

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 286

FINAL READING

Introduced by General Affairs Committee: Karpisek, 32, Chairperson;
Coash, 27; Cook, 13; Dierks, 40; Friend, 10; Price,
3; Rogert, 16; Dubas, 34.

Read first time January 14, 2009

Committee: General Affairs

A BILL

1 FOR AN ACT relating to gaming; to amend sections 9-255.04,
2 9-347, 9-347.01, and 9-812, Reissue Revised Statutes
3 of Nebraska; to change provisions relating to definite
4 profit under the Nebraska Bingo Act and the Nebraska
5 Pickle Card Lottery Act; to change provisions relating to
6 lottery funds; to provide operative dates; to repeal the
7 original sections; and to declare an emergency.

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

1 Section 1. Section 9-255.04, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 9-255.04 (1) No expense shall be incurred or amounts paid
4 in connection with the conduct of bingo by a licensed organization
5 except those which are reasonable and necessary.

6 (2) A licensed organization shall not spend more than
7 fourteen percent of its bingo gross receipts to pay the expenses of
8 conducting bingo. The actual cost of (a) license and local permit
9 fees, (b) any taxes authorized by the Nebraska Bingo Act, (c)
10 bingo and promotional prizes, (d) the purchase, rental, or lease
11 of bingo equipment, and (e) the rental or lease of a premises for
12 the conduct of bingo and the purchase, rental, or lease of personal
13 property as allowed by the department in rule and regulation which
14 is necessary for the conduct of bingo shall not be included in
15 determining compliance with the expense limitation contained in
16 this section.

17 (3) A licensed organization which is also licensed to
18 conduct a lottery by the sale of pickle cards pursuant to the
19 Nebraska Pickle Card Lottery Act may allocate a portion of the
20 expenses associated with the conduct of its bingo occasions to
21 its lottery by the sale of pickle cards conducted at such bingo
22 occasions. Such allocation shall be based upon the percentage that
23 pickle card gross proceeds derived from the sale of pickle cards
24 at the bingo occasions represents to the total of bingo gross
25 receipts and pickle card gross proceeds derived from such bingo

1 occasions for the previous annual reporting period. An organization
2 licensed to conduct bingo that has not been previously licensed
3 shall determine such allocation based upon the percentage that
4 pickle card gross proceeds derived from the sale of pickle cards at
5 the bingo occasions represents to the total of bingo gross receipts
6 and pickle card gross proceeds derived from such bingo occasions
7 for the initial three consecutive calendar months of operation.

8 (4) The total amount of expenses that may be allocated
9 to the organization's lottery by the sale of pickle cards shall be
10 subject to the limitations on bingo expenses as provided for in
11 the Nebraska Bingo Act with respect to the fourteen-percent expense
12 limitation and the fair-market-value limitation on the purchase,
13 rental, or lease of bingo equipment and the rental or lease of
14 personal property or of a premises for the conduct of bingo. No
15 portion of the ~~eight~~ twelve percent of the definite profit of a
16 pickle card unit as allowed by section 9-347 to pay the allowable
17 expenses of operating a lottery by the sale of pickle cards shall
18 be used to pay any expenses associated with the sale of pickle
19 cards at a bingo occasion.

20 (5) All persons paid for working at a bingo occasion,
21 including pickle card sellers but excluding concession workers,
22 shall be paid only by a check written from the licensed
23 organization's bingo checking account and shall not receive any
24 other compensation or payment for working at a bingo occasion
25 from any other source. Such wages shall be at an hourly or

1 occasion rate and shall be included in the amount allowed by the
2 expense limitation provided in subsection (2) of this section. No
3 person shall receive any compensation or payment from a licensed
4 organization based upon a percentage of the organization's bingo
5 gross receipts or profit.

6 (6) No expenses associated with the conduct of bingo
7 may be paid directly from the licensed organization's pickle card
8 checking account. A licensed organization may transfer funds from
9 its pickle card checking account to its bingo checking account as
10 permitted by subsection (3) of this section by a check drawn on
11 the pickle card checking account or by electronic funds transfer as
12 provided only by section 9-347.

13 Sec. 2. Section 9-347, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 9-347 (1) The gross proceeds of any lottery by the sale
16 of pickle cards shall be used solely for lawful purposes, awarding
17 of prizes, payment of the unit cost, any commission paid to a
18 pickle card operator, allowable expenses, and allocations for bingo
19 expenses as provided by subsection (5) of this section.

20 (2) Not less than sixty-five percent or more than eighty
21 percent of the gross proceeds of any lottery by the sale of pickle
22 cards shall be used for the awarding of prizes.

23 (3) Not more than ~~eight~~ twelve percent of the definite
24 profit of a pickle card unit shall be used by the licensed
25 organization to pay the allowable expenses of operating a lottery

1 by the sale of pickle cards, except that license fees paid to the
2 department to license the organization, each utilization-of-funds
3 member, and any sales agent and pickle card dispensing device
4 registration fees shall not be included in determining the
5 ~~eight-percent~~ twelve-percent limitation on expenses and no portion
6 of such ~~eight~~ twelve percent shall be used to pay any expenses
7 associated with the sale of pickle cards at a bingo occasion
8 conducted pursuant to the Nebraska Bingo Act, and of such ~~eight~~
9 twelve percent not more than ~~four~~ six percent of the definite
10 profit may be used by the licensed organization for the payment
11 of any commission, salary, or fee to a sales agent in connection
12 with the marketing, sale, and delivery of a pickle card unit. When
13 determining the ~~eight~~ twelve percent of definite profit that is
14 permitted to pay the allowable expenses of operating a lottery by
15 the sale of pickle cards, the definite profit from the sale of
16 pickle cards at the organization's bingo occasions shall not be
17 included.

18 (4) Not more than thirty percent of the definite profit
19 of a pickle card unit shall be used by a licensed organization
20 to pay a pickle card operator a commission, fee, or salary for
21 selling individual pickle cards as opportunities for participation
22 in a lottery by the sale of pickle cards on behalf of the licensed
23 organization.

24 (5) An organization licensed to conduct bingo pursuant
25 to the Nebraska Bingo Act may allocate a portion of the expenses

1 associated with the conduct of its bingo occasions to its lottery
2 by the sale of pickle cards conducted at such bingo occasions.
3 Such allocation shall be based upon the percentage that pickle
4 card gross proceeds derived from the sale of pickle cards at the
5 bingo occasions represents to the total of bingo gross receipts
6 and pickle card gross proceeds derived from such bingo occasions
7 for the previous annual reporting period. An organization licensed
8 to conduct bingo that has not been previously licensed shall
9 determine such allocation based upon the percentage that pickle
10 card gross proceeds derived from the sale of pickle cards at the
11 bingo occasions represents to the total of bingo gross receipts
12 and pickle card gross proceeds derived from such bingo occasions
13 for the initial three consecutive calendar months of operation.
14 The total amount of expenses that may be allocated to the
15 organization's lottery by the sale of pickle cards shall be
16 subject to the limitations on bingo expenses as provided for in
17 the Nebraska Bingo Act with respect to the fourteen-percent expense
18 limitation and the fair-market-value limitation on the purchase,
19 rental, or lease of bingo equipment and the rental or lease of
20 personal property or of a premises for the conduct of bingo. No
21 expenses associated with the conduct of bingo may be paid directly
22 from the pickle card checking account. A licensed organization
23 which needs to allocate a portion of the expenses associated with
24 the conduct of its bingo occasions to its lottery by the sale
25 of pickle cards conducted at such bingo occasions to pay bingo

1 expenses as provided by this section shall transfer funds from the
2 pickle card checking account to the bingo checking account by a
3 check drawn on the pickle card checking account or by electronic
4 funds transfer.

5 Sec. 3. Section 9-347.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 9-347.01 (1) For each type of pickle card unit marketed
8 in this state, the department shall determine the following: (a)
9 When a licensed organization sells pickle cards through pickle card
10 operators, the portion of the definite profit from that pickle card
11 unit which shall go to the licensed organization, such amount to
12 be not less than seventy percent of the definite profit from such
13 pickle card unit; (b) the maximum amount of the definite profit
14 from the sale of a pickle card unit that a licensed organization
15 may pay a pickle card operator as a commission, fee, or salary to
16 sell its pickle cards, such amount not to exceed thirty percent of
17 the definite profit from such pickle card unit; (c) the portion of
18 the definite profit from the sale of a pickle card unit which may
19 be expended by a licensed organization for allowable expenses, such
20 amount not to exceed ~~eight~~ twelve percent of the definite profit
21 from such pickle card unit; and (d) the portion of the definite
22 profit from the sale of a pickle card unit which may be utilized
23 by a licensed organization for payment of the organization's sales
24 agent, such amount to be a portion of the allowable expenses and
25 not to exceed ~~four~~ six percent of the definite profit from such

1 pickle card unit.

2 (2) The licensed organization's net profit from the sale
3 of a pickle card unit shall be used exclusively for a lawful
4 purpose. A licensed organization shall not donate or promise to
5 donate its net profit or any portion of the net profit to a
6 recipient outside of its organization as an inducement for or
7 in exchange for (a) a payment, gift, or other thing of value
8 from the recipient to any person, organization, or corporation,
9 including, but not limited to, the licensed organization or any
10 of its members, employees, or agents, or (b) a pickle card
11 operator's agreement to sell pickle cards on behalf of the licensed
12 organization.

13 Sec. 4. Section 9-812, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 9-812 (1) All money received from the operation of
16 lottery games conducted pursuant to the State Lottery Act in
17 Nebraska shall be credited to the State Lottery Operation Trust
18 Fund, which fund is hereby created. All payments of the costs
19 of establishing and maintaining the lottery games shall be made
20 from the State Lottery Operation Cash Fund. In accordance with
21 legislative appropriations, money for payments for expenses of the
22 division shall be transferred from the State Lottery Operation
23 Trust Fund to the State Lottery Operation Cash Fund, which fund
24 is hereby created. All money necessary for the payment of lottery
25 prizes shall be transferred from the State Lottery Operation Trust

1 Fund to the State Lottery Prize Trust Fund, which fund is hereby
2 created. The amount used for the payment of lottery prizes shall
3 not be less than forty percent of the dollar amount of the lottery
4 tickets which have been sold.

5 ~~(2)(a)~~ (2) Beginning October 1, 2003, and until July 1,
6 2009, a portion of the dollar amount of the lottery tickets which
7 have been sold on an annualized basis shall be transferred from
8 the State Lottery Operation Trust Fund to the Education Innovation
9 Fund, the Nebraska Scholarship Fund, the Nebraska Environmental
10 Trust Fund, the Nebraska State Fair Board, and the Compulsive
11 Gamblers Assistance Fund. The dollar amount transferred pursuant
12 to this subsection shall equal the greater of (a) the dollar
13 amount transferred to the funds in fiscal year 2002-03 or (b)
14 any amount which constitutes at least twenty-two percent and no
15 more than twenty-five percent of the dollar amount of the lottery
16 tickets which have been sold on an annualized basis. To the extent
17 that funds are available, the Tax Commissioner and director may
18 authorize a transfer exceeding twenty-five percent of the dollar
19 amount of the lottery tickets sold on an annualized basis. ~~7~~ except
20 that the dollar amount transferred shall not be less than the
21 dollar amount transferred to the funds in fiscal year 2002-03.

22 ~~(b)~~ On and after July 1, 2009, at least ~~twenty-five~~
23 ~~percent~~ percent of the dollar amount of the lottery tickets which have been
24 sold on an annualized basis shall be transferred from the State
25 Lottery Operation Trust Fund to the Education Innovation Fund,

1 ~~the Nebraska Scholarship Fund, the Nebraska Environmental Trust~~
2 ~~Fund, the Nebraska State Fair Board, and the Compulsive Gamblers~~
3 ~~Assistance Fund.~~

4 (3) Of the money available to be transferred to the
5 Education Innovation Fund, the Nebraska Scholarship Fund, the
6 Nebraska Environmental Trust Fund, the Nebraska State Fair Board,
7 and the Compulsive Gamblers Assistance Fund:

8 (a) The first five hundred thousand dollars shall be
9 transferred to the Compulsive Gamblers Assistance Fund to be used
10 as provided in section 71-817;

11 (b) Nineteen and three-fourths percent of the money
12 remaining after the payment of prizes and operating expenses and
13 the initial transfer to the Compulsive Gamblers Assistance Fund
14 shall be transferred to the Education Innovation Fund;

15 (c) Twenty-four and three-fourths percent of the money
16 remaining after the payment of prizes and operating expenses and
17 the initial transfer to the Compulsive Gamblers Assistance Fund
18 shall be transferred to the Nebraska Scholarship Fund;

19 (d) Forty-four and one-half percent of the money
20 remaining after the payment of prizes and operating expenses and
21 the initial transfer to the Compulsive Gamblers Assistance Fund
22 shall be transferred to the Nebraska Environmental Trust Fund to be
23 used as provided in the Nebraska Environmental Trust Act;

24 (e) Ten percent of the money remaining after the payment
25 of prizes and operating expenses and the initial transfer to

1 the Compulsive Gamblers Assistance Fund shall be transferred to
2 the Nebraska State Fair Board if the most populous city within
3 the county in which the fair is located provides matching funds
4 equivalent to ten percent of the funds available for transfer. Such
5 matching funds may be obtained from the city and any other private
6 or public entity, except that no portion of such matching funds
7 shall be provided by the state. If the Nebraska State Fair ceases
8 operations, ten percent of the money remaining after the payment
9 of prizes and operating expenses and the initial transfer to the
10 Compulsive Gamblers Assistance Fund shall be transferred to the
11 General Fund; and

12 (f) One percent of the money remaining after the payment
13 of prizes and operating expenses and the initial transfer to the
14 Compulsive Gamblers Assistance Fund shall be transferred to the
15 Compulsive Gamblers Assistance Fund to be used as provided in
16 section 71-817.

17 (4) (a) The Education Innovation Fund is created. At least
18 seventy-five percent of the lottery proceeds allocated to the
19 Education Innovation Fund shall be available for disbursement.

20 (b) For fiscal year 2005-06, the Education Innovation
21 Fund shall be allocated as follows: The first one million dollars
22 shall be transferred to the School District Reorganization Fund,
23 and the remaining amount shall be allocated to the General Fund
24 after operating expenses for the Excellence in Education Council
25 are deducted.

1 (c) For fiscal year 2006-07, the Education Innovation
2 Fund shall be allocated as follows: The first two hundred fifty
3 thousand dollars shall be transferred to the Attracting Excellence
4 to Teaching Program Cash Fund to fund the Attracting Excellence
5 to Teaching Program Act, the next one million dollars shall
6 be transferred to the School District Reorganization Fund, and
7 the amount remaining in the Education Innovation Fund shall be
8 allocated, after administrative expenses, for distance education
9 equipment and incentives pursuant to sections 79-1336 and 79-1337.

10 (d) For fiscal year 2007-08, the Education Innovation
11 Fund shall be allocated as follows: The first five hundred thousand
12 dollars shall be transferred to the Attracting Excellence to
13 Teaching Program Cash Fund to fund the Attracting Excellence to
14 Teaching Program Act, and the amount remaining in the Education
15 Innovation Fund shall be allocated, after administrative expenses,
16 for distance education equipment and incentives pursuant to
17 sections 79-1336 and 79-1337.

18 (e) For fiscal year 2008-09, the Education Innovation
19 Fund shall be allocated as follows: The first seven hundred
20 fifty thousand dollars shall be transferred to the Attracting
21 Excellence to Teaching Program Cash Fund to fund the Attracting
22 Excellence to Teaching Program Act, and the amount remaining in the
23 Education Innovation Fund shall be allocated, after administrative
24 expenses, for distance education equipment and incentives pursuant
25 to sections 79-1336 and 79-1337.

1 (f) For fiscal years 2009-10 through 2015-16, the
2 Education Innovation Fund shall be allocated as follows: The
3 first one million dollars shall be transferred to the Attracting
4 Excellence to Teaching Program Cash Fund to fund the Attracting
5 Excellence to Teaching Program Act, and the amount remaining in the
6 Education Innovation Fund shall be allocated, after administrative
7 expenses, for distance education equipment and incentives pursuant
8 to sections 79-1336 and 79-1337.

9 (g) For fiscal year 2016-17 and each fiscal year
10 thereafter, the Education Innovation Fund shall be allocated,
11 after administrative expenses, for education purposes as provided
12 by the Legislature.

13 (5) Any money in the State Lottery Operation Trust
14 Fund, the State Lottery Operation Cash Fund, the State Lottery
15 Prize Trust Fund, or the Education Innovation Fund available
16 for investment shall be invested by the state investment officer
17 pursuant to the Nebraska Capital Expansion Act and the Nebraska
18 State Funds Investment Act.

19 (6) Unclaimed prize money on a winning lottery ticket
20 shall be retained for a period of time prescribed by rules and
21 regulations. If no claim is made within such period, the prize
22 money shall be used at the discretion of the Tax Commissioner for
23 any of the purposes prescribed in this section.

24 Sec. 5. Sections 1, 2, 3, and 7 of this act become
25 operative three calendar months after the adjournment of this

1 legislative session. Sections 4 and 6 of this act become operative
2 on June 30, 2009. The other sections of this act become operative
3 on their effective date.

4 Sec. 6. Original section 9-812, Reissue Revised Statutes
5 of Nebraska, is repealed.

6 Sec. 7. Original sections 9-255.04, 9-347, and 9-347.01,
7 Reissue Revised Statutes of Nebraska, are repealed.

8 Sec. 8. Since an emergency exists, this act takes effect
9 when passed and approved according to law.