether the

1 violator derived financial gain as a result of the violation and  
2 the extent thereof, and whether the violator has had previous  
3 violations of the act, rules, or regulations. A fine levied on a  
4 violator under this section shall not exceed one thousand dollars  
5 for each violation of the act or any rule or regulation adopted and  
6 promulgated pursuant to the act plus the financial benefit derived  
7 by the violator as a result of each violation. If an administrative  
8 fine is levied, the fine shall not be paid from bingo gross  
9 receipts of an organization and shall be remitted by the violator  
10 to the department within thirty days after the date of the order  
11 issued by the department levying such fine;

12 (6) To enter or to authorize any law enforcement officer  
13 to enter at any time upon any premises where bingo activity  
14 required to be licensed or for which a permit is required under the  
15 act is being conducted to determine whether any of the provisions  
16 of the act or any rules or regulations adopted and promulgated  
17 under the act have been or are being violated and at such time to  
18 examine such premises;

19 (7) To require periodic reports of bingo activity from  
20 licensees under the act as the department deems necessary to carry  
21 out the act;

22 (8) To examine or to cause to have examined, by any  
23 agent or representative designated by the department for such  
24 purpose, any books, papers, records, or memoranda relating to  
25 bingo activities of any licensee or permittee, to require by

1 administrative order or summons the production of such documents  
2 or the attendance of any person having knowledge in the premises,  
3 to take testimony under oath, and to acquire proof material for  
4 its information. If any such person willfully refuses to make  
5 documents available for examination by the department or its agent  
6 or representative or willfully fails to attend and testify, the  
7 department may apply to a judge of the district court of the county  
8 in which such person resides for an order directing such person to  
9 comply with the department's request. If any documents requested  
10 by the department are in the custody of a corporation, the court  
11 order may be directed to any principal officer of the corporation.  
12 If the documents requested by the department are in the custody of  
13 a limited liability company, the court order may be directed to any  
14 member when management is reserved to the members or otherwise to  
15 any manager. Any person who fails or refuses to obey such a court  
16 order shall be guilty of contempt of court;

17 (9) Unless specifically provided otherwise, to compute,  
18 determine, assess, and collect the amounts required to be paid  
19 to the state as taxes imposed by the act in the same manner as  
20 provided for sales and use taxes in the Nebraska Revenue Act of  
21 1967;

22 (10) To collect license application, license renewal  
23 application, and permit fees imposed by the Nebraska Bingo Act and  
24 to prorate license fees on an annual basis. The department shall  
25 establish by rule and regulation the conditions and circumstances

1 under which such fees may be prorated;

2 (11) To confiscate and seize bingo supplies and equipment  
3 pursuant to section 9-262.01; ~~and~~

4 (12) To adopt and promulgate such rules and regulations,  
5 prescribe such forms, and employ such staff, including inspectors,  
6 as are necessary to carry out the act; and -

7 (13) To certify or contract with independent testing  
8 laboratories which provide gaming-related services to the  
9 department, including, but not limited to, the testing and  
10 examination of bingo equipment, consulting or advisory services  
11 regarding bingo activities, and forensic evaluation of bingo  
12 equipment. The department shall establish by rule and regulation  
13 the process for certification.

14 Sec. 3. Section 9-255.09, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 9-255.09 (1) Any individual, partnership, limited  
17 liability company, or corporation which desires to sell or  
18 otherwise supply bingo equipment in this state to a licensed  
19 distributor shall first apply for and obtain a manufacturer's  
20 license from the department. Manufacturers' licenses may be  
21 renewed biennially. The expiration date shall be September 30  
22 of every odd-numbered year or such other date as the department  
23 may prescribe by rule and regulation. An application for license  
24 renewal shall be submitted to the department at least forty-five  
25 days prior to the expiration date of the license. The license shall



1 be applied for on a form prescribed by the department and shall  
2 contain:

3 (a) The business name and address of the applicant and  
4 the name and address of each of the applicant's separate locations  
5 which manufacture or store bingo equipment and any location from  
6 which the applicant distributes or promotes bingo equipment;

7 (b) The name and home address of the applicant;

8 (c) If the applicant is an individual, the applicant's  
9 social security number;

10 (d) If the applicant is not a resident of this state or  
11 is not a corporation, the full name, business address, and home  
12 address of a natural person, at least nineteen years of age, who is  
13 a resident of and living in this state designated by the applicant  
14 as a resident agent for the purpose of receipt and acceptance  
15 of service of process and other communications on behalf of the  
16 applicant;

17 (e) A sworn statement by the applicant or appropriate  
18 officer of the applicant that the applicant will comply with all  
19 provisions of the Nebraska Bingo Act and all rules and regulations  
20 adopted pursuant to the act; and

21 (f) Any other information which the department deems  
22 necessary.

23 (2) The application shall be accompanied by a biennial  
24 license fee of three thousand fifty dollars.

25 (3) The information required by this section shall be

1 kept current. The manufacturer shall notify the department within  
2 thirty days of any changes to the information contained on or with  
3 the application.

4 (4) Any person licensed as a manufacturer pursuant to  
5 section 9-332 may act as a manufacturer pursuant to this section  
6 without filing a separate application or submitting the license fee  
7 required by this section.

8 (5) A licensed manufacturer shall not hold any other type  
9 of license issued pursuant to Chapter 9 except as provided in  
10 sections 9-332 and 9-632.

11 (6) No manufacturer or spouse or employee of the  
12 manufacturer shall participate in the conduct or operation of any  
13 bingo game or occasion or any other kind of gaming activity which  
14 is authorized or regulated under Chapter 9 except to the exclusive  
15 extent of his or her statutory duties as a licensed manufacturer or  
16 employee thereof as provided by this section and except as provided  
17 in sections 9-332 and 9-632 and the State Lottery Act. ~~No~~ Unless  
18 authorized by the department, no manufacturer or employee or spouse  
19 of any manufacturer shall have a substantial interest in another  
20 manufacturer, a distributor, a manufacturer-distributor as defined  
21 in section 9-616 other than itself, a licensed organization, or any  
22 other licensee regulated under Chapter 9.

23 Sec. 4. Section 9-255.10, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 9-255.10 (1) A licensed manufacturer shall sell or

1 otherwise supply bingo equipment in this state only to a  
2 licensed distributor or a federally recognized Indian tribe,  
3 except that nothing in this section shall prohibit a licensed  
4 manufacturer from selling or otherwise supplying bingo equipment,  
5 excluding disposable paper bingo cards, to a qualifying nonprofit  
6 organization as provided for in section 9-230.01.

7 (2) A licensed manufacturer shall keep and maintain  
8 a complete set of records which shall include all details of  
9 all activities of the licensee relating to the conduct of the  
10 licensed activity as may be required by the department, including  
11 the quantities and types of all bingo equipment sold to each  
12 Nebraska-licensed distributor. Such records shall be made available  
13 for inspection upon request by the department. All records required  
14 by the department shall be maintained for a period of at least  
15 three years after the last day of the licensee's fiscal year.

16 (3) The department may require, by rule and regulation,  
17 periodic reporting from the manufacturer relative to its bingo  
18 activities in this state.

19 (4) The department may require departmental approval of  
20 bingo equipment prior to the manufacturer offering or marketing  
21 such equipment in this state. Approval by the department shall  
22 be based upon conformance with specifications imposed by the  
23 department by rule and regulation adopted pursuant to the Nebraska  
24 Bingo Act.

25 (5) The department may require a manufacturer seeking

1 approval of any bingo equipment to pay the actual costs incurred  
2 by the department in examining the equipment. If required, the  
3 anticipated costs shall be paid in advance by the manufacturer.  
4 After completion of the examination, the department shall refund  
5 overpayments or charge and collect amounts sufficient to reimburse  
6 the department for underpayment of actual costs.

7 (6) The department may require a manufacturer seeking  
8 approval of bingo equipment to use an independent testing  
9 laboratory certified or contracted with by the department for the  
10 testing and examination of bingo equipment. Any costs incurred  
11 during the testing and examination of bingo equipment by an  
12 independent testing laboratory shall be the responsibility of the  
13 manufacturer.

14 Sec. 5. Section 9-322, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 9-322 The department shall have the following powers,  
17 functions, and duties:

18 (1) To issue licenses and temporary licenses;

19 (2) To deny any license application or renewal  
20 application for cause. Cause for denial of an application for or  
21 renewal of a license shall include instances in which the applicant  
22 individually or, in the case of a business entity or a nonprofit  
23 organization, any officer, director, employee, or limited liability  
24 company member of the applicant or licensee, other than an employee  
25 whose duties are purely ministerial in nature, any other person or

1 entity directly or indirectly associated with such applicant or  
2 licensee which directly or indirectly receives compensation other  
3 than distributions from a bona fide retirement or pension plan  
4 established pursuant to Chapter 1, subchapter D of the Internal  
5 Revenue Code, from such applicant or licensee for past or present  
6 services in a consulting capacity or otherwise, the licensee,  
7 or any person with a substantial interest in the applicant or  
8 licensee:

9 (a) Violated the provisions, requirements, conditions,  
10 limitations, or duties imposed by the Nebraska Bingo Act, the  
11 Nebraska County and City Lottery Act, the Nebraska Lottery and  
12 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska  
13 Small Lottery and Raffle Act, or the State Lottery Act or any rules  
14 or regulations adopted and promulgated pursuant to such acts;

15 (b) Knowingly caused, aided, abetted, or conspired with  
16 another to cause any person to violate any of the provisions of  
17 such acts or any rules or regulations adopted and promulgated  
18 pursuant to such acts;

19 (c) Obtained a license or permit pursuant to such acts by  
20 fraud, misrepresentation, or concealment;

21 (d) Was convicted of, forfeited bond upon a charge of, or  
22 pleaded guilty or nolo contendere to any offense or crime, whether  
23 a felony or misdemeanor, involving any gambling activity or fraud,  
24 theft, willful failure to make required payments or reports, or  
25 filing false reports with a governmental agency at any level;

1           (e) Was convicted of, forfeited bond upon a charge of, or  
2 pleaded guilty or nolo contendere to any felony other than those  
3 described in subdivision (d) of this subdivision within the ten  
4 years preceding the filing of the application;

5           (f) Denied the department or its authorized  
6 representatives, including authorized law enforcement agencies,  
7 access to any place where pickle card activity required to be  
8 licensed under the Nebraska Pickle Card Lottery Act is being  
9 conducted or failed to produce for inspection or audit any book,  
10 record, document, or item required by law, rule, or regulation;

11           (g) Made a misrepresentation of or failed to disclose a  
12 material fact to the department;

13           (h) Failed to prove by clear and convincing evidence his,  
14 her, or its qualifications to be licensed in accordance with the  
15 Nebraska Pickle Card Lottery Act;

16           (i) Failed to pay any taxes and additions to taxes,  
17 including penalties and interest, required by the Nebraska Bingo  
18 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery  
19 and Raffle Act, or the Nebraska Pickle Card Lottery Act or any  
20 other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

21           (j) Failed to pay an administrative fine levied pursuant  
22 to the Nebraska Bingo Act, the Nebraska County and City Lottery  
23 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle  
24 Card Lottery Act;

25           (k) Failed to demonstrate good character, honesty, and

1 integrity;

2 (l) Failed to demonstrate, either individually or, in the  
3 case of a business entity or a nonprofit organization, through  
4 its managers, employees, or agents, the ability, experience, or  
5 financial responsibility necessary to establish or maintain the  
6 activity for which the application is made; or

7 (m) Was cited and whose liquor license was suspended,  
8 canceled, or revoked by the Nebraska Liquor Control Commission for  
9 illegal gambling activities that occurred on or after July 20,  
10 2002, on or about a premises licensed by the commission pursuant  
11 to the Nebraska Liquor Control Act or the rules and regulations  
12 adopted and promulgated pursuant to such act.

13 No renewal of a license under the Nebraska Pickle Card  
14 Lottery Act shall be issued when the applicant for renewal would  
15 not be eligible for a license upon a first application;

16 (3) To revoke, cancel, or suspend for cause any license.  
17 Cause for revocation, cancellation, or suspension of a license  
18 shall include instances in which the licensee individually or,  
19 in the case of a business entity or a nonprofit organization,  
20 any officer, director, employee, or limited liability company  
21 member of the licensee, other than an employee whose duties are  
22 purely ministerial in nature, any other person or entity directly  
23 or indirectly associated with such licensee which directly or  
24 indirectly receives compensation other than distributions from  
25 a bona fide retirement or pension plan established pursuant to

1 Chapter 1, subchapter D of the Internal Revenue Code from such  
2 licensee for past or present services in a consulting capacity  
3 or otherwise, or any person with a substantial interest in the  
4 licensee:

5 (a) Violated the provisions, requirements, conditions,  
6 limitations, or duties imposed by the Nebraska Bingo Act, the  
7 Nebraska County and City Lottery Act, the Nebraska Lottery and  
8 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska  
9 Small Lottery and Raffle Act, the State Lottery Act, or any rules  
10 or regulations adopted and promulgated pursuant to such acts;

11 (b) Knowingly caused, aided, abetted, or conspired with  
12 another to cause any person to violate any of the provisions of  
13 the Nebraska Pickle Card Lottery Act or any rules or regulations  
14 adopted and promulgated pursuant to the act;

15 (c) Obtained a license pursuant to the Nebraska Pickle  
16 Card Lottery Act by fraud, misrepresentation, or concealment;

17 (d) Was convicted of, forfeited bond upon a charge of, or  
18 pleaded guilty or nolo contendere to any offense or crime, whether  
19 a felony or misdemeanor, involving any gambling activity or fraud,  
20 theft, willful failure to make required payments or reports, or  
21 filing false reports with a governmental agency at any level;

22 (e) Was convicted of, forfeited bond upon a charge of, or  
23 pleaded guilty or nolo contendere to any felony other than those  
24 described in subdivision (d) of this subdivision within the ten  
25 years preceding the filing of the application;



1           (f) Denied the department or its authorized  
2 representatives, including authorized law enforcement agencies,  
3 access to any place where pickle card activity required to be  
4 licensed under the act is being conducted or failed to produce for  
5 inspection or audit any book, record, document, or item required by  
6 law, rule, or regulation;

7           (g) Made a misrepresentation of or failed to disclose a  
8 material fact to the department;

9           (h) Failed to pay any taxes and additions to taxes,  
10 including penalties and interest, required by the Nebraska Bingo  
11 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery  
12 and Raffle Act, or the Nebraska Pickle Card Lottery Act or any  
13 other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

14           (i) Failed to pay an administrative fine levied pursuant  
15 to the Nebraska Bingo Act, the Nebraska County and City Lottery  
16 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle  
17 Card Lottery Act;

18           (j) Failed to demonstrate good character, honesty, and  
19 integrity;

20           (k) Failed to demonstrate, either individually or, in the  
21 case of a business entity or a nonprofit organization, through  
22 its managers, employees, or agents, the ability, experience, or  
23 financial responsibility necessary to maintain the activity for  
24 which the license was issued; or

25           (l) Was cited and whose liquor license was suspended,

1 canceled, or revoked by the Nebraska Liquor Control Commission for  
2 illegal gambling activities that occurred on or after July 20,  
3 2002, on or about a premises licensed by the commission pursuant  
4 to the Nebraska Liquor Control Act or the rules and regulations  
5 adopted and promulgated pursuant to such act;

6 (4) To issue an order requiring a licensee or other  
7 person to cease and desist from violations of the Nebraska  
8 Pickle Card Lottery Act or any rules or regulations adopted and  
9 promulgated pursuant to such act. The order shall give reasonable  
10 notice of the rights of the licensee or other person to request a  
11 hearing and shall state the reason for the entry of the order. The  
12 notice of order shall be mailed by certified mail to or personally  
13 served upon the licensee or other person. If the notice of order is  
14 mailed by certified mail, the date the notice is mailed shall be  
15 deemed to be the date of service of notice to the licensee or other  
16 person. A request for a hearing by the licensee or other person  
17 shall be in writing and shall be filed with the department within  
18 thirty days after the service of the cease and desist order. If  
19 a request for hearing is not filed within the thirty-day period,  
20 the cease and desist order shall become permanent at the expiration  
21 of such period. A hearing shall be held not later than thirty  
22 days after the request for the hearing is received by the Tax  
23 Commissioner, and within twenty days after the date of the hearing,  
24 the Tax Commissioner shall issue an order vacating the cease and  
25 desist order or making it permanent as the facts require. All

1 hearings shall be held in accordance with the rules and regulations  
2 adopted and promulgated by the department. If the licensee or  
3 other person to whom a cease and desist order is issued fails to  
4 appear at the hearing after being duly notified, the licensee or  
5 other person shall be deemed in default and the proceeding may be  
6 determined against the licensee or other person upon consideration  
7 of the cease and desist order, the allegations of which may be  
8 deemed to be true;

9 (5) To levy an administrative fine on an individual,  
10 partnership, limited liability company, corporation, or  
11 organization for cause. For purposes of this subdivision,  
12 cause shall include instances in which the individual, partnership,  
13 limited liability company, corporation, or organization violated  
14 the provisions, requirements, conditions, limitations, or duties  
15 imposed by the act or any rule or regulation adopted and  
16 promulgated pursuant to the act. In determining whether to levy  
17 an administrative fine and the amount of the fine if any fine  
18 is levied, the department shall take into consideration the  
19 seriousness of the violation, the intent of the violator, whether  
20 the violator voluntarily reported the violation, whether the  
21 violator derived financial gain as a result of the violation and  
22 the extent thereof, and whether the violator has had previous  
23 violations of the act, rules, or regulations. A fine levied on a  
24 violator under this section shall not exceed one thousand dollars  
25 for each violation of the act or any rule or regulation adopted and

1 promulgated pursuant to the act plus the financial benefit derived  
2 by the violator as a result of each violation. If an administrative  
3 fine is levied, the fine shall not be paid from pickle card lottery  
4 gross proceeds of an organization and shall be remitted by the  
5 violator to the department within thirty days after the date of the  
6 order issued by the department levying such fine;

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

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

20 (8) To require annual registration of coin-operated and  
21 currency-operated devices used for the dispensing of pickle cards,  
22 to issue registration decals for such devices, to prescribe all  
23 forms necessary for the registration of such devices, and to impose  
24 administrative penalties for failure to properly register such  
25 devices;

1           (9) To examine or to cause to have examined, by any agent  
2 or representative designated by the department for such purpose,  
3 any books, papers, records, or memoranda relating to the conduct  
4 of lottery by the sale of pickle cards of any licensee, to require  
5 by administrative order or summons the production of such documents  
6 or the attendance of any person having knowledge in the premises,  
7 to take testimony under oath, and to require proof material for  
8 its information. If any such person willfully refuses to make  
9 documents available for examination by the department or its agent  
10 or representative or willfully fails to attend and testify, the  
11 department may apply to a judge of the district court of the county  
12 in which such person resides for an order directing such person to  
13 comply with the department's request. If any documents requested  
14 by the department are in the custody of a corporation, the court  
15 order may be directed to any principal officer of the corporation.  
16 If the documents requested by the department are in the custody of  
17 a limited liability company, the court order may be directed to any  
18 member when management is reserved to the members or otherwise to  
19 any manager. Any person who fails or refuses to obey such a court  
20 order shall be guilty of contempt of court;

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

25           (11) To collect license application and license renewal

1 application fees imposed by the Nebraska Pickle Card Lottery Act  
2 and to prorate license fees on an annual basis. The department  
3 shall establish by rule and regulation the conditions and  
4 circumstances under which such fees may be prorated;

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

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

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

13 (15) To employ staff, including auditors and inspectors,  
14 as necessary to carry out the act; and -

15 (16) To certify or contract with independent testing  
16 laboratories which provide gaming-related services to the  
17 department, including, but not limited to, the testing and  
18 examination of pickle card-related equipment, consulting or  
19 advisory services regarding pickle card activities, and forensic  
20 evaluation of pickle card-related equipment. The department shall  
21 establish by rule and regulation the process for certification.

22 Sec. 6. Section 9-335, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 9-335 No manufacturer shall be licensed to conduct any  
25 other activity under the Nebraska Pickle Card Lottery Act. No

1 manufacturer shall hold a license to conduct any other kind of  
2 gambling activity which is authorized or regulated under Chapter 9  
3 except as provided in sections 9-255.09 and 9-632. No manufacturer  
4 or employee or spouse of any manufacturer shall participate in  
5 the conduct or operation of any lottery by the sale of pickle  
6 cards or any other kind of gambling activity which is authorized  
7 or regulated under Chapter 9 except to the exclusive extent of  
8 his or her statutory duties as a licensed manufacturer or employee  
9 thereof, as a lottery contractor pursuant to the State Lottery Act,  
10 and as provided in sections 9-255.09 and 9-632. ~~No~~ Unless otherwise  
11 authorized by the department, no manufacturer or employee or spouse  
12 of any manufacturer shall have a substantial interest in any  
13 other manufacturer, any distributor, any manufacturer-distributor  
14 as defined in section 9-616 other than itself, or any licensed  
15 organization or any other licensee regulated under Chapter 9.

16           Sec. 7. Section 9-340, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           9-340 (1) No manufacturer shall sell or otherwise provide  
19 any pickle cards or pickle card units to any person in Nebraska  
20 except a licensed distributor or a federally recognized Indian  
21 tribe for use in a Class II gaming activity authorized by the  
22 federal Indian Gaming Regulatory Act. No distributor licensed in  
23 Nebraska shall purchase or otherwise obtain any pickle cards or  
24 pickle card units except from manufacturers licensed in Nebraska.

25           (2) No distributor shall sell or otherwise provide any

1 pickle card units except to an organization licensed to conduct  
2 a lottery by the sale of pickle cards pursuant to the Nebraska  
3 Pickle Card Lottery Act or to a federally recognized Indian tribe  
4 for use in a Class II gaming activity authorized by the federal  
5 Indian Gaming Regulatory Act. No pickle cards shall be sold by a  
6 distributor except in the form of pickle card units. No distributor  
7 shall market or sell any pickle card unit for use in this state:

8           (a) Which has not been approved and authorized by the  
9 department;

10           (b) Which has a card or play count in excess of six  
11 thousand per pickle card unit;

12           (c) Which offers less than sixty-five percent or more  
13 than eighty percent of the gross proceeds to be paid out in prizes;

14           (d) Which contains any pickle card or punch on a  
15 punchboard, the individual purchase price of which exceeds one  
16 dollar;

17           (e) In which any individual pickle card awards a prize or  
18 prizes in excess of one thousand dollars;

19           (f) Which may be used for any gift enterprise as defined  
20 in section 9-701;

21           (g) Unless and until a stamp obtained from the  
22 department containing an identifying number has been permanently  
23 and conspicuously affixed upon the flare card supplied by the  
24 manufacturer for identification purposes. Once placed, such stamp  
25 shall not be removed or tampered with by any person. The state



1 identification stamp shall be placed on each punchboard such that  
2 the complete number, together with the symbol appearing thereon,  
3 is plainly visible. State identification stamps shall be obtained  
4 only from the department and only by a licensed distributor for ten  
5 cents each. Such stamps shall be placed by the licensed distributor  
6 only on items sold or furnished to licensed organizations in this  
7 state. Such stamps shall not be transferred or furnished to any  
8 other person unless already placed upon a punchboard or pickle card  
9 unit; or

10 (h) Without the information required in section 9-346.

11 (3) The department may require a manufacturer seeking  
12 approval of any pickle card unit to pay the actual costs  
13 incurred by the department in examining the unit. If required,  
14 the anticipated costs shall be paid in advance by the manufacturer.  
15 After completion of the examination, the department shall refund  
16 overpayments or charge and collect amounts sufficient to reimburse  
17 the department for underpayment of actual costs.

18 (4) The department may require a manufacturer seeking  
19 approval of any pickle card-related equipment to use an independent  
20 testing laboratory certified or contracted with by the department  
21 for the testing and examination of pickle card-related equipment.  
22 Any costs incurred during the testing and examination of pickle  
23 card-related equipment by an independent testing laboratory shall  
24 be the responsibility of the manufacturer.

25 Sec. 8. Section 9-620, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           9-620 The department shall have the following powers,  
3 functions, and duties:

4           (1) To issue licenses and temporary licenses;

5           (2) To deny any license application or renewal  
6 application for cause. Cause for denial of an application or  
7 renewal of a license shall include instances in which the  
8 applicant individually, or in the case of a business entity,  
9 any officer, director, employee, or limited liability company  
10 member of the applicant or licensee other than an employee whose  
11 duties are purely ministerial in nature, any other person or  
12 entity directly or indirectly associated with such applicant or  
13 licensee which directly or indirectly receives compensation other  
14 than distributions from a bona fide retirement or pension plan  
15 established pursuant to Chapter 1, subchapter D of the Internal  
16 Revenue Code from such applicant or licensee for past or present  
17 services in a consulting capacity or otherwise, the licensee,  
18 or any person with a substantial interest in the applicant or  
19 licensee:

20           (a) Violated the provisions, requirements, conditions,  
21 limitations, or duties imposed by the Nebraska Bingo Act, the  
22 Nebraska County and City Lottery Act, the Nebraska Lottery and  
23 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska  
24 Small Lottery and Raffle Act, the State Lottery Act, or any rules  
25 or regulations adopted and promulgated pursuant to such acts;

1           (b) Knowingly caused, aided, abetted, or conspired with  
2 another to cause any person to violate any of the provisions of  
3 such acts or any rules or regulations adopted and promulgated  
4 pursuant to such acts;

5           (c) Obtained a license or permit pursuant to such acts by  
6 fraud, misrepresentation, or concealment;

7           (d) Was convicted of, forfeited bond upon a charge of, or  
8 pleaded guilty or nolo contendere to any offense or crime, whether  
9 a felony or a misdemeanor, involving any gambling activity or  
10 fraud, theft, willful failure to make required payments or reports,  
11 or filing false reports with a governmental agency at any level;

12           (e) Was convicted of, forfeited bond upon a charge of, or  
13 pleaded guilty or nolo contendere to any felony other than those  
14 described in subdivision (d) of this subdivision within the ten  
15 years preceding the filing of the application;

16           (f) Denied the department or its authorized  
17 representatives, including authorized law enforcement agencies,  
18 access to any place where activity required to be licensed under  
19 the Nebraska County and City Lottery Act is being conducted  
20 or failed to produce for inspection or audit any book, record,  
21 document, or item required by law, rule, or regulation;

22           (g) Made a misrepresentation of or failed to disclose a  
23 material fact to the department;

24           (h) Failed to prove by clear and convincing evidence his,  
25 her, or its qualifications to be licensed in accordance with the

1 Nebraska County and City Lottery Act;

2 (i) Failed to pay any taxes and additions to taxes,  
3 including penalties and interest, required by the Nebraska Bingo  
4 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery  
5 and Raffle Act, or the Nebraska Pickle Card Lottery Act or any  
6 other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

7 (j) Failed to pay an administrative fine levied pursuant  
8 to the Nebraska Bingo Act, the Nebraska County and City Lottery  
9 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle  
10 Card Lottery Act;

11 (k) Failed to demonstrate good character, honesty, and  
12 integrity;

13 (l) Failed to demonstrate, either individually or in  
14 the case of a business entity through its managers, employees,  
15 or agents, the ability, experience, or financial responsibility  
16 necessary to establish or maintain the activity for which the  
17 application is made; or

18 (m) Was cited and whose liquor license was suspended,  
19 canceled, or revoked by the Nebraska Liquor Control Commission for  
20 illegal gambling activities that occurred on or after July 20,  
21 2002, on or about a premises licensed by the commission pursuant  
22 to the Nebraska Liquor Control Act or the rules and regulations  
23 adopted and promulgated pursuant to such act.

24 No renewal of a license under the Nebraska County and  
25 City Lottery Act shall be issued when the applicant for renewal

1 would not be eligible for a license upon a first application;

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

3 Cause for revocation, cancellation, or suspension of a license  
4 shall include instances in which the licensee individually, or in  
5 the case of a business entity, any officer, director, employee,  
6 or limited liability company member of the licensee other than  
7 an employee whose duties are purely ministerial in nature, any  
8 other person or entity directly or indirectly associated with such  
9 licensee which directly or indirectly receives compensation other  
10 than distributions from a bona fide retirement or pension plan  
11 established pursuant to Chapter 1, subchapter D of the Internal  
12 Revenue Code from such licensee for past or present services in a  
13 consulting capacity or otherwise, or any person with a substantial  
14 interest in the licensee:

15 (a) Violated the provisions, requirements, conditions,  
16 limitations, or duties imposed by the Nebraska Bingo Act, the  
17 Nebraska County and City Lottery Act, the Nebraska Lottery and  
18 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska  
19 Small Lottery and Raffle Act, the State Lottery Act, or any rules  
20 or regulations adopted and promulgated pursuant to such acts;

21 (b) Knowingly caused, aided, abetted, or conspired with  
22 another to cause any person to violate any of the provisions of the  
23 Nebraska County and City Lottery Act or any rules or regulations  
24 adopted and promulgated pursuant to the act;

25 (c) Obtained a license pursuant to the Nebraska County

1 and City Lottery Act by fraud, misrepresentation, or concealment;

2 (d) Was convicted of, forfeited bond upon a charge of, or  
3 pleaded guilty or nolo contendere to any offense or crime, whether  
4 a felony or a misdemeanor, involving any gambling activity or  
5 fraud, theft, willful failure to make required payments or reports,  
6 or filing false reports with a governmental agency at any level;

7 (e) Was convicted of, forfeited bond upon a charge of, or  
8 pleaded guilty or nolo contendere to any felony other than those  
9 described in subdivision (d) of this subdivision within the ten  
10 years preceding the filing of the application;

11 (f) Denied the department or its authorized  
12 representatives, including authorized law enforcement agencies,  
13 access to any place where activity required to be licensed under  
14 the Nebraska County and City Lottery Act is being conducted  
15 or failed to produce for inspection or audit any book, record,  
16 document, or item required by law, rule, or regulation;

17 (g) Made a misrepresentation of or failed to disclose a  
18 material fact to the department;

19 (h) Failed to pay any taxes and additions to taxes,  
20 including penalties and interest, required by the Nebraska Bingo  
21 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery  
22 and Raffle Act, or the Nebraska Pickle Card Lottery Act or any  
23 other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

24 (i) Failed to pay an administrative fine levied pursuant  
25 to the Nebraska Bingo Act, the Nebraska County and City Lottery

1 Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle  
2 Card Lottery Act;

3 (j) Failed to demonstrate good character, honesty, and  
4 integrity;

5 (k) Failed to demonstrate, either individually or in  
6 the case of a business entity through its managers, employees,  
7 or agents, the ability, experience, or financial responsibility  
8 necessary to maintain the activity for which the license was  
9 issued; or

10 (l) Was cited and whose liquor license was suspended,  
11 canceled, or revoked by the Nebraska Liquor Control Commission for  
12 illegal gambling activities that occurred on or after July 20,  
13 2002, on or about a premises licensed by the commission pursuant  
14 to the Nebraska Liquor Control Act or the rules and regulations  
15 adopted and promulgated pursuant to such act;

16 (4) To issue an order requiring a licensee or other  
17 person to cease and desist from violations of the Nebraska County  
18 and City Lottery Act or any rules or regulations adopted and  
19 promulgated pursuant to the act. The order shall give reasonable  
20 notice of the rights of the licensee or other person to request a  
21 hearing and shall state the reason for the entry of the order. The  
22 notice of order shall be mailed by certified mail to or personally  
23 served upon the licensee or other person. If the notice of order is  
24 mailed by certified mail, the date the notice is mailed shall be  
25 deemed to be the date of service of notice to the licensee or other

1 person. A request for a hearing by the licensee or other person  
2 shall be in writing and shall be filed with the department within  
3 thirty days after the service of the cease and desist order. If  
4 a request for hearing is not filed within the thirty-day period,  
5 the cease and desist order shall become permanent at the expiration  
6 of such period. A hearing shall be held not later than thirty  
7 days after the request for the hearing is received by the Tax  
8 Commissioner, and within twenty days after the date of the hearing,  
9 the Tax Commissioner shall issue an order vacating the cease and  
10 desist order or making it permanent as the facts require. All  
11 hearings shall be held in accordance with the rules and regulations  
12 adopted and promulgated by the department. If the licensee or  
13 other person to whom a cease and desist order is issued fails to  
14 appear at the hearing after being duly notified, the licensee or  
15 other person shall be deemed in default and the proceeding may be  
16 determined against the licensee or other person upon consideration  
17 of the cease and desist order, the allegations of which may be  
18 deemed to be true;

19 (5) To levy an administrative fine on an individual,  
20 partnership, limited liability company, corporation, or  
21 organization for cause. For purposes of this subdivision,  
22 cause shall include instances in which the individual, partnership,  
23 limited liability company, corporation, or organization violated  
24 the provisions, requirements, conditions, limitations, or duties  
25 imposed by the act or any rule or regulation adopted and



1 promulgated pursuant to the act. In determining whether to levy  
2 an administrative fine and the amount of the fine if any fine  
3 is levied, the department shall take into consideration the  
4 seriousness of the violation, the intent of the violator, whether  
5 the violator voluntarily reported the violation, whether the  
6 violator derived financial gain as a result of the violation and  
7 the extent thereof, and whether the violator has had previous  
8 violations of the act and regulations. A fine levied on a violator  
9 under this section shall not exceed twenty-five thousand dollars  
10 for each violation of the act or any rules and regulations adopted  
11 and promulgated pursuant to the act plus the financial benefit  
12 derived by the violator as a result of each violation. If an  
13 administrative fine is levied, the fine shall not be paid from  
14 lottery gross proceeds of the county, city, or village and shall be  
15 remitted by the violator to the department within thirty days from  
16 the date of the order issued by the department levying such fine;

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

23 (7) To require periodic reports of lottery activity from  
24 licensed counties, cities, villages, manufacturer-distributors, and  
25 lottery operators and any other persons, organizations, limited

1 liability companies, or corporations as the department deems  
2 necessary to carry out the act;

3 (8) To audit, examine, or cause to have examined, by  
4 any agent or representative designated by the department for such  
5 purpose, any books, papers, records, or memoranda relating to the  
6 conduct of a lottery, to require by administrative order or summons  
7 the production of such documents or the attendance of any person  
8 having knowledge in the premises, to take testimony under oath, and  
9 to require proof material for its information. If any such person  
10 willfully refuses to make documents available for examination by  
11 the department or its agent or representative or willfully fails  
12 to attend and testify, the department may apply to a judge of  
13 the district court of the county in which such person resides for  
14 an order directing such person to comply with the department's  
15 request. If any documents requested by the department are in the  
16 custody of a corporation, the court order may be directed to any  
17 principal officer of the corporation. If the documents requested by  
18 the department are in the custody of a limited liability company,  
19 the court order may be directed to any member when management is  
20 reserved to the members or otherwise to any manager. Any person who  
21 fails or refuses to obey such a court order shall be guilty of  
22 contempt of court;

23 (9) Unless specifically provided otherwise, to compute,  
24 determine, assess, and collect the amounts required to be paid as  
25 taxes imposed by the act in the same manner as provided for sales

1 and use taxes in the Nebraska Revenue Act of 1967;

2 (10) To collect license application and license renewal  
3 application fees imposed by the Nebraska County and City Lottery  
4 Act and to prorate license fees on an annual basis. The department  
5 shall establish by rule and regulation the conditions and  
6 circumstances under which such fees may be prorated;

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

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

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

25 (14) To employ staff, including auditors and inspectors,

1 as necessary to carry out the act; and -

2 (15) To certify or contract with independent testing  
3 laboratories which provide gaming-related services to the  
4 department, including, but not limited to, the testing and  
5 examination of lottery equipment, consulting or advisory services  
6 regarding lottery activities, and forensic evaluation of lottery  
7 equipment. The department shall establish by rule and regulation  
8 the process for certification.

9 Sec. 9. Section 9-635, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 9-635 (1) Each manufacturer-distributor shall receive  
12 departmental approval of lottery equipment prior to offering or  
13 marketing in this state any type of lottery equipment for use  
14 in a lottery conducted pursuant to the Nebraska County and City  
15 Lottery Act. Approval by the department shall be based upon, but  
16 not be limited to, conformance with the provisions of the act and  
17 any other specifications imposed by rule or regulation adopted and  
18 promulgated pursuant to the act.

19 (2) Lottery equipment shall not be submitted for approval  
20 by the department until the manufacturer-distributor has obtained a  
21 license as required in section 9-632.

22 (3) The department may require a manufacturer-distributor  
23 seeking approval of any lottery equipment to pay the anticipated  
24 actual costs of the examination of the equipment by the department.  
25 If required, such costs shall be paid in advance by the

1 manufacturer-distributor. After completion of the examination, the  
2 department shall refund overpayments or charge and collect amounts  
3 sufficient to reimburse the department for underpayments of actual  
4 costs.

5 (4) Lottery equipment which does not conform in  
6 all respects to the requirements of the act and any other  
7 specifications imposed by the department by rule and regulation  
8 shall be contraband goods for purposes of section 9-649.

9 (5) The department may require a manufacturer-distributor  
10 seeking approval of lottery equipment to use an independent testing  
11 laboratory certified or contracted with by the department for the  
12 testing and examination of lottery equipment. Any costs incurred  
13 during the testing and examination of lottery equipment by an  
14 independent testing laboratory shall be the responsibility of the  
15 manufacturer-distributor.

16 Sec. 10. Section 9-653, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 9-653 (1) Except in accordance with a proper judicial  
19 order or as otherwise provided by this section or other law,  
20 it shall be a Class I misdemeanor for the Tax Commissioner or  
21 any employee or agent of the Tax Commissioner to make known, in  
22 any manner whatsoever, the contents of any reports or records  
23 submitted by a licensed manufacturer-distributor or the contents  
24 of any personal history reports submitted by any licensee or  
25 license applicant to the department pursuant to the Nebraska County

1 and City Lottery Act and any rules and regulations adopted and  
2 promulgated pursuant to the act.

3 (2) Nothing in this section shall be construed to  
4 prohibit (a) the delivery to a licensee, his or her ~~duly authorized~~  
5 directed representative, or his or her successors, receivers,  
6 trustees, personal representatives, administrators, assignees, or  
7 guarantors, if directly interested, of a certified copy of any  
8 report or record, (b) the publication of statistics so classified  
9 as to prevent the identification of particular reports or records,  
10 (c) the inspection by the Attorney General, a county attorney,  
11 or other legal representative of the state of reports or records  
12 submitted by a licensed manufacturer-distributor when information  
13 on the reports or records is considered by the Attorney General,  
14 county attorney, or other legal representative to be relevant to  
15 any action or proceeding instituted by the licensee or against  
16 whom an action or proceeding is being considered or has been  
17 commenced by any state agency or county, (d) the furnishing of any  
18 information to the United States Government or to states allowing  
19 similar privileges to the Tax Commissioner, (e) the disclosure of  
20 information and records to a collection agency contracting with  
21 the Tax Commissioner for the collection of delinquent taxes  
22 under the act, (f) the publication or disclosure of final  
23 administrative opinions and orders made by the Tax Commissioner  
24 in the adjudication of license denials, suspensions, cancellations,  
25 or revocations or the levying of fines, (g) the release of any

1 application, without the contents of any submitted personal history  
2 report or social security number, filed with the department to  
3 obtain a license to conduct activities under the act, which  
4 application shall be deemed a public record, (h) the release of  
5 any report filed by a licensed county, city, village, or lottery  
6 operator pursuant to the act, which report shall be deemed a public  
7 record, or (i) the notification of an applicant, a licensee, or a  
8 licensee's ~~duly authorized~~ directed representative of the existence  
9 of and the grounds for any administrative action to deny the  
10 license application of, to revoke, cancel, or suspend the license  
11 of, or to levy an administrative fine upon any agent or employee  
12 of the applicant, the licensee, or any other person upon whom the  
13 applicant or licensee relies to conduct activities authorized by  
14 the act.

15 (3) Nothing in this section shall prohibit the Tax  
16 Commissioner or any employee or agent of the Tax Commissioner from  
17 making known the names of persons, firms, or corporations licensed  
18 to conduct activities under the act, the locations at which such  
19 activities are conducted by licensees, or the dates on which such  
20 licenses were issued.

21 (4) Notwithstanding subsection (1) of this section, the  
22 Tax Commissioner may permit the Postal Inspector of the United  
23 States Postal Service or his or her delegates to inspect reports or  
24 records submitted by a licensed manufacturer-distributor pursuant  
25 to the act when information on the reports or records is relevant

1 to any action or proceeding instituted or being considered by the  
2 United States Postal Service against such person for the fraudulent  
3 use of the mails to carry and deliver false and fraudulent tax  
4 returns to the Tax Commissioner with the intent to defraud the  
5 State of Nebraska or to evade the payment of Nebraska state taxes.

6 (5) Notwithstanding subsection (1) of this section, the  
7 Tax Commissioner may permit the other tax officials of this state  
8 to inspect reports or records submitted pursuant to the act, but  
9 such inspection shall be permitted only for purposes of enforcing a  
10 tax law and only to the extent and under the conditions prescribed  
11 by the rules and regulations of the Tax Commissioner.

12 Sec. 11. Original sections 9-255.09, 9-255.10, 9-335,  
13 9-340, and 9-635, Reissue Revised Statutes of Nebraska, and  
14 sections 9-1,104, 9-226, 9-322, 9-620, and 9-653, Revised Statutes  
15 Cumulative Supplement, 2006, are repealed.

16 Sec. 12. The following section is outright repealed:  
17 Section 9-237, Reissue Revised Statutes of Nebraska.