

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 985

Introduced by Karpisek, 32.

Read first time January 19, 2010

Committee: General Affairs

A BILL

1 FOR AN ACT relating to gambling; to amend sections 2-219, 9-1,101,
2 9-1,103, 9-1,104, 9-204, 9-226, 9-227, 9-232.01, 9-312,
3 9-322, 9-323, 9-411, 9-415, 9-418, 9-419, 9-507, 9-509,
4 9-512, 9-607, 9-620, 9-701, 9-826, 17-120, 17-207,
5 28-1101, 28-1105, 28-1113, and 35-901, Reissue Revised
6 Statutes of Nebraska, and sections 14-102, 15-258, and
7 16-226, Revised Statutes Supplement, 2009; to adopt the
8 Nebraska Charitable Poker Act; to harmonize provisions;
9 to provide a duty for the Revisor of Statutes; to provide
10 an operative date; and to repeal the original sections.

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

1 Section 1. Sections 1 to 49 of this act shall be known
2 and may be cited as the Nebraska Charitable Poker Act.

3 Sec. 2. (1) The purposes of the Nebraska Charitable
4 Poker Act are to protect the health and welfare of the public,
5 to protect the economic welfare and interest in charitable poker
6 winnings, to insure that the profits derived from the operation
7 of charitable poker events are accurately reported in order that
8 their revenue-raising potential be fully exposed, to insure that
9 the profits are used for legitimate purposes, and to prevent the
10 purposes for which the profits of charitable poker are to be used
11 from being subverted by improper elements. Charitable poker shall
12 be played and conducted only by those methods permitted in the
13 Nebraska Charitable Poker Act. No other form, means of selection,
14 or method of play shall be authorized or permitted.

15 (2) The purpose of the Nebraska Charitable Poker Act is
16 also to completely and fairly regulate charitable poker to insure
17 fairness, quality, and compliance with the Constitution of the
18 State of Nebraska. To accomplish such purpose, the regulation and
19 licensure of nonprofit organizations, poker room operators, and any
20 other person involved in the charitable poker event are necessary.

21 Sec. 3. For purposes of the Nebraska Charitable Poker
22 Act, unless the context otherwise requires, the definitions found
23 in sections 4 to 22 of this act apply.

24 Sec. 4. Allowable expenses means:

25 (1) All costs associated with the purchasing, printing,

1 or manufacturing of any items to be used or distributed to
2 participants;

3 (2) All office expenses;

4 (3) All promotional expenses;

5 (4) All salaries of persons employed to operate the
6 charitable poker events;

7 (5) Any rental or lease expense;

8 (6) Any fee paid to any person associated with the
9 operation of any charitable poker events;

10 (7) Any delivery or shipping charge incurred by a
11 licensed organization in connection with charitable poker events;

12 and

13 (8) Any license fees paid to the department to license
14 the organization.

15 Sec. 5. Cancel means to discontinue all rights and
16 privileges to hold a license for up to three years.

17 Sec. 6. (1) Charitable poker event means any gambling
18 scheme in which participants pay or agree to pay something of
19 value to play poker with an opportunity to win something of value.
20 Any charitable poker event shall be conducted pursuant to and in
21 accordance with the Nebraska Charitable Poker Act.

22 (2) Charitable poker event does not mean or include any
23 activity authorized or regulated under the Nebraska Bingo Act, the
24 Nebraska County and City Lottery Act, the Nebraska Lottery and
25 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska

1 Small Lottery and Raffle Act, the State Lottery Act, section 9-701,
2 or Chapter 2, article 12, nor shall charitable poker event mean or
3 include any activity prohibited under Chapter 28, article 11.

4 Sec. 7. Charitable poker event operator means any
5 sole proprietorship, partnership, limited liability company, or
6 corporation which operates a charitable poker event on behalf of a
7 licensed organization. A licensed organization may be a charitable
8 poker event operator.

9 Sec. 8. Definite profit means the gross proceeds from a
10 charitable poker event less all of the possible prizes.

11 Sec. 9. Department means the Department of Revenue.

12 Sec. 10. Designated premises means one location selected
13 by a licensed organization at which a charitable poker event is
14 conducted.

15 Sec. 11. Gross proceeds means the total possible receipts
16 from the conduct of a charitable poker event.

17 Sec. 12. Gross profit means the definite profit from a
18 charitable poker event less any fee paid by a licensed organization
19 to a charitable poker operator conducting the charitable poker
20 event on behalf of the licensed organization.

21 Sec. 13. (1) Lawful purpose, for a licensed organization
22 making a donation of its net profits derived from charitable
23 poker events solely for its own organization, means donating such
24 net profits for any activity which benefits and is conducted by
25 the organization, including any charitable, benevolent, humane,

1 religious, philanthropic, youth sports, educational, civic, or
2 fraternal activity conducted by the organization for the benefit of
3 its members.

4 (2) Lawful purpose, for a licensed organization making a
5 donation of its net profits derived from charitable poker events
6 outside of its organization, means donating such net profits only
7 to:

8 (a) The State of Nebraska or any political subdivision
9 thereof, but only if the contribution or gift is made exclusively
10 for public purposes;

11 (b) A corporation, trust, community chest, fund, or
12 foundation:

13 (i) Created or organized under the laws of Nebraska
14 which has been in existence for five consecutive years immediately
15 preceding the date of the donation and which has its principal
16 office located in Nebraska;

17 (ii) Organized and operated exclusively for religious,
18 charitable, scientific, literary, or educational purposes, for the
19 prevention of cruelty to children or animals, or to foster national
20 or international amateur sports competition;

21 (iii) No part of the net earnings of which inures to the
22 benefit of any private shareholder or individual;

23 (iv) Which is not disqualified for tax exemption under
24 section 501(c)(3) of the Internal Revenue Code by reason of
25 attempting to influence legislation; and

1 (v) Which does not participate in any political campaign
2 on behalf of any candidate for political office;

3 (c) A post or organization of war veterans or an
4 auxiliary unit or society of, trust for, or foundation for any
5 such post or organization:

6 (i) Organized in the United States or in any territory or
7 possession thereof; and

8 (ii) No part of the net earnings of which inures to the
9 benefit of any private shareholder or individual; or

10 (d) A volunteer fire company or volunteer first-aid,
11 rescue, ambulance, or emergency squad serving any city, village,
12 county, township, or rural or suburban fire protection district in
13 Nebraska.

14 (3) No donation of net profits under this section shall
15 (a) inure to the benefit of any individual member of the licensed
16 organization making the donation except to the extent it is in
17 furtherance of the purposes described in this section or (b) be
18 used for any activity which attempts to influence legislation or
19 for any political campaign on behalf of any elected official or
20 person who is or has been a candidate for public office.

21 Sec. 14. License means any license to conduct a
22 charitable poker event as provided in section 29 of this act, any
23 license for a utilization-of-funds member as provided in section 30
24 of this act, and any charitable poker event operator license as
25 provided in section 32 of this act.

1 Sec. 15. Licensed organization means a nonprofit
2 organization or volunteer fire company or volunteer first-aid,
3 rescue, ambulance, or emergency squad licensed to conduct a
4 charitable poker event under the Nebraska Charitable Poker Act.

5 Sec. 16. Member means a person who has qualified for and
6 been admitted to membership in a licensed organization pursuant
7 to its bylaws, articles of incorporation, charter, rules, or other
8 written statement for purposes other than conducting activities
9 under the Nebraska Charitable Poker Act. Member does not include
10 social or honorary members.

11 Sec. 17. Net profit means the gross profit from a
12 charitable poker event less allowable expenses incurred by a
13 licensed organization in connection with the charitable poker
14 event.

15 Sec. 18. Premises means a building or a distinct portion
16 of a building and does not include any area of land surrounding the
17 building.

18 Sec. 19. Revoke means to permanently void and recall all
19 rights and privileges of an organization or a person to obtain a
20 license.

21 Sec. 20. Suspend means to cause a temporary interruption
22 of all rights and privileges of a license or the renewal thereof.

23 Sec. 21. Utilization-of-funds member means a member of
24 a licensed organization who is responsible for supervising the
25 conduct of a charitable poker event and for the proper utilization

1 of the gross proceeds derived from the conduct of the charitable
2 poker event.

3 Sec. 22. Volunteer fire company or volunteer first-aid,
4 rescue, ambulance, or emergency squad means a volunteer association
5 or organization serving any city, village, county, township, or
6 rural or suburban fire protection district in Nebraska by providing
7 fire protection or emergency response services for the purpose of
8 protecting human life, health, or property.

9 Sec. 23. The department shall have the following powers,
10 functions, and duties:

11 (1) To issue licenses and temporary licenses;

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

1 licensee:

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

9 (b) Knowingly caused, aided, abetted, or conspired with
10 another to cause any person to violate any of the provisions of
11 such acts or any rules or regulations adopted and promulgated
12 pursuant to such acts;

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

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

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

24 (f) Denied the department or its authorized
25 representatives, including authorized law enforcement agencies,

1 access to any place where charitable poker event activity required
2 to be licensed under the Nebraska Charitable Poker Act is being
3 conducted or failed to produce for inspection or audit any book,
4 record, document, or item required by law, rule, or regulation;

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

7 (h) Failed to prove by clear and convincing evidence his,
8 her, or its qualifications to be licensed in accordance with the
9 Nebraska Charitable Poker Act;

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

16 (j) Failed to pay an administrative fine levied pursuant
17 to the Nebraska Bingo Act, the Nebraska Charitable Poker Act, the
18 Nebraska County and City Lottery Act, the Nebraska Lottery and
19 Raffle Act, or the Nebraska Pickle Card Lottery Act;

20 (k) Failed to demonstrate good character, honesty, and
21 integrity;

22 (l) Failed to demonstrate, either individually or, in the
23 case of a business entity or a nonprofit organization, through
24 its managers, employees, or agents, the ability, experience, or
25 financial responsibility necessary to establish or maintain the

1 activity for which the application is made; or

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

8 No renewal of a license under the Nebraska Charitable
9 Poker Act shall be issued when the applicant for renewal would not
10 be eligible for a license upon a first application;

11 (3) To revoke, cancel, or suspend for cause any license.
12 Cause for revocation, cancellation, or suspension of a license
13 shall include instances in which the licensee individually or,
14 in the case of a business entity or a nonprofit organization,
15 any officer, director, employee, or limited liability company
16 member of the licensee, other than an employee whose duties are
17 purely ministerial in nature, any other person or entity directly
18 or indirectly associated with such licensee which directly or
19 indirectly receives compensation other than distributions from
20 a bona fide retirement or pension plan established pursuant to
21 Chapter 1, subchapter D of the Internal Revenue Code from such
22 licensee for past or present services in a consulting capacity
23 or otherwise, or any person with a substantial interest in the
24 licensee:

25 (a) Violated the provisions, requirements, conditions,

1 limitations, or duties imposed by the Nebraska Bingo Act, the
2 Nebraska Charitable Poker Act, the Nebraska County and City Lottery
3 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card
4 Lottery Act, the Nebraska Small Lottery and Raffle Act, the State
5 Lottery Act, or any rules or regulations adopted and promulgated
6 pursuant to such acts;

7 (b) Knowingly caused, aided, abetted, or conspired with
8 another to cause any person to violate any of the provisions of the
9 Nebraska Charitable Poker Act or any rules or regulations adopted
10 and promulgated pursuant to the act;

11 (c) Obtained a license pursuant to the Nebraska
12 Charitable Poker Act by fraud, misrepresentation, or concealment;

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

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

22 (f) Denied the department or its authorized
23 representatives, including authorized law enforcement agencies,
24 access to any place where charitable poker event activity required
25 to be licensed under the act is being conducted or failed to

1 produce for inspection or audit any book, record, document, or item
2 required by law, rule, or regulation;

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

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

11 (i) Failed to pay an administrative fine levied pursuant
12 to the Nebraska Bingo Act, the Nebraska Charitable Poker Act, the
13 Nebraska County and City Lottery Act, the Nebraska Lottery and
14 Raffle Act, or the Nebraska Pickle Card Lottery Act;

15 (j) Failed to demonstrate good character, honesty, and
16 integrity;

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

22 (l) Was cited and whose liquor license was suspended,
23 canceled, or revoked by the Nebraska Liquor Control Commission for
24 illegal gambling activities that occurred on or after July 20,
25 2002, on or about a premises licensed by the commission pursuant

1 to the Nebraska Liquor Control Act or the rules and regulations
2 adopted and promulgated pursuant to such act;

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

1 appear at the hearing after being duly notified, the licensee or
2 other person shall be deemed in default and the proceeding may be
3 determined against the licensee or other person upon consideration
4 of the cease and desist order, the allegations of which may be
5 deemed to be true;

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

1 of an organization and shall be remitted by the violator to the
2 department within thirty days after the date of the order issued by
3 the department levying such fine;

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

10 (7) To require periodic reports of charitable poker
11 event activity from licensed nonprofit organizations, charitable
12 poker event operators, and any other persons, organizations,
13 limited liability companies, or corporations as the department
14 deems necessary to carry out the act;

15 (8) To examine or to cause to have examined, by any
16 agent or representative designated by the department for such
17 purpose, any books, papers, records, or memoranda relating to the
18 conduct of charitable poker events of any licensee, to require by
19 administrative order or summons the production of such documents
20 or the attendance of any person having knowledge in the premises,
21 to take testimony under oath, and to require proof material for
22 its information. If any such person willfully refuses to make
23 documents available for examination by the department or its agent
24 or representative or willfully fails to attend and testify, the
25 department may apply to a judge of the district court of the county

1 in which such person resides for an order directing such person to
2 comply with the department's request. If any documents requested
3 by the department are in the custody of a corporation, the court
4 order may be directed to any principal officer of the corporation.
5 If the documents requested by the department are in the custody of
6 a limited liability company, the court order may be directed to any
7 member when management is reserved to the members or otherwise to
8 any manager. Any person who fails or refuses to obey such a court
9 order shall be guilty of contempt of court;

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

14 (10) To collect license application and license renewal
15 application fees imposed by the Nebraska Charitable Poker Act and
16 to prorate license fees on an annual basis. The department shall
17 establish by rule and regulation the conditions and circumstances
18 under which such fees may be prorated;

19 (11) To adopt and promulgate such rules and regulations
20 and prescribe all forms as are necessary to carry out the Nebraska
21 Charitable Poker Act; and

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

24 Sec. 24. (1) The department shall remit any
25 administrative fines collected under section 23 of this act

1 to the State Treasurer on a monthly basis for distribution in
2 accordance with Article VII, section 5, of the Constitution of
3 Nebraska.

4 (2) Any administrative fine levied under section 23 of
5 this act and unpaid shall constitute a debt to the State of
6 Nebraska which may be collected by lien foreclosure, or sued for
7 and recovered in any proper form of action, in the name of the
8 State of Nebraska, in the district court of the county in which the
9 violator resides or owns property.

10 Sec. 25. (1) Before any application is denied pursuant to
11 section 23 of this act, the department shall notify the applicant
12 in writing by certified mail of the department's intention to
13 deny the application and the reasons for the denial. Such notice
14 shall inform the applicant of his or her right to request an
15 administrative hearing for the purpose of reconsideration of the
16 intended denial of the application. The date the notice is mailed
17 shall be deemed to be the date of service of notice to the
18 applicant.

19 (2) A request for a hearing by the applicant shall be in
20 writing and shall be filed with the department within thirty days
21 after the service of notice to the applicant of the department's
22 intended denial of the application. If a request for hearing is not
23 filed within the thirty-day period, the application denial shall
24 become final at the expiration of such period.

25 (3) If a request for hearing is filed within the

1 thirty-day period, the Tax Commissioner shall grant the applicant
2 a hearing and shall, at least ten days before the hearing,
3 serve notice upon the applicant by certified mail, return receipt
4 requested, of the time, date, and place of the hearing. Such
5 proceedings shall be considered contested cases pursuant to the
6 Administrative Procedure Act.

7 Sec. 26. (1) The Tax Commissioner may suspend any license
8 issued pursuant to the Nebraska Charitable Poker Act except a
9 license issued pursuant to section 30 of this act, except that no
10 order to suspend any license shall be issued unless the department
11 determines that the licensee is not operating in accordance with
12 the purposes and intent of the Nebraska Bingo Act, the Nebraska
13 Charitable Poker Act, the Nebraska County and City Lottery Act, the
14 Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery
15 Act, the Nebraska Small Lottery and Raffle Act, the State Lottery
16 Act, or any rules or regulations adopted and promulgated pursuant
17 to such acts. The Tax Commissioner may suspend a license issued
18 pursuant to section 30 of this act after a hearing upon a finding
19 by the department that the licensee is not operating in accordance
20 with the purposes and intent of such acts.

21 (2) Before any license is suspended prior to a hearing,
22 notice of an order to suspend a license shall be mailed to or
23 personally served upon the licensee at least fifteen days before
24 the order of suspension takes effect.

25 (3) The order of suspension may be withdrawn if the

1 licensee provides the department with evidence that any prior
2 findings or violations have been corrected and that the licensee is
3 now in full compliance, whether before or after the effective date
4 of the order of suspension.

5 (4) The Tax Commissioner may issue an order of suspension
6 pursuant to subsections (1) and (2) of this section when an action
7 for suspension, cancellation, or revocation is pending. The Tax
8 Commissioner may also issue an order of suspension after a hearing
9 for a limited time of up to one year without an action for
10 cancellation or revocation pending.

11 (5) The hearing for suspension, cancellation, or
12 revocation of the license shall be held within twenty days after
13 the date the suspension takes effect. A request by the licensee
14 to hold the hearing after the end of the twenty-day period shall
15 extend the suspension until the hearing.

16 (6) The decision of the department shall be made within
17 twenty days after the conclusion of the hearing. The suspension
18 shall continue in effect until the decision is issued. If
19 the decision is that an order of suspension, revocation, or
20 cancellation is not appropriate, the suspension shall terminate
21 immediately by order of the Tax Commissioner. If the decision is
22 an order for the suspension, revocation, or cancellation of the
23 license, the suspension shall continue pending an appeal of the
24 decision of the department.

25 (7) Any period of suspension prior to the issuance of

1 an order of suspension issued by the Tax Commissioner shall count
2 toward the total amount of time a licensee shall be suspended
3 from gaming activities under the Nebraska Charitable Poker Act.
4 Any period of suspension prior to the issuance of an order of
5 cancellation shall not reduce the period of the cancellation. Any
6 period of suspension after the issuance of the order and during an
7 appeal shall be counted as a part of the period of cancellation.

8 Sec. 27. Before the adoption, amendment, or repeal of any
9 rule or regulation, the suspension, revocation, or cancellation of
10 any license pursuant to section 23 of this act, or the levying
11 of an administrative fine pursuant to section 23 of this act,
12 the department shall set the matter for hearing. Such suspension,
13 revocation, or cancellation proceedings or proceedings to levy
14 an administrative fine shall be contested cases pursuant to the
15 Administrative Procedure Act.

16 At least ten days before the hearing, the department
17 shall (1) in the case of suspension, revocation, or cancellation
18 proceedings or proceedings to levy an administrative fine, serve
19 notice upon the licensee or violator by personal service or
20 certified mail, return receipt requested, of the time, date, and
21 place of any hearing or (2) in the case of adoption, amendment,
22 or repeal of any rule or regulation, issue a public notice of the
23 time, date, and place of such hearing.

24 This section shall not apply to an order of suspension by
25 the Tax Commissioner prior to a hearing as provided in section 26

1 of this act.

2 Sec. 28. (1) A copy of the order or decision of the
3 department in any proceeding before it, certified under the seal
4 of the department, shall be served upon each party of record to
5 the proceeding before the department. Service upon any attorney of
6 record for any such party shall be deemed to be service upon such
7 party. Each party appearing before the department shall enter his
8 or her appearance and indicate to the department his or her address
9 for the service of a copy of any order, decision, or notice. The
10 mailing of any copy of any order or decision or of any notice in
11 the proceeding, to such party at such address, shall be deemed to
12 be service upon such party.

13 (2) At the time of making an appearance before the
14 department, each party shall deposit in cash or furnish a
15 sufficient security for costs in an amount the department deems
16 adequate to cover all costs liable to accrue, including costs for
17 (a) reporting the testimony to be adduced, (b) making up a complete
18 transcript of the hearing, and (c) extending reporter's original
19 notes in typewriting.

20 (3) Any decision of the department in any proceeding
21 before it may be appealed, and the appeal shall be in accordance
22 with the Administrative Procedure Act.

23 Sec. 29. (1) Any nonprofit organization holding a
24 certificate of exemption under section 501(c)(3), (c)(4), (c)(5),
25 (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code

1 or any volunteer fire company or volunteer first-aid, rescue,
2 ambulance, or emergency squad may apply for a license to conduct
3 a charitable poker event.

4 (2) Prior to applying for any license, an organization
5 shall:

6 (a) Be incorporated in this state as a not-for-profit
7 corporation or organized in this state as a religious or
8 not-for-profit organization. For purposes of this subsection,
9 a domesticated foreign corporation shall not be considered
10 incorporated in this state as a not-for-profit corporation;

11 (b) Conduct activities within this state in addition to
12 the conduct of charitable poker events;

13 (c) Be authorized by its constitution, articles, charter,
14 or bylaws to further in this state a lawful purpose;

15 (d) Operate without profit to its members, and no part of
16 the net earnings of such organization shall inure to the benefit of
17 any private shareholder or individual; and

18 (e) With the exception of a volunteer fire company
19 or volunteer first-aid, rescue, ambulance, or emergency squad,
20 have been in existence in this state for five years immediately
21 preceding its application for a license and have had during
22 that five-year period a bona fide membership actively engaged in
23 furthering a lawful purpose. A society defined in section 21-608
24 which is chartered in Nebraska under a state, grand, supreme,
25 national, or other governing body may use the charter date of its

1 parent organization to satisfy such five-year requirement.

2 Sec. 30. (1) Each applicant for a license to conduct
3 a charitable poker event shall file with the department an
4 application on a form prescribed by the department.

5 (2) Each application shall include:

6 (a) The name and address of the applicant;

7 (b) Sufficient facts relating to the incorporation or
8 organization of the applicant to enable the department to determine
9 if the applicant is eligible for a license under section 29 of this
10 act;

11 (c) The name and address of each officer of the applicant
12 organization;

13 (d) The name, address, social security number, date of
14 birth, and years of membership of a bona fide and active member of
15 the applicant organization to be licensed as a utilization-of-funds
16 member. Such person shall have been an active and bona fide member
17 of the applicant organization for at least one year preceding
18 the date the application is filed with the department unless
19 the applicant organization can provide evidence that the one-year
20 requirement would impose an undue hardship on the organization.
21 Such person shall sign a sworn statement indicating that he or she
22 agrees to comply with all provisions of the Nebraska Charitable
23 Poker Act and all rules and regulations adopted pursuant to the
24 act, that no commission, fee, rent, salary, profits, compensation,
25 or recompense will be paid to any person or organization, except

1 payments authorized by the Nebraska Charitable Poker Act, and
2 that all net profits will be spent only for lawful purposes. The
3 department may prescribe a separate application for such license;

4 (e) A roster of members if the department deems it
5 necessary and proper; and

6 (f) Other information which the department deems
7 necessary.

8 (3) The information required by this section shall be
9 kept current. An organization shall notify the department within
10 thirty days if any information in the application is no longer
11 correct and shall supply the correct information.

12 (4) The department may prescribe a separate application
13 form for renewal purposes.

14 Sec. 31. (1) All licenses to conduct a charitable poker
15 event and licenses issued to utilization-of-funds members shall
16 expire as provided in this section and may be renewed biennially.
17 An application for license renewal shall be submitted to the
18 department at least forty-five days prior to the expiration date of
19 the license.

20 (2) A license to conduct a charitable poker event issued
21 to a nonprofit organization holding a certificate of exemption
22 under section 501(c)(3) or (c)(4) of the Internal Revenue Code and
23 any license issued to a utilization-of-funds member for such
24 nonprofit organization shall expire on September 30 of each
25 odd-numbered year or on such other date as the department may

1 prescribe by rule and regulation.

2 (3) A license to conduct a charitable poker event issued
3 to a nonprofit organization holding a certificate of exemption
4 under section 501(c)(5), (c)(7), (c)(8), (c)(10), or (c)(19)
5 of the Internal Revenue Code or any volunteer fire company or
6 volunteer first-aid, rescue, ambulance, or emergency squad and any
7 license issued to a utilization-of-funds member for such nonprofit
8 organization or volunteer fire company or volunteer first-aid,
9 rescue, ambulance, or emergency squad shall expire on September 30
10 of each even-numbered year or on such other date as the department
11 may prescribe by rule and regulation.

12 (4) A biennial license fee of up to two hundred dollars
13 shall be charged for each licensed organization and forty dollars
14 for a license for each utilization-of-funds member. The department
15 shall remit the fees to the State Treasurer for credit to the
16 Charitable Gaming Operations Fund.

17 (5) The department shall adopt and promulgate rules
18 and regulations establishing procedures to assess licensed
19 organizations the biennial license fee based on a rate of
20 twenty-five dollars per charitable poker event held during the
21 license period.

22 Sec. 32. (1) A charitable poker event operator shall
23 not be eligible to operate a charitable poker event without first
24 obtaining a license.

25 (2) Any sole proprietorship, partnership, limited

1 liability company, or corporation wishing to operate as a
2 charitable poker event operator in this state shall file an
3 application with the department for a license on a form prescribed
4 by the department. Each application for a license shall include
5 (a) the name, address, and state identification number of the
6 sole proprietorship, partnership, limited liability company, or
7 corporation applying for the license, (b) a description of the
8 premises on which the charitable poker event will be conducted, (c)
9 if the applicant is an individual, the applicant's social security
10 number, and (d) such other information which the department deems
11 necessary. The information required by this subsection shall be
12 kept current. A charitable poker event operator shall notify the
13 department within thirty days if any information in the application
14 is no longer correct and shall supply the correct information,
15 except that if the information is regarding a new location for the
16 charitable poker event, then the charitable poker event operator
17 shall notify the department at least seven days prior to the
18 charitable poker event.

19 (3) A biennial fee of five hundred dollars shall be
20 charged for each license issued pursuant to this section and shall
21 be paid by the applicant. A licensed organization shall not pay
22 the required licensing fees of a charitable poker event operator as
23 an inducement for the charitable poker event operator to operate a
24 charitable poker event on its behalf. Such licenses shall expire on
25 September 30 of each odd-numbered year or on such other date as the

1 department may prescribe by rule and regulation and may be renewed
2 biennially. The department shall remit the proceeds from such
3 license fees to the State Treasurer for credit to the Charitable
4 Gaming Operations Fund. An application for license renewal shall
5 be submitted to the department at least sixty days prior to the
6 expiration date of the license.

7 (4) One license issued to any sole proprietorship,
8 partnership, limited liability company, or corporation under this
9 section as a charitable poker event operator shall cover the
10 sole proprietorship, partnership, limited liability company, or
11 corporation and the employees of the licensed charitable poker
12 event operator. Any license issued pursuant to this section shall
13 be valid only for the sole proprietorship, partnership, limited
14 liability company, or corporation in the name of which it was
15 issued and shall allow the conduct of a charitable poker event
16 only on the premises described in the application for a license.
17 A charitable poker event operator shall notify the department
18 at least seven days prior to a charitable poker event that is
19 to be conducted at a location not on the application and shall
20 supply the correct information regarding its location. A charitable
21 poker event operator's license may not be transferred under any
22 circumstances including change of ownership.

23 (5) The department may prescribe a separate application
24 form for renewal purposes.

25 (6) A licensed charitable poker event operator shall

1 not conduct a charitable poker event on behalf of a licensed
2 organization until an authorization has been obtained from
3 the department by the licensed organization. The licensed
4 organization shall file an application with the department for
5 such authorization on a form prescribed by the department. Each
6 application for an authorization shall include (a) the name,
7 address, and state identification number of the licensed charitable
8 poker event operator and (b) such other information which the
9 department deems necessary. The application shall include a
10 statement signed by a person licensed as a utilization-of-funds
11 member signifying that such licensed organization approves the
12 charitable poker event operator to conduct a charitable poker event
13 on behalf of such organization.

14 (7) A charitable poker event operator may conduct a
15 charitable poker event on behalf of more than one licensed
16 organization. Each licensed organization for which the charitable
17 poker event operator desires to conduct a charitable poker event
18 shall obtain the authorization described in subsection (6) of this
19 section.

20 Sec. 33. (1) Any organization licensed to conduct a
21 charitable poker event shall use the net profit from the charitable
22 poker event for a lawful purpose.

23 (2) When any organization licensed to conduct a
24 charitable poker event contracts with a charitable poker event
25 operator, such organization shall provide the charitable poker

1 event operator with a copy of the organization's license or other
2 adequate identification indicating that such organization has a
3 valid license issued pursuant to section 30 of this act.

4 Sec. 34. A charitable poker event operator shall maintain
5 records of gross receipts from each charitable poker event and,
6 within thirty days after the charitable poker event, shall report
7 to the department, in a manner prescribed by the department,
8 detailed information concerning each charitable poker event. Such
9 information shall include, but not be limited to, (1) the total
10 number of participants, (2) the amount won or lost by each
11 participant, (3) the gross receipts, and (4) any other information
12 the department deems necessary.

13 Sec. 35. (1) Accompanying the reporting requirements in
14 section 34 of this act, the licensed organization shall remit
15 to the department a tax equal to ten percent of the definite
16 profit of each charitable poker event. Such tax shall be remitted
17 with and reported on a form prescribed by the department within
18 thirty days after each charitable poker event and shall be due and
19 payable within thirty days after each charitable poker event. The
20 department shall remit the tax to the State Treasurer for credit
21 to the Charitable Gaming Operations Fund. All deficiencies of the
22 tax prescribed in this section shall accrue interest and be subject
23 to a penalty as provided for sales and use taxes in the Nebraska
24 Revenue Act of 1967.

25 (2) Unless otherwise provided in the Nebraska Charitable

1 Poker Act, no occupation tax on any proceeds derived from the
2 conduct of a charitable poker event shall be levied, assessed, or
3 collected from any licensee under the act by any county, township,
4 district, city, village, or other governmental subdivision or body
5 having power to levy, assess, or collect such tax.

6 (3) For purposes of proper administration of the tax
7 imposed by this section and to prevent evasion of the tax, it shall
8 be presumed that each charitable poker event is subject to the
9 tax until the contrary is established. The burden of proving the
10 contrary shall be upon the licensed organization.

11 Sec. 36. (1) No person under twenty-one years of age
12 shall play or participate in any way in any charitable poker event.

13 (2) No person or licensee, or employee or agent thereof,
14 shall knowingly permit an individual under twenty-one years of age
15 to play or participate in any way in any charitable poker event
16 conducted pursuant to the Nebraska Charitable Poker Act.

17 Sec. 37. A licensed organization may conduct no more
18 than four charitable poker events per year. A cash game may be
19 considered to be one charitable poker event if it is conducted
20 within a consecutive twenty-four-hour period. A tournament may be
21 considered to be one charitable poker event if it is conducted
22 within a consecutive seventy-two-hour period.

23 Sec. 38. A licensed organization and the charitable poker
24 event operator shall insure that no person participating in a
25 charitable poker event loses more than one thousand dollars at a

1 single charitable poker event.

2 Sec. 39. (1) The gross proceeds of any charitable poker
3 event shall be used solely for lawful purposes, awarding of prizes,
4 any commission paid to a charitable poker event operator, and
5 allowable expenses.

6 (2) Not less than fifty percent or more than seventy-five
7 percent of the gross proceeds of any charitable poker event shall
8 be used for the awarding of prizes.

9 (3) Not more than twelve percent of the definite
10 profit of a charitable poker event shall be used by the
11 licensed organization to pay the allowable expenses of
12 operating a charitable poker event, except that license fees
13 paid to the department to license the organization and each
14 utilization-of-funds member shall not be included in determining
15 the twelve-percent limitation on expenses.

16 (4) Not more than fifty percent of the definite profit of
17 a charitable poker event shall be used by a licensed organization
18 to pay a charitable poker event operator a commission, fee, or
19 salary for conducting a charitable poker event on behalf of the
20 licensed organization.

21 Sec. 40. (1) For each charitable poker event, the
22 department shall determine the following: (a) The portion of
23 the definite profit from that charitable poker event which shall
24 go to the licensed organization, such amount to be not less than
25 seventy percent of the definite profit from such charitable poker

1 event; (b) the maximum amount of the definite profit from the
2 charitable poker event that a licensed organization may pay a
3 charitable poker event operator as a commission, fee, or salary
4 to conduct the charitable poker event on its behalf, such amount
5 not to exceed thirty percent of the definite profit from such
6 charitable poker event; and (c) the portion of the definite profit
7 from the charitable poker event which may be expended by a licensed
8 organization for allowable expenses, such amount not to exceed
9 twelve percent of the definite profit from the charitable poker
10 event.

11 (2) The licensed organization's net profit from the
12 charitable poker event shall be used exclusively for a lawful
13 purpose. A licensed organization shall not donate or promise to
14 donate its net profit or any portion of the net profit to a
15 recipient outside of its organization as an inducement for or
16 in exchange for (a) a payment, gift, or other thing of value
17 from the recipient to any person, organization, or corporation,
18 including, but not limited to, the licensed organization or any
19 of its members, employees, or agents, or (b) a charitable poker
20 event operator's agreement to conduct the charitable poker event on
21 behalf of the licensed organization.

22 Sec. 41. (1) The definite profit, less not more than
23 thirty percent of the definite profit as allowed by subsection
24 (4) of section 39 of this act, of any charitable poker event
25 and all amounts received by any licensed organization from the

1 charitable poker event shall be segregated from other revenue of
2 any licensed organization conducting the charitable poker event and
3 placed in a separate checking account. All lawful purpose donations
4 and expenses relating to the licensed organization's charitable
5 poker event, including the allowable expenses and any license
6 fees paid to the department to license the organization and each
7 utilization-of-funds member, but excluding the payment of prizes,
8 shall be paid by check from such account and shall be made payable
9 to the ultimate user of such lawful purpose donations or expenses.

10 (2) Separate records shall be maintained by any licensed
11 organization conducting a charitable poker event. Each nonprofit
12 organization conducting a charitable poker event shall keep a
13 record of all locations or persons who are paid to conduct a
14 charitable poker event. Records and lists required by the Nebraska
15 Charitable Poker Act shall be preserved for at least three years.
16 Any law enforcement agency or other agency of government shall have
17 the authority to investigate the records relating to charitable
18 poker events and gross proceeds from such events at any time.
19 Organizations shall, upon proper written request, deliver all such
20 records to the department, law enforcement agency, or other agency
21 of government for investigation.

22 Sec. 42. (1) A charitable poker event shall fund itself
23 after its first year of existence and shall not receive money
24 from any other source, including the operation of other charitable
25 gaming activities, for the payment of prizes, allowable expenses,

1 any commission paid to a charitable poker event operator, lawful
2 purpose donations, or any other expense associated with the
3 operation of the charitable poker event except as provided in
4 subsection (2) of this section.

5 (2) A licensed organization establishing a charitable
6 poker event may finance such event with money from the general fund
7 of the licensed organization during the first year of operation of
8 the charitable poker event. General fund money used to finance a
9 charitable poker event may be repaid from funds received by the
10 licensed organization from the charitable poker event.

11 (3) A licensed organization may commingle funds received
12 from the charitable poker event with any general operating funds
13 of the licensed organization by means of a check drawn on the
14 charitable poker event checking account or by electronic funds
15 transfer from that account, but the burden of proof shall be on the
16 licensed organization to demonstrate that such commingled funds are
17 not used to make any payments associated with the operation of the
18 charitable poker event and are used for a lawful purpose.

19 Sec. 43. (1) A licensed organization conducting a
20 charitable poker event shall report annually to the department,
21 on a form prescribed by the department, a complete and accurate
22 accounting of its gross proceeds from the charitable poker event.
23 The annual report shall demonstrate that the organization's
24 definite profit from charitable poker events has been retained
25 in the organization's charitable poker event checking account or

1 expended solely for allowable expenses, any charitable poker event
2 operator commissions, lawful purpose donations, and any license
3 fees paid to the department to license the organization and each
4 utilization-of-funds member.

5 (2) The annual report shall cover the organization's
6 charitable poker event activities from July 1 through June 30 of
7 each year or such other period as the department may prescribe
8 by rule and regulation. Such report shall be submitted to the
9 department on or before August 15 of each year or such other date
10 as the department may prescribe by rule and regulation.

11 (3) A copy of the report shall be submitted to the
12 organization's membership.

13 (4) Upon dissolution of a licensed organization or if
14 a previously licensed organization does not renew its license to
15 conduct a charitable poker event, its license renewal application
16 is denied, or its license is canceled or revoked, all remaining
17 profits derived from the conduct of the charitable poker event
18 shall be utilized for a lawful purpose and shall not be distributed
19 to any private individual or shareholder. A complete and accurate
20 report of the organization's charitable poker event activity shall
21 be filed with the department, on a form prescribed by the
22 department, no later than forty-five days after the date the
23 organization is dissolved or no later than forty-five days after
24 the expiration date of the license or the effective date of
25 the license renewal application denial or license cancellation or

1 revocation. The report shall cover the period from the end of the
2 organization's most recent annual report filed through the date
3 the organization is dissolved or the date the license renewal
4 application has been denied or the license has been canceled or
5 revoked or has otherwise expired. The organization shall include
6 with the report a plan for the disbursement of any remaining
7 profits which shall be subject to approval by the department. Such
8 plan shall identify the specific purposes for which the remaining
9 profits will be utilized.

10 (5) In addition to the reports required by subsections
11 (1) and (4) of this section, the department may prescribe by rule
12 and regulation the filing of a charitable poker event revenue
13 status report by August 15 of each year or such other date
14 as the department may prescribe by rule and regulation, on a
15 form prescribed by the department, listing all disbursements of
16 charitable poker event revenue until all such revenue has been
17 expended either for allowable expenses or for a lawful purpose.

18 Sec. 44. (1) No person or organization other than those
19 qualifying under section 29 of this act and licensed pursuant to
20 section 30 of this act shall be permitted to conduct a charitable
21 poker event in this state.

22 (2) Any person who violates this section shall be guilty
23 of a Class I misdemeanor.

24 Sec. 45. (1) Except when another penalty is specifically
25 provided, any person or licensee, or employee or agent thereof, who

1 violates any provision of the Nebraska Charitable Poker Act, or who
2 causes, aids, abets, or conspires with another to cause any person
3 or licensee or any employee or agent thereof to violate the act,
4 shall be guilty of a Class I misdemeanor for the first offense
5 and a Class IV felony for any second or subsequent violation.
6 Any licensee guilty of violating any provision of the act more
7 than once in a twelve-month period may have its license canceled
8 or revoked. Such matters may also be referred to any other state
9 licensing agencies for appropriate action.

10 (2) Each of the following violations of the Nebraska
11 Charitable Poker Act shall be a Class IV felony:

12 (a) Giving, providing, or offering to give or provide,
13 directly or indirectly, to any public official, employee, or agent
14 of this state, or any agencies or political subdivisions of this
15 state, any compensation or reward or share of the money for
16 property paid or received through gambling activities regulated
17 under Chapter 9 in consideration for obtaining any license,
18 authorization, permission, or privilege to participate in any
19 gaming operations except as authorized under Chapter 9 or any rules
20 and regulations adopted and promulgated pursuant to such chapter;

21 (b) Intentionally employing or possessing any device to
22 facilitate cheating in any charitable poker event or use of any
23 fraudulent scheme or technique in connection with any charitable
24 poker event when the amount gained or intended to be gained through
25 the use of such items, schemes, or techniques is three hundred

1 dollars or more;

2 (c) Knowingly filing a false report under the Nebraska
3 Charitable Poker Act;

4 (d) Knowingly falsifying or making any false entry in any
5 books or records with respect to any transaction connected with the
6 conduct of a charitable poker event; or

7 (e) Knowingly conducting a charitable poker event
8 without first obtaining a license in accordance with the Nebraska
9 Charitable Poker Act.

10 (3) In all proceedings initiated in any court or
11 otherwise under the act, it shall be the duty of the Attorney
12 General and appropriate county attorney to prosecute and defend all
13 such proceedings.

14 (4) The failure to do any act required by or under the
15 Nebraska Charitable Poker Act shall be deemed an act in part in the
16 principal office of the department. Any prosecution under such act
17 may be conducted in any county where the defendant resides or has a
18 place of business or in any county in which any violation occurred.

19 (5) In the enforcement and investigation of any offense
20 committed under the act, the department may call to its aid any
21 sheriff, deputy sheriff, or other peace officer in the state.

22 Sec. 46. Any person in this state, including any law
23 enforcement official, who has cause to believe that (1) any
24 licensed organization, (2) any employee or agent of such licensed
25 organization, (3) any person acting in concert with such licensed

1 organization, or (4) any person in connection with a charitable
2 poker event has engaged in or is engaging in any conduct in
3 violation of the Nebraska Charitable Poker Act or has aided or is
4 aiding another in any conduct in violation of the act may commence
5 a civil action in any district court of this state.

6 Sec. 47. In any civil action commenced pursuant to
7 section 46 of this act, a court may allow:

8 (1) A temporary restraining order or injunction, with or
9 without a bond as the court may direct, prohibiting a party to the
10 action from continuing or engaging in such conduct, aiding in such
11 conduct, or doing any act in furtherance of such conduct;

12 (2) A declaration that the conduct by a licensed
13 organization or employee or agent of a licensed organization,
14 which is a party to the action, constitutes a violation of the
15 Nebraska Charitable Poker Act and a determination of the number
16 and times of violations for certification to the department for
17 appropriate license revocation purposes;

18 (3) A permanent injunction under principles of equity and
19 on reasonable terms;

20 (4) An accounting of the profits, earnings, or gains
21 resulting directly and indirectly from such violations, with
22 restitution or a distribution of such profits, earnings, or
23 gains to all licensed organizations existing at the time of such
24 violations which apply to the court and show that they suffered
25 monetary losses by reason of such violations and with distribution

1 of any remaining profits, earnings, or gains to the state; and

2 (5) Reasonable attorney's fees and court costs.

3 Sec. 48. Proceedings under section 46 of this act shall
4 be subject to and governed by the district court civil procedure
5 statutes. Issues properly raised shall be tried and determined
6 as in other civil actions in equity. All orders, judgments, and
7 decrees rendered may be reviewed as other orders, judgments, and
8 decrees.

9 Sec. 49. (1) Except in accordance with a proper judicial
10 order or as otherwise provided by this section or other law, it
11 shall be a Class I misdemeanor for the Tax Commissioner or any
12 employee or agent of the Tax Commissioner to make known, in any
13 manner whatsoever, the contents of any tax return or any reports or
14 records or the contents of any personal history reports submitted
15 by any licensee or license applicant to the department pursuant to
16 the Nebraska Charitable Poker Act and any rules and regulations
17 adopted and promulgated pursuant to such act.

18 (2) Nothing in this section shall be construed to
19 prohibit (a) the delivery to a taxpayer, licensee, or his or her
20 duly authorized representative or his or her successors, receivers,
21 trustees, executors, administrators, assignees, or guarantors, if
22 directly interested, a certified copy of any tax return or report
23 or record, (b) the publication of statistics so classified as to
24 prevent the identification of particular tax returns or reports
25 or records, (c) the inspection by the Attorney General, a county

1 attorney, or other legal representative of the state of tax
2 returns or reports or records submitted by a licensee or license
3 applicant when information on the tax returns or reports or
4 records is considered by the Attorney General, county attorney,
5 or other legal representative to be relevant to any action or
6 proceeding instituted by the taxpayer or licensee or against
7 whom an action or proceeding is being considered or has been
8 commenced by any state agency or county, (d) the furnishing of any
9 information to the United States Government or to states allowing
10 similar privileges to the Tax Commissioner, (e) the disclosure of
11 information and records to a collection agency contracting with the
12 Tax Commissioner for the collection of delinquent taxes under the
13 Nebraska Charitable Poker Act, (f) the publication or disclosure
14 of final administrative opinions and orders made by the Tax
15 Commissioner in the adjudication of license denials, suspensions,
16 cancellations, or revocations or the levying of fines, (g) the
17 release of any application, without the contents of any submitted
18 personal history report or social security number, filed with the
19 department to obtain a license to conduct activities under the
20 act, which shall be deemed a public record, (h) the release of any
21 report filed pursuant to section 43 of this act or any other report
22 filed by a licensed organization or charitable poker event operator
23 pursuant to the act, which shall be deemed a public record, or
24 (i) the notification of an applicant, a licensee, or a licensee's
25 duly authorized representative of the existence of and the grounds

1 for any administrative action to deny the license application of,
2 to revoke, cancel, or suspend the license of, or to levy an
3 administrative fine upon any agent or employee of the applicant,
4 the licensee, or any other person upon whom the applicant or
5 licensee relies to conduct activities authorized by the act.

6 (3) Nothing in this section shall prohibit the Tax
7 Commissioner or any employee or agent of the Tax Commissioner from
8 making known the names of persons, firms, or corporations licensed
9 to conduct activities under the act, the locations at which such
10 activities are conducted by licensees, or the dates on which such
11 licenses were issued.

12 (4) Notwithstanding subsection (1) of this section, the
13 Tax Commissioner may permit the Postal Inspector of the United
14 States Postal Service or his or her delegates to inspect a tax
15 return or reports or records submitted by a licensee or license
16 applicant pursuant to the act when information on the returns
17 or reports or records is relevant to any action or proceeding
18 instituted or being considered by the United States Postal Service
19 against such person for the fraudulent use of the mails to
20 carry and deliver false and fraudulent tax returns to the Tax
21 Commissioner with the intent to defraud the State of Nebraska or to
22 evade the payment of Nebraska state taxes.

23 (5) Notwithstanding subsection (1) of this section, the
24 Tax Commissioner may permit other tax officials of this state to
25 inspect a tax return or reports or records submitted pursuant to

1 the act, but such inspection shall be permitted only for purposes
2 of enforcing a tax law and only to the extent and under the
3 conditions prescribed by the rules and regulations of the Tax
4 Commissioner.

5 Sec. 50. Section 2-219, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 2-219 No person shall be permitted to exhibit or conduct
8 indecent shows or dances or to engage in any gambling or other
9 games of chance or horseracing, either inside the enclosure where
10 any state fair or district or county agricultural society fair
11 is being held or within forty rods thereof, during the time of
12 holding such fairs. Nothing in this section shall be construed to
13 prohibit wagering on the results of horseraces by the parimutuel or
14 certificate method when conducted by licensees within the racetrack
15 enclosure at licensed horserace meetings, to prohibit the operation
16 of bingo games as provided in the Nebraska Bingo Act, to prohibit
17 the conduct of charitable poker events pursuant to the Nebraska
18 Charitable Poker Act, to prohibit the conduct of lotteries pursuant
19 to the Nebraska County and City Lottery Act, to prohibit the
20 conduct of lotteries or raffles pursuant to the Nebraska Lottery
21 and Raffle Act or the Nebraska Small Lottery and Raffle Act, or
22 to prohibit the sale of pickle cards pursuant to the Nebraska
23 Pickle Card Lottery Act. Nothing in this section shall be construed
24 to prohibit the sale of intoxicating liquors, wine, or beer by
25 a person properly licensed pursuant to Chapter 53 on premises

1 under the control of the Nebraska State Fair Board or any county
2 agricultural society. Any person who violates this section shall
3 be guilty of a Class V misdemeanor. The trial of speed of horses
4 under direction of the society shall not be included in the term
5 horseracing. Upon the filing of proof with the State Treasurer of
6 a violation of this section inside the enclosure of such fair,
7 the amount of money appropriated shall be withheld from any money
8 appropriated for the ensuing year.

9 Sec. 51. Section 9-1,101, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 9-1,101 (1) The Nebraska Bingo Act, the Nebraska
12 Charitable Poker Act, the Nebraska County and City Lottery Act,
13 the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card
14 Lottery Act, the Nebraska Small Lottery and Raffle Act, and section
15 9-701 shall be administered and enforced by the Charitable Gaming
16 Division of the Department of Revenue, which division is hereby
17 created. The Department of Revenue shall make annual reports to
18 the Governor, Legislature, Auditor of Public Accounts, and Attorney
19 General on all tax revenue received, expenses incurred, and other
20 activities relating to the administration and enforcement of such
21 acts.

22 (2) The Charitable Gaming Operations Fund is hereby
23 created. Any money in the fund available for investment shall be
24 invested by the state investment officer pursuant to the Nebraska
25 Capital Expansion Act and the Nebraska State Funds Investment Act.

1 (3) (a) Forty percent of the taxes collected pursuant
2 to sections 9-239, 9-344, 9-429, and 9-648 and section 35 of
3 this act shall be available to the Charitable Gaming Division
4 for administering and enforcing the acts listed in subsection
5 (1) of this section and section 81-8,128. The remaining sixty
6 percent shall be transferred to the General Fund. Any portion of
7 the forty percent not used by the division in the administration
8 and enforcement of such acts and section shall be distributed as
9 provided in this subsection.

10 (b) On or before November 1 each year, the State
11 Treasurer shall transfer fifty thousand dollars from the Charitable
12 Gaming Operations Fund to the Compulsive Gamblers Assistance Fund,
13 except that no transfer shall occur if the Charitable Gaming
14 Operations Fund contains less than fifty thousand dollars.

15 (c) Any money remaining in the Charitable Gaming
16 Operations Fund after the transfer pursuant to subdivision (b)
17 of this subsection not used by the Charitable Gaming Division in
18 its administration and enforcement duties pursuant to this section
19 may be transferred to the General Fund at the direction of the
20 Legislature.

21 (4) The Tax Commissioner shall employ investigators who
22 shall be vested with the authority and power of a law enforcement
23 officer to carry out the laws of this state administered by the Tax
24 Commissioner or the Department of Revenue and to enforce sections
25 28-1101 to 28-1117 relating to possession of a gambling device. For

1 purposes of enforcing sections 28-1101 to 28-1117, the authority
2 of the investigators shall be limited to investigating possession
3 of a gambling device, notifying local law enforcement authorities,
4 and reporting suspected violations to the county attorney for
5 prosecution.

6 (5) The Charitable Gaming Division may charge a fee for
7 publications and listings it produces. The fee shall not exceed the
8 cost of publication and distribution of such items. The division
9 may also charge a fee for making a copy of any record in its
10 possession equal to the actual cost per page. The division shall
11 remit the fees to the State Treasurer for credit to the Charitable
12 Gaming Operations Fund.

13 Sec. 52. Section 9-1,103, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 9-1,103 If any provision of the Nebraska Bingo Act, the
16 Nebraska Charitable Poker Act, the Nebraska Pickle Card Lottery
17 Act, the Nebraska Lottery and Raffle Act, the Nebraska Small
18 Lottery and Raffle Act, or the Nebraska County and City Lottery Act
19 or the application of such acts to any person or circumstance is
20 held invalid, the remainder of the acts or the application of the
21 provision to other persons or circumstances shall not be affected.

22 Sec. 53. Section 9-1,104, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 9-1,104 (1) Any person applying for or holding a contract
25 or license (a) as a distributor, gaming manager, or manufacturer

1 pursuant to the Nebraska Bingo Act, (b) as a charitable poker
2 event operator pursuant to the Nebraska Charitable Poker Act, (c)
3 as a distributor, manufacturer, pickle card operator, or sales
4 agent pursuant to the Nebraska Pickle Card Lottery Act, ~~(e)~~ (d)
5 as a lottery operator, lottery worker who is designated as a keno
6 manager or who has authority over the verification of winning
7 number selection by an electrically operated blower machine,
8 manufacturer-distributor, or sales outlet location pursuant to
9 the Nebraska County and City Lottery Act, or ~~(d)~~ (e) pursuant
10 to the State Lottery Act shall be subject to fingerprinting
11 and a check of his or her criminal history record information
12 maintained by the Identification Division of the Federal Bureau of
13 Investigation through the Nebraska State Patrol for the purpose of
14 determining whether the Department of Revenue has a basis to deny
15 the contract or license application or to suspend, cancel, revoke,
16 or terminate the person's contract or license. Each applicant
17 for or party holding a license as a manufacturer, distributor,
18 manufacturer-distributor, or lottery operator shall also submit a
19 personal history report to the department on a form provided by
20 the department and may be subject to a background investigation, an
21 inspection of the applicant's or licensee's facilities, or both. If
22 the applicant is an individual, the application shall also include
23 the applicant's social security number.

24 (2)(a) If the applicant, party to the contract, or
25 licensee is a corporation, the persons subject to such requirements

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

1 a consulting or other capacity which may impair the security,
2 honesty, or integrity of the operation or conduct of the activities
3 for which the application is made or contract or license is
4 held. If the applicant, party to the contract, or licensee is a
5 limited liability company, the persons subject to such requirement
6 shall include any member and his or her spouse. If the applicant,
7 party to the contract, or licensee is a nonprofit organization
8 or nonprofit corporation, the person subject to such requirement
9 shall be the person designated by such nonprofit organization or
10 nonprofit corporation as the manager.

11 (b) Notwithstanding the provisions of this section,
12 background investigations shall not be required of any debt holder
13 which is a financial institution organized or chartered under the
14 laws of this state, any other state, or the United States relating
15 to banks, savings institutions, trust companies, savings and loan
16 associations, credit unions, installment loan licensees, or similar
17 associations organized under the laws of this state and subject to
18 supervision by the Department of Banking and Finance.

19 (c) Notwithstanding the provisions of this section, if
20 an applicant for or party holding a license as a pickle card
21 operator, charitable poker event operator, sales agent, gaming
22 manager, lottery operator, lottery worker, or sales outlet location
23 is issued a license by the Nebraska Liquor Control Commission, the
24 Department of Revenue may waive the fingerprinting requirements for
25 criminal history record investigation purposes.

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

4 (b) The Department of Revenue may require an applicant
5 or licensee subjected to a background investigation, a facilities
6 inspection, or both to pay the actual costs incurred by the
7 department in conducting the investigation or inspection. The
8 department may require payment of the estimated costs in advance of
9 beginning the investigation or inspection. If an applicant does not
10 wish to pay the estimated costs, it may withdraw its application
11 and its application fee will be refunded. After completion of
12 the investigation or inspection, the department shall refund any
13 overpayment or shall charge and collect an amount sufficient to
14 reimburse the department for any underpayment of actual costs. The
15 department may establish by rule and regulation the conditions and
16 procedures for payment of the costs.

17 (4) Refusal to comply with this section by any person
18 contracted with, licensed, or seeking a contract or license under
19 the Nebraska Bingo Act, the Nebraska Charitable Poker Act, the
20 Nebraska County and City Lottery Act, the Nebraska Pickle Card
21 Lottery Act, or the State Lottery Act shall be a violation of
22 the act under which such person is contracted with, licensed, or
23 seeking a contract or license.

24 Sec. 54. Section 9-204, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 9-204 (1) Bingo shall mean that form of gambling in
2 which:

3 (a) The winning numbers are determined by random
4 selection from a pool of seventy-five or ninety numbered
5 designators; and

6 (b) Players mark by physically daubing or covering
7 or, with the aid of a bingo card monitoring device, otherwise
8 concealing those randomly selected numbers which match on bingo
9 cards which they have purchased or leased only at the time and
10 place of the bingo occasion.

11 (2) Bingo shall not mean or include:

12 (a) Any scheme which uses any mechanical gaming device,
13 computer gaming device, electronic gaming device, or video gaming
14 device which has the capability of awarding something of value,
15 free games redeemable for something of value, or tickets or stubs
16 redeemable for something of value;

17 (b) Any activity which is authorized or regulated under
18 the Nebraska Charitable Poker Act, the Nebraska County and City
19 Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska
20 Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act,
21 the State Lottery Act, section 9-701, or Chapter 2, article 12; or

22 (c) Any activity which is prohibited under Chapter 28,
23 article 11.

24 Sec. 55. Section 9-226, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 9-226 The department shall have the following powers,
2 functions, and duties:

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

4 (2) To deny any license or permit application or
5 renewal license application for cause. Cause for denial of an
6 application or renewal of a license shall include instances
7 in which the applicant individually or, in the case of a
8 business entity or a nonprofit organization, any officer, director,
9 employee, or limited liability company member of the applicant,
10 licensee, or permittee, other than an employee whose duties
11 are purely ministerial in nature, any other person or entity
12 directly or indirectly associated with such applicant, licensee, or
13 permittee 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 for past or present services in a
17 consulting capacity or otherwise, the licensee, or any person with
18 a substantial interest in the applicant, licensee, or permittee:

19 (a) Violated the provisions, requirements, conditions,
20 limitations, or duties imposed by the Nebraska Bingo Act, the
21 Nebraska Charitable Poker Act, the Nebraska County and City Lottery
22 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
23 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or
24 the State Lottery Act or any rules or regulations adopted and
25 promulgated pursuant to the 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 misdemeanor, involving any gambling activity or fraud,
10 theft, willful failure to make required payments or reports, or
11 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 bingo activity required to be licensed
19 or for which a permit is required under the Nebraska Bingo Act
20 is being conducted or failed to produce for inspection or audit
21 any book, record, document, or item required by law, rule, or
22 regulation;

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

25 (h) Failed to prove by clear and convincing evidence his,

1 her, or its qualifications to be licensed or granted a permit in
2 accordance with the Nebraska Bingo Act;

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

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

13 (k) Failed to demonstrate good character, honesty, and
14 integrity;

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

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

1 No renewal of a license under the Nebraska Bingo Act
2 shall be issued when the applicant for renewal would not be
3 eligible for a license upon a first application;

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

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

25 (b) Knowingly caused, aided, abetted, or conspired with

1 another to cause any person to violate any of the provisions of
2 the Nebraska Bingo Act or any rules or regulations adopted and
3 promulgated pursuant to the act;

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

6 (d) Was convicted of, forfeited bond upon the charge of,
7 or pleaded guilty or nolo contendere to any offense or crime,
8 whether a felony or a misdemeanor, involving any gambling activity
9 or fraud, theft, willful failure to make required payments or
10 reports, or filing false reports with a governmental agency at any
11 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 bingo activity required to be licensed
19 or for which a permit is required under the Nebraska Bingo Act
20 is being conducted or failed to produce for inspection or audit
21 any book, record, document, or item required by law, rule, or
22 regulation;

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

25 (h) Failed to pay any taxes and additions to taxes,

1 including penalties and interest, required by the Nebraska Bingo
2 Act, the Nebraska Charitable Poker Act, the Nebraska County and
3 City Lottery Act, the Nebraska Lottery and Raffle Act, or the
4 Nebraska Pickle Card Lottery Act or any other taxes imposed
5 pursuant to the Nebraska Revenue Act of 1967;

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

10 (j) Failed to demonstrate good character, honesty, and
11 integrity;

12 (k) Failed to demonstrate, either individually or, in the
13 case of a business entity or a nonprofit organization, through
14 its managers, employees, or agents, the ability, experience, or
15 financial responsibility necessary to maintain the activity for
16 which the license was issued; or

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

23 (4) To issue an order requiring a licensee, permittee, or
24 other person to cease and desist from violations of the Nebraska
25 Bingo Act or any rules and regulations adopted and promulgated

1 pursuant to such act. The order shall give reasonable notice of the
2 rights of the licensee, permittee, or other person to request a
3 hearing and shall state the reason for the entry of the order. The
4 notice of order to cease and desist shall be mailed by certified
5 mail to or personally served upon the licensee, permittee, or other
6 person. If the notice of order is mailed by certified mail, the
7 date the notice is mailed shall be deemed to be the date of service
8 of notice to the licensee, permittee, or other person. A request
9 for a hearing by the licensee, permittee, or other person shall be
10 in writing and shall be filed with the department within thirty
11 days after the service of the cease and desist order. If a request
12 for hearing is not filed within the thirty-day period, the cease
13 and desist order shall become permanent at the expiration of such
14 period. A hearing shall be held not later than thirty days after
15 the request for the hearing is received by the Tax Commissioner,
16 and within twenty days after the date of the hearing, the Tax
17 Commissioner shall issue an order vacating the cease and desist
18 order or making it permanent as the facts require. All hearings
19 shall be held in accordance with the rules and regulations adopted
20 and promulgated by the department. If the licensee, permittee, or
21 other person to whom a cease and desist order is issued fails
22 to appear at the hearing after being duly notified, the licensee,
23 permittee, or other person shall be deemed in default and the
24 proceeding may be determined against the licensee, permittee, or
25 other person upon consideration of the cease and desist order, the

1 allegations of which may be deemed to be true;

2 (5) To levy an administrative fine on an individual,
3 partnership, limited liability company, corporation, or
4 organization for cause. For purposes of this subdivision,
5 cause shall include instances in which the individual, partnership,
6 limited liability company, corporation, or organization violated
7 the provisions, requirements, conditions, limitations, or duties
8 imposed by the act or any rule or regulation adopted and
9 promulgated pursuant to the act. In determining whether to levy
10 an administrative fine and the amount of the fine if any fine
11 is levied, the department shall take into consideration the
12 seriousness of the violation, the intent of the violator, whether
13 the violator voluntarily reported the violation, whether the
14 violator derived financial gain as a result of the violation and
15 the extent thereof, and whether the violator has had previous
16 violations of the act, rules, or regulations. A fine levied on a
17 violator under this section shall not exceed one thousand dollars
18 for each violation of the act or any rule or regulation adopted and
19 promulgated pursuant to the act plus the financial benefit derived
20 by the violator as a result of each violation. If an administrative
21 fine is levied, the fine shall not be paid from bingo gross
22 receipts of an organization and shall be remitted by the violator
23 to the department within thirty days after the date of the order
24 issued by the department levying such fine;

25 (6) To enter or to authorize any law enforcement officer

1 to enter at any time upon any premises where bingo activity
2 required to be licensed or for which a permit is required under the
3 act is being conducted to determine whether any of the provisions
4 of the act or any rules or regulations adopted and promulgated
5 under the act have been or are being violated and at such time to
6 examine such premises;

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

10 (8) To examine or to cause to have examined, by any
11 agent or representative designated by the department for such
12 purpose, any books, papers, records, or memoranda relating to
13 bingo activities of any licensee or permittee, to require by
14 administrative order or summons the production of such documents
15 or the attendance of any person having knowledge in the premises,
16 to take testimony under oath, and to acquire proof material for
17 its information. If any such person willfully refuses to make
18 documents available for examination by the department or its agent
19 or representative or willfully fails to attend and testify, the
20 department may apply to a judge of the district court of the county
21 in which such person resides for an order directing such person to
22 comply with the department's request. If any documents requested
23 by the department are in the custody of a corporation, the court
24 order may be directed to any principal officer of the corporation.
25 If the documents requested by the department are in the custody of

1 a limited liability company, the court order may be directed to any
2 member when management is reserved to the members or otherwise to
3 any manager. Any person who fails or refuses to obey such a court
4 order shall be guilty of contempt of court;

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

10 (10) To collect license application, license renewal
11 application, and permit fees imposed by the Nebraska Bingo Act and
12 to prorate license fees on an annual basis. The department shall
13 establish by rule and regulation the conditions and circumstances
14 under which such fees may be prorated;

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

17 (12) To adopt and promulgate such rules and regulations,
18 prescribe such forms, and employ such staff, including inspectors,
19 as are necessary to carry out the act.

20 Sec. 56. Section 9-227, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 9-227 (1) The Tax Commissioner may suspend any license
23 or permit, except that no order to suspend any license or permit
24 shall be issued unless the department determines that the licensee
25 or permittee is not operating in accordance with the purposes and

1 intent of the Nebraska Bingo Act, the Nebraska Charitable Poker
2 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery
3 and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
4 Small Lottery and Raffle Act, the State Lottery Act, or any rules
5 or regulations adopted and promulgated pursuant to such acts.

6 (2) Before any license or permit is suspended prior to a
7 hearing, notice of an order to suspend a license or permit shall
8 be mailed to or personally served upon the licensee or permittee at
9 least fifteen days before the order of suspension takes effect.

10 (3) The order of suspension may be withdrawn if the
11 licensee or permittee provides the department with evidence that
12 any prior findings or violations have been corrected and that the
13 licensee or permittee is now in full compliance, whether before or
14 after the effective date of the order of suspension.

15 (4) The Tax Commissioner may issue an order of suspension
16 pursuant to subsections (1) and (2) of this section when an action
17 for suspension, cancellation, or revocation is pending. The Tax
18 Commissioner may also issue an order of suspension after a hearing
19 for a limited time of up to one year without an action for
20 cancellation or revocation pending.

21 (5) The hearing for suspension, cancellation, or
22 revocation of the license or permit shall be held within twenty
23 days after the date the suspension takes effect. A request by the
24 licensee or permittee to hold the hearing after the end of the
25 twenty-day period shall extend the suspension until the hearing.

1 (6) The decision of the department shall be made within
2 twenty days after the conclusion of the hearing. The suspension
3 shall continue in effect until the decision is issued. If
4 the decision is that an order of suspension, revocation, or
5 cancellation is not appropriate, the suspension shall terminate
6 immediately by order of the Tax Commissioner. If the decision is
7 an order for the suspension, revocation, or cancellation of the
8 license or permit, the suspension shall continue pending an appeal
9 of the decision of the department.

10 (7) Any period of suspension prior to the issuance of
11 an order of suspension issued by the Tax Commissioner shall count
12 toward the total amount of time a licensee or permittee shall
13 be suspended from gaming activities under the Nebraska Bingo Act.
14 Any period of suspension prior to the issuance of an order of
15 cancellation shall not reduce the period of the cancellation. Any
16 period of suspension after the issuance of the order and during an
17 appeal shall be counted as a part of the period of cancellation.

18 Sec. 57. Section 9-232.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 9-232.01 (1) Each organization applying for a license to
21 conduct bingo shall file with the department an application on a
22 form prescribed by the department. Each application shall include:

23 (a) The name and address of the applicant organization;

24 (b) Sufficient facts relating to the incorporation or
25 organization of the applicant organization to enable the department

1 to determine if the organization is eligible for a license pursuant
2 to section 9-231;

3 (c) The name and address of each officer of the applicant
4 organization;

5 (d) The name, address, social security number, years of
6 membership, and date of birth of one bona fide and active member
7 of the organization who will serve as the organization's bingo
8 chairperson; and

9 (e) The name, address, social security number, years of
10 membership, and date of birth of no more than three bona fide
11 and active members of the organization who will serve as alternate
12 bingo chairpersons.

13 (2) In addition, each applicant organization shall
14 include with the application:

15 (a) The name, address, social security number, date
16 of birth, and years of membership of an active and bona fide
17 member of the applicant organization to be licensed as the
18 utilization-of-funds member. Such person shall have been an active
19 and bona fide member of the applicant organization for at least
20 one year preceding the date the application is filed with the
21 department unless the applicant organization can provide evidence
22 that the one-year requirement would impose an undue hardship on the
23 organization. All utilization-of-funds members shall sign a sworn
24 statement indicating that they agree to comply with all provisions
25 of the Nebraska Bingo Act and all rules and regulations adopted

1 pursuant to the act, that they will insure that no commission, fee,
2 rent, salary, profits, compensation, or recompense will be paid
3 to any person or organization, except payments authorized by the
4 act, and that all profits will be spent only for lawful purposes.
5 A fee of forty dollars shall be charged for a license for each
6 utilization-of-funds member, and the department may prescribe a
7 separate application form for such license;

8 (b) For a Class II license only, the name, address,
9 social security number, and date of birth of the individual to
10 be licensed as the gaming manager. Such person shall sign a sworn
11 statement indicating that he or she agrees to comply with all
12 provisions of the Nebraska Bingo Act, the Nebraska Charitable Poker
13 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card
14 Lottery Act, the Nebraska Small Lottery and Raffle Act, and all
15 rules and regulations adopted pursuant to such acts. A fee of one
16 hundred dollars shall be charged for a license for each gaming
17 manager, and the department may prescribe a separate application
18 form for such license;

19 (c) The name and address of the owner or lessor of the
20 premises in which bingo will be conducted; and

21 (d) Any other information which the department deems
22 necessary, including, but not limited to, copies of any and all
23 lease or rental agreements and contracts entered into by the
24 organization relative to its bingo activities.

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

1 kept current. A licensed organization shall notify the department
2 within thirty days if any information in the application is no
3 longer correct and shall supply the correct information.

4 (4) Except for a limited period bingo, a licensed
5 organization shall not conduct any bingo game or occasion at
6 any time, on any day, at any location, or in any manner different
7 from that described in its most recent filing with the department
8 unless prior approval has been obtained from the department. A
9 request for approval to change the day, time, or location of a
10 bingo occasion shall be made by the bingo chairperson, in writing,
11 at least thirty days in advance of the date the proposed change is
12 to become effective.

13 (5) No bingo chairperson, alternate bingo chairperson,
14 utilization-of-funds member, or gaming manager for an organization
15 shall be connected with, interested in, or otherwise concerned
16 directly or indirectly with any party licensed as a manufacturer,
17 distributor, or commercial lessor pursuant to the Nebraska Bingo
18 Act or with any party licensed as a manufacturer or distributor
19 pursuant to the Nebraska Pickle Card Lottery Act.

20 (6) No person shall act as a gaming manager until he or
21 she has received a license from the department. A gaming manager
22 may apply for a license to act as a gaming manager for more than
23 one licensed organization by completing a separate application and
24 paying the license fee for each organization for which he or she
25 intends to act as a gaming manager. No gaming manager shall be

1 a bingo chairperson or alternate bingo chairperson, and no gaming
2 manager shall hold any other type of license issued under the
3 Nebraska Bingo Act, the Nebraska Charitable Poker Act, the Nebraska
4 Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act.

5 (7) No person shall act as a utilization-of-funds
6 member until he or she has received a license from the
7 department. A utilization-of-funds member shall not hold any
8 other type of license issued under the Nebraska Bingo Act, the
9 Nebraska Charitable Poker Act, the Nebraska Lottery and Raffle
10 Act, and the Nebraska Pickle Card Lottery Act, except that
11 a utilization-of-funds member may also be designated as the
12 bingo chairperson or alternate bingo chairperson for the same
13 organization.

14 Sec. 58. Section 9-312, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 9-312 Lottery by the sale of pickle cards shall mean any
17 gambling scheme in which participants pay or agree to pay something
18 of value for a pickle card. Any lottery by the sale of pickle cards
19 shall be conducted pursuant to and in accordance with the Nebraska
20 Pickle Card Lottery Act.

21 Lottery by the sale of pickle cards shall not mean or
22 include any activity authorized or regulated under the Nebraska
23 Bingo Act, except as provided in section 9-346, the Nebraska
24 Charitable Poker Act, the Nebraska County and City Lottery Act, the
25 Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and

1 Raffle Act, the State Lottery Act, section 9-701, or Chapter 2,
2 article 12, nor shall lottery by the sale of pickle cards mean or
3 include any activity prohibited under Chapter 28, article 11.

4 Sec. 59. Section 9-322, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 9-322 The department shall have the following powers,
7 functions, and duties:

8 (1) To issue licenses and temporary licenses;

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

24 (a) Violated the provisions, requirements, conditions,
25 limitations, or duties imposed by the Nebraska Bingo Act, the

1 Nebraska Charitable Poker Act, the Nebraska County and City Lottery
2 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
3 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or
4 the State Lottery Act or any rules or regulations adopted and
5 promulgated pursuant to such acts;

6 (b) Knowingly caused, aided, abetted, or conspired with
7 another to cause any person to violate any of the provisions of
8 such acts or any rules or regulations adopted and promulgated
9 pursuant to such acts;

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

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

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

21 (f) Denied the department or its authorized
22 representatives, including authorized law enforcement agencies,
23 access to any place where pickle card activity required to be
24 licensed under the Nebraska Pickle Card Lottery Act is being
25 conducted or failed to produce for inspection or audit any book,

1 record, document, or item required by law, rule, or regulation;

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

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

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

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

17 (k) Failed to demonstrate good character, honesty, and
18 integrity;

19 (l) Failed to demonstrate, either individually or, in the
20 case of a business entity or a nonprofit organization, through
21 its managers, employees, or agents, the ability, experience, or
22 financial responsibility necessary to establish or maintain the
23 activity for which the application is made; or

24 (m) Was cited and whose liquor license was suspended,
25 canceled, or revoked by the Nebraska Liquor Control Commission for

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

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

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

22 (a) Violated the provisions, requirements, conditions,
23 limitations, or duties imposed by the Nebraska Bingo Act, the
24 Nebraska Charitable Poker Act, the Nebraska County and City Lottery
25 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card

1 Lottery Act, the Nebraska Small Lottery and Raffle Act, the State
2 Lottery Act, or any rules or regulations adopted and promulgated
3 pursuant to such acts;

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

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

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

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

19 (f) Denied the department or its authorized
20 representatives, including authorized law enforcement agencies,
21 access to any place where pickle card activity required to be
22 licensed under the act is being conducted or failed to produce for
23 inspection or audit any book, record, document, or item required by
24 law, rule, or regulation;

25 (g) Made a misrepresentation of or failed to disclose a

1 material fact to the department;

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

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

12 (j) Failed to demonstrate good character, honesty, and
13 integrity;

14 (k) Failed to demonstrate, either individually or, in the
15 case of a business entity or a nonprofit organization, through
16 its managers, employees, or agents, the ability, experience, or
17 financial responsibility necessary to maintain the activity for
18 which the license was issued; or

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

25 (4) To issue an order requiring a licensee or other

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

1 of the cease and desist order, the allegations of which may be
2 deemed to be true;

3 (5) To levy an administrative fine on an individual,
4 partnership, limited liability company, corporation, or
5 organization for cause. For purposes of this subdivision,
6 cause shall include instances in which the individual, partnership,
7 limited liability company, corporation, or organization violated
8 the provisions, requirements, conditions, limitations, or duties
9 imposed by the act or any rule or regulation adopted and
10 promulgated pursuant to the act. In determining whether to levy
11 an administrative fine and the amount of the fine if any fine
12 is levied, the department shall take into consideration the
13 seriousness of the violation, the intent of the violator, whether
14 the violator voluntarily reported the violation, whether the
15 violator derived financial gain as a result of the violation and
16 the extent thereof, and whether the violator has had previous
17 violations of the act, rules, or regulations. A fine levied on a
18 violator under this section shall not exceed one thousand dollars
19 for each violation of the act or any rule or regulation adopted and
20 promulgated pursuant to the act plus the financial benefit derived
21 by the violator as a result of each violation. If an administrative
22 fine is levied, the fine shall not be paid from pickle card lottery
23 gross proceeds of an organization and shall be remitted by the
24 violator to the department within thirty days after the date of the
25 order issued by the department levying such fine;

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

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

14 (8) To require annual registration of coin-operated and
15 currency-operated devices used for the dispensing of pickle cards,
16 to issue registration decals for such devices, to prescribe all
17 forms necessary for the registration of such devices, and to impose
18 administrative penalties for failure to properly register such
19 devices;

20 (9) To examine or to cause to have examined, by any agent
21 or representative designated by the department for such purpose,
22 any books, papers, records, or memoranda relating to the conduct
23 of lottery by the sale of pickle cards of any licensee, to require
24 by administrative order or summons the production of such documents
25 or the attendance of any person having knowledge in the premises,

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

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

19 (11) To collect license application and license renewal
20 application fees imposed by the Nebraska Pickle Card Lottery Act
21 and to prorate license fees on an annual basis. The department
22 shall establish by rule and regulation the conditions and
23 circumstances under which such fees may be prorated;

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

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

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

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

9 Sec. 60. Section 9-323, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 9-323 (1) The Tax Commissioner may suspend any license
12 issued pursuant to the Nebraska Pickle Card Lottery Act except
13 a license issued pursuant to section 9-326, except that no order
14 to suspend any license shall be issued unless the department
15 determines that the licensee is not operating in accordance with
16 the purposes and intent of the Nebraska Bingo Act, the Nebraska
17 Charitable Poker Act, the Nebraska County and City Lottery Act, the
18 Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery
19 Act, the Nebraska Small Lottery and Raffle Act, the State Lottery
20 Act, or any rules or regulations adopted and promulgated pursuant
21 to such acts. The Tax Commissioner may suspend a license issued
22 pursuant to section 9-326 after a hearing upon a finding by the
23 department that the licensee is not operating in accordance with
24 the purposes and intent of such acts.

25 (2) Before any license is suspended prior to a hearing,

1 notice of an order to suspend a license shall be mailed to or
2 personally served upon the licensee at least fifteen days before
3 the order of suspension takes effect.

4 (3) The order of suspension may be withdrawn if the
5 licensee provides the department with evidence that any prior
6 findings or violations have been corrected and that the licensee is
7 now in full compliance, whether before or after the effective date
8 of the order of suspension.

9 (4) The Tax Commissioner may issue an order of suspension
10 pursuant to subsections (1) and (2) of this section when an action
11 for suspension, cancellation, or revocation is pending. The Tax
12 Commissioner may also issue an order of suspension after a hearing
13 for a limited time of up to one year without an action for
14 cancellation or revocation pending.

15 (5) The hearing for suspension, cancellation, or
16 revocation of the license shall be held within twenty days after
17 the date the suspension takes effect. A request by the licensee
18 to hold the hearing after the end of the twenty-day period shall
19 extend the suspension until the hearing.

20 (6) The decision of the department shall be made within
21 twenty days after the conclusion of the hearing. The suspension
22 shall continue in effect until the decision is issued. If
23 the decision is that an order of suspension, revocation, or
24 cancellation is not appropriate, the suspension shall terminate
25 immediately by order of the Tax Commissioner. If the decision is

1 an order for the suspension, revocation, or cancellation of the
2 license, the suspension shall continue pending an appeal of the
3 decision of the department.

4 (7) Any period of suspension prior to the issuance of
5 an order of suspension issued by the Tax Commissioner shall count
6 toward the total amount of time a licensee shall be suspended
7 from gaming activities under the Nebraska Pickle Card Lottery Act.
8 Any period of suspension prior to the issuance of an order of
9 cancellation shall not reduce the period of the cancellation. Any
10 period of suspension after the issuance of the order and during an
11 appeal shall be counted as a part of the period of cancellation.

12 Sec. 61. Section 9-411, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 9-411 (1) Lottery shall mean a gambling scheme in which
15 (a) participants pay or agree to pay something of value for an
16 opportunity to win, (b) winning opportunities are represented by
17 tickets differentiated by sequential enumeration, and (c) winners
18 are determined by a random drawing of the tickets or by the method
19 set forth in section 9-426.01.

20 (2) Lottery shall not include (a) any raffle as
21 defined in section 9-415, (b) any gambling scheme which uses any
22 mechanical, computer, electronic, or video gaming device which
23 has the capability of awarding something of value, free games
24 redeemable for something of value, or tickets or stubs redeemable
25 for something of value, (c) any activity which is authorized or

1 regulated under the Nebraska Bingo Act, the Nebraska Charitable
2 Poker Act, the Nebraska County and City Lottery Act, the Nebraska
3 Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act,
4 the State Lottery Act, section 9-701, or Chapter 2, article 12, or
5 (d) any activity which is prohibited under Chapter 28, article 11.

6 Sec. 62. Section 9-415, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 9-415 (1) Raffle shall mean a gambling scheme in which
9 (a) participants pay or agree to pay something of value for
10 an opportunity to win, (b) winning opportunities are represented
11 by tickets differentiated by sequential enumeration, (c) winners
12 are determined by a random drawing of the tickets or by the
13 method set forth in section 9-426.01, and (d) at least eighty
14 percent of all of the prizes to be awarded are merchandise prizes
15 which are not directly or indirectly redeemable for cash by the
16 licensed organization conducting the raffle or any agent of the
17 organization.

18 (2) Raffle shall not include (a) any gambling scheme
19 which uses any mechanical, computer, electronic, or video gaming
20 device which has the capability of awarding something of value,
21 free games redeemable for something of value, or tickets or stubs
22 redeemable for something of value, (b) any activity which is
23 authorized or regulated under the Nebraska Bingo Act, the Nebraska
24 Charitable Poker Act, the Nebraska County and City Lottery Act, the
25 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and

1 Raffle Act, the State Lottery Act, section 9-701, or Chapter 2,
2 article 12, or (c) activity which is prohibited under Chapter 28,
3 article 11.

4 Sec. 63. Section 9-418, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 9-418 The department shall have the following powers,
7 functions, and duties:

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

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

24 (a) Violated the provisions, requirements, conditions,
25 limitations, or duties imposed by the Nebraska Bingo Act, the

1 Nebraska Charitable Poker Act, the Nebraska County and City Lottery
2 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
3 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or
4 the State Lottery Act or any rules or regulations adopted and
5 promulgated pursuant to such acts;

6 (b) Knowingly caused, aided, abetted, or conspired with
7 another to cause any person to violate any of the provisions of
8 such acts or any rules or regulations adopted and promulgated
9 pursuant to such acts;

10 (c) Obtained a license or permit pursuant to the Nebraska
11 Bingo Act, the Nebraska Charitable Poker Act, the Nebraska County
12 and City Lottery Act, the Nebraska Lottery and Raffle Act, or the
13 Nebraska Pickle Card Lottery Act by fraud, misrepresentation, or
14 concealment;

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

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

24 (f) Denied the department or its authorized
25 representatives, including authorized law enforcement agencies,

1 access to any place where lottery or raffle activity required to
2 be licensed under the Nebraska Lottery and Raffle Act is being
3 conducted or failed to produce for inspection or audit any book,
4 record, document, or item required by law, rule, or regulation;

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

7 (h) Failed to prove by clear and convincing evidence his,
8 her, or its qualifications to be licensed in accordance with the
9 Nebraska Lottery and Raffle Act;

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

16 (j) Failed to pay an administrative fine levied pursuant
17 to the Nebraska Bingo Act, the Nebraska Charitable Poker Act, the
18 Nebraska County and City Lottery Act, the Nebraska Lottery and
19 Raffle Act, or the Nebraska Pickle Card Lottery Act;

20 (k) Failed to demonstrate good character, honesty, and
21 integrity;

22 (l) Failed to demonstrate, either individually or, in
23 the case of a nonprofit organization, through its managers or
24 employees, the ability, experience, or financial responsibility
25 necessary to establish or maintain the activity for which the

1 application is made; or

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

8 No renewal of a license under the Nebraska Lottery and
9 Raffle Act shall be issued when the applicant for renewal would not
10 be eligible for a license upon a first application;

11 (3) To revoke, cancel, or suspend for cause any license
12 or permit. Cause for revocation, cancellation, or suspension of a
13 license or permit shall include instances in which the licensee or
14 permittee individually or, in the case of a nonprofit organization,
15 any officer, director, or employee of the licensee or permittee,
16 other than an employee whose duties are purely ministerial
17 in nature, any other person or entity directly or indirectly
18 associated with such licensee or permittee which directly or
19 indirectly receives compensation other than distributions from
20 a bona fide retirement plan established pursuant to Chapter 1,
21 subchapter D of the Internal Revenue Code from such licensee or
22 permittee for past or present services in a consulting capacity
23 or otherwise, or any person with a substantial interest in the
24 licensee or permittee:

25 (a) Violated the provisions, requirements, conditions,

1 limitations, or duties imposed by the Nebraska Bingo Act, the
2 Nebraska Charitable Poker Act, the Nebraska County and City Lottery
3 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card
4 Lottery Act, the Nebraska Small Lottery and Raffle Act, the State
5 Lottery Act, or any rules or regulations adopted and promulgated
6 pursuant to such acts;

7 (b) Knowingly caused, aided, abetted, or conspired with
8 another to cause any person to violate any of the provisions of the
9 Nebraska Lottery and Raffle Act or any rules or regulations adopted
10 and promulgated pursuant to the act;

11 (c) Obtained a license or permit pursuant to the act by
12 fraud, misrepresentation, or concealment;

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

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

22 (f) Denied the department or its authorized
23 representatives, including authorized law enforcement agencies,
24 access to any place where lottery or raffle activity required to
25 be licensed under the Nebraska Lottery and Raffle Act is being

1 conducted or failed to produce for inspection or audit any book,
2 record, document, or item required by law, rule, or regulation;

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

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

11 (i) Failed to pay an administrative fine levied pursuant
12 to the Nebraska Bingo Act, the Nebraska Charitable Poker Act, the
13 Nebraska County and City Lottery Act, the Nebraska Lottery and
14 Raffle Act, or the Nebraska Pickle Card Lottery Act;

15 (j) Failed to demonstrate good character, honesty, and
16 integrity;

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

22 (l) Was cited and whose liquor license was suspended,
23 canceled, or revoked by the Nebraska Liquor Control Commission for
24 illegal gambling activities that occurred on or after July 20,
25 2002, on or about a premises licensed by the commission pursuant

1 to the Nebraska Liquor Control Act or the rules and regulations
2 adopted and promulgated pursuant to such act;

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

1 other person to whom a cease and desist order is issued fails
2 to appear at the hearing after being duly notified, the licensee,
3 permittee, or other person shall be deemed in default and the
4 proceeding may be determined against the licensee, permittee, or
5 other person upon consideration of the cease and desist order, the
6 allegations of which may be deemed to be true;

7 (5) To examine or to cause to have examined, by any agent
8 or representative designated by the department for such purpose,
9 any books, papers, records, or memoranda relating to lottery or
10 raffle activities required to be licensed pursuant to the Nebraska
11 Lottery and Raffle Act, to require by summons the production of
12 such documents or the attendance of any person having knowledge in
13 the premises, to take testimony under oath, and to require proof
14 material for its information. If any such person willfully refuses
15 to make documents available for examination by the department
16 or its agent or representative or willfully fails to attend and
17 testify, the department may apply to a judge of the district
18 court of the county in which such person resides for an order
19 directing such person to comply with the department's request. If
20 any documents requested by the department are in the custody of
21 a corporation, the court order may be directed to any principal
22 officer of the corporation. Any person who fails or refuses to obey
23 such a court order shall be guilty of contempt of court;

24 (6) To levy an administrative fine on an individual,
25 partnership, limited liability company, corporation, or

1 organization for cause. For purposes of this subdivision,
2 cause shall include instances in which the individual, partnership,
3 limited liability company, corporation, or organization violated
4 the provisions, requirements, conditions, limitations, or duties
5 imposed by the act or any rule or regulation adopted and
6 promulgated pursuant to the act. In determining whether to levy
7 an administrative fine and the amount of the fine if any fine
8 is levied, the department shall take into consideration the
9 seriousness of the violation, the intent of the violator, whether
10 the violator voluntarily reported the violation, whether the
11 violator derived financial gain as a result of the violation and
12 the extent thereof, and whether the violator has had previous
13 violations of the act, rules, or regulations. A fine levied on a
14 violator under this section shall not exceed one thousand dollars
15 for each violation of the act or any rule or regulation adopted and
16 promulgated pursuant to the act plus the financial benefit derived
17 by the violator as a result of each violation. If an administrative
18 fine is levied, the fine shall not be paid from lottery or raffle
19 gross proceeds of an organization and shall be remitted by the
20 violator to the department within thirty days after the date of the
21 order issued by the department levying such fine;

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

1 1967;

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

7 (9) To confiscate and seize lottery or raffle tickets or
8 stubs pursuant to section 9-432; and

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

12 Sec. 64. Section 9-419, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 9-419 (1) The Tax Commissioner may suspend any license
15 or permit, except that no order to suspend any license or permit
16 shall be issued unless the department determines that the licensee
17 or permittee is not operating in accordance with the purposes and
18 intent of the Nebraska Bingo Act, the Nebraska Charitable Poker
19 Act, the Nebraska County and City Lottery Act, the Nebraska Lottery
20 and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
21 Small Lottery and Raffle Act, the State Lottery Act, or any rules
22 or regulations adopted and promulgated pursuant to such acts.

23 (2) Before any license or permit is suspended prior to a
24 hearing, notice of an order to suspend a license or permit shall
25 be mailed to or personally served upon the licensee or permittee at

1 least fifteen days before the order of suspension takes effect.

2 (3) The order of suspension may be withdrawn if the
3 licensee or permittee provides the department with evidence that
4 any prior findings or violations have been corrected and that the
5 licensee or permittee is now in full compliance, whether before or
6 after the effective date of the order of suspension.

7 (4) The Tax Commissioner may issue an order of suspension
8 pursuant to subsections (1) and (2) of this section when an action
9 for suspension, cancellation, or revocation is pending. The Tax
10 Commissioner may also issue an order of suspension after a hearing
11 for a limited time of up to one year without an action for
12 cancellation or revocation pending.

13 (5) The hearing for suspension, cancellation, or
14 revocation of the license or permit shall be held within twenty
15 days after the date the suspension takes effect. A request by the
16 licensee or permittee to hold the hearing after the end of the
17 twenty-day period shall extend the suspension until the hearing.

18 (6) The decision of the department shall be made within
19 twenty days after the conclusion of the hearing. The suspension
20 shall continue in effect until the decision is issued. If
21 the decision is that an order of suspension, revocation, or
22 cancellation is not appropriate, the suspension shall terminate
23 immediately by order of the Tax Commissioner. If the decision is
24 an order for the suspension, revocation, or cancellation of the
25 license or permit, the suspension shall continue pending an appeal

1 of the decision of the department.

2 (7) Any period of suspension prior to the issuance of an
3 order of suspension shall count toward the total amount of time a
4 licensee may be suspended from gaming activities under the Nebraska
5 Lottery and Raffle Act. Any period of suspension prior to the
6 issuance of an order of cancellation shall not reduce the period
7 of the cancellation. Any period of suspension after the issuance of
8 the order and during an appeal shall be counted as a part of the
9 period of cancellation.

10 Sec. 65. Section 9-507, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 9-507 (1) Lottery shall mean a gambling scheme in which
13 (a) participants pay or agree to pay something of value for an
14 opportunity to win, (b) winning opportunities are represented by
15 tickets differentiated by sequential enumeration, (c) the winners
16 are to be determined by a random drawing of the tickets or by the
17 method set forth in section 9-511.01, and (d) the holders of the
18 winning tickets are to receive something of value.

19 (2) Lottery shall not include (a) any raffle, (b) any
20 gambling scheme which uses any mechanical, computer, electronic, or
21 video gaming device which has the capability of awarding something
22 of value, free games redeemable for something of value, or tickets
23 or stubs redeemable for something of value, (c) any activity
24 authorized or regulated under the Nebraska Bingo Act, the Nebraska
25 Charitable Poker Act, the Nebraska County and City Lottery Act, the

1 Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery
2 Act, the State Lottery Act, section 9-701, or Chapter 2, article
3 12, or (d) any activity prohibited under Chapter 28, article 11.

4 Sec. 66. Section 9-509, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 9-509 (1) Raffle shall mean a gambling scheme in which
7 (a) participants pay or agree to pay something of value for an
8 opportunity to win, (b) winning opportunities are represented by
9 tickets differentiated by sequential enumeration, (c) winners are
10 to be determined by a random drawing of tickets or by the method
11 set forth in section 9-511.01, and (d) at least eighty percent of
12 all of the prizes to be awarded are merchandise prizes which are
13 not directly or indirectly redeemable for cash by the qualifying
14 nonprofit organization conducting the raffle or any agent of the
15 organization.

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

1 Sec. 67. Section 9-512, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 9-512 The Department of Revenue or any law enforcement
4 agency may require any proper investigation or audit of any
5 qualifying nonprofit organization which conducts any lottery or
6 raffle under the Nebraska Small Lottery and Raffle Act, either for
7 the specific purpose of determining whether the provisions of the
8 Nebraska Small Lottery and Raffle Act are being complied with or
9 for the specific purpose of ensuring that the provisions of the
10 Nebraska Bingo Act, the Nebraska Charitable Poker Act, the Nebraska
11 Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, or
12 the Nebraska County and City Lottery Act are not being violated.
13 No audit or investigation shall be conducted under this section
14 except as is absolutely necessary for the department or the agency
15 to fulfill its necessary and proper duties.

16 Sec. 68. Section 9-607, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 9-607 (1) Lottery shall mean a gambling scheme in which:

19 (a) The players pay or agree to pay something of value
20 for an opportunity to win;

21 (b) Winning opportunities are represented by tickets;

22 (c) Winners are solely determined by one of the following
23 two methods:

24 (i) By a random drawing of tickets differentiated by
25 sequential enumeration from a receptacle by hand whereby each

1 ticket has an equal chance of being chosen in the drawing; or

2 (ii) By use of a game known as keno in which a player
3 selects up to twenty numbers from a total of eighty numbers on a
4 paper ticket and a computer, other electronic selection device, or
5 electrically operated blower machine which is not player-activated
6 randomly selects up to twenty numbers from the same pool of
7 eighty numbers and the winning players are determined by the
8 correct matching of the numbers on the paper ticket selected by
9 the players with the numbers randomly selected by the computer,
10 other electronic selection device, or electrically operated blower
11 machine, except that no keno game shall permit or require player
12 access or activation of lottery equipment and the random selection
13 of numbers by the computer, other electronic selection device, or
14 electrically operated blower machine shall not occur within five
15 minutes of the completion of the previous selection of random
16 numbers; and

17 (d) The holders of the winning paper tickets are to
18 receive cash or prizes redeemable for cash. Selection of a winner
19 or winners shall be predicated solely on chance.

20 (2) Lottery shall not include:

21 (a) Any gambling scheme which uses any mechanical gaming
22 device, computer gaming device, electronic gaming device, or video
23 gaming device which has the capability of awarding something of
24 value, free games redeemable for something of value, or tickets or
25 stubs redeemable for something of value;

1 (b) Any activity authorized or regulated under the
2 Nebraska Bingo Act, the Nebraska Charitable Poker Act, the Nebraska
3 Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act,
4 the Nebraska Small Lottery and Raffle Act, the State Lottery Act,
5 section 9-701, or Chapter 2, article 12; or

6 (c) Any activity prohibited under Chapter 28, article 11.

7 (3) Notwithstanding the requirement in subdivision
8 (1)(c)(ii) of this section that a player select up to twenty
9 numbers, a player may select more than twenty numbers on a paper
10 ticket when a top or bottom, left or right, edge, or way ticket
11 is played. For a top or bottom ticket, the player shall select
12 all numbers from one through forty or all numbers from forty-one
13 through eighty. For a left or right ticket, the player shall select
14 all numbers ending in one through five or all numbers ending in
15 six through zero. For an edge ticket, the player shall select all
16 of the numbers comprising the outside edge of the ticket. For a way
17 ticket, the player shall select a combination of groups of numbers
18 in multiple ways on a single ticket.

19 (4) A county, city, or village conducting a keno lottery
20 shall designate the method of winning number selection to be used
21 in the lottery and submit such designation in writing to the
22 department prior to conducting a keno lottery. Only those methods
23 of winning number selection described in subdivision (1)(c)(ii) of
24 this section shall be permitted, and the method of winning number
25 selection initially utilized may only be changed once during that

1 business day as set forth in the designation. A county, city, or
2 village shall not change the method or methods of winning number
3 selection filed with the department or allow it to be changed
4 once such initial designation has been made unless (a) otherwise
5 authorized in writing by the department based upon a written
6 request from the county, city, or village or (b) an emergency
7 arises in which case a ball draw method of number selection would
8 be switched to a number selection by a random number generator.
9 An emergency situation shall be reported by the county, city,
10 or village to the department within twenty-four hours of its
11 occurrence.

12 Sec. 69. Section 9-620, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 9-620 The department shall have the following powers,
15 functions, and duties:

16 (1) To issue licenses and temporary licenses;

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

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

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

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

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

20 (d) Was convicted of, forfeited bond upon a charge of, or
21 pleaded guilty or nolo contendere to any offense or crime, whether
22 a felony or a misdemeanor, involving any gambling activity or
23 fraud, theft, willful failure to make required payments or reports,
24 or filing false reports with a governmental agency at any 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 activity required to be licensed under
7 the Nebraska County and City Lottery Act is being conducted
8 or failed to produce for inspection or audit any book, record,
9 document, or item required by law, rule, or regulation;

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

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

15 (i) Failed to pay any taxes and additions to taxes,
16 including penalties and interest, required by the Nebraska Bingo
17 Act, the Nebraska Charitable Poker Act, the Nebraska County and
18 City Lottery Act, the Nebraska Lottery and Raffle Act, or the
19 Nebraska Pickle Card Lottery Act or any other taxes imposed
20 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 Charitable Poker Act, the
23 Nebraska County and City Lottery Act, the Nebraska Lottery and
24 Raffle Act, or the Nebraska Pickle Card Lottery Act;

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

1 integrity;

2 (l) Failed to demonstrate, either individually or in
3 the case of a business entity through its managers, employees,
4 or agents, the ability, experience, or financial responsibility
5 necessary to establish or maintain the activity for which the
6 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 County and
14 City Lottery Act shall be issued when the applicant for renewal
15 would 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 in
19 the case of a business entity, any officer, director, employee,
20 or limited liability company member of the licensee other than
21 an employee whose duties are purely ministerial in nature, any
22 other person or entity directly or indirectly associated with such
23 licensee which directly or indirectly receives compensation other
24 than distributions from a bona fide retirement or pension plan
25 established pursuant to Chapter 1, subchapter D of the Internal

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

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

15 (c) Obtained a license pursuant to the Nebraska County
16 and City 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 a misdemeanor, involving any gambling activity or
20 fraud, theft, willful failure to make required payments or reports,
21 or 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 activity required to be licensed under
4 the Nebraska County and City Lottery Act is being conducted
5 or failed to produce for inspection or audit any book, record,
6 document, or item required by 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 Charitable Poker Act, the Nebraska County and
12 City Lottery Act, the Nebraska Lottery and Raffle Act, or the
13 Nebraska Pickle Card Lottery Act or any other taxes imposed
14 pursuant to the Nebraska Revenue Act of 1967;

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

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

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

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

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

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

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

1 for each violation of the act or any rules and regulations adopted
2 and promulgated pursuant to the act plus the financial benefit
3 derived by the violator as a result of each violation. If an
4 administrative fine is levied, the fine shall not be paid from
5 lottery gross proceeds of the county, city, or village and shall be
6 remitted by the violator to the department within thirty days from
7 the date of the order issued by the department levying such fine;

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

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

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

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

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

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

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

25 (12) To investigate the activities of any person

1 applying for a license under the act or relating to the conduct
2 of any lottery activity under the act. Any license applicant
3 or licensee shall produce such information, documentation, and
4 assurances as may be required by the department to establish by a
5 preponderance of the evidence the financial stability, integrity,
6 and responsibility of the applicant or licensee, including, but
7 not limited to, bank account references, business and personal
8 income and disbursement schedules, tax returns and other reports
9 filed with governmental agencies, business entity and personal
10 accounting records, and check records and ledgers. Any such license
11 applicant or licensee shall authorize the department to examine
12 bank accounts and other such records as may be deemed necessary
13 by the department;

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

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

18 Sec. 70. Section 9-701, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 9-701 (1) For purposes of this section:

21 (a) Gift enterprise means a contest, game of chance, or
22 game promotion which is conducted within the state or throughout
23 the state and other states in connection with the sale of consumer
24 or trade products or services solely as business promotions and in
25 which the elements of chance and prize are present. Gift enterprise

1 does not include any scheme using the game of bingo or keno;
2 any non-telecommunication-related, player-activated electronic or
3 electromechanical facsimile of any game of chance; or any slot
4 machine of any kind. A gift enterprise shall not utilize pickle
5 cards as defined in section 9-315. Promotional game tickets may be
6 utilized subject to the following:

7 (i) The tickets utilized shall be manufactured or
8 imprinted with the name of the operator on each ticket;

9 (ii) The tickets utilized shall not be manufactured with
10 a cost per play printed on them; and

11 (iii) The tickets utilized shall not be substantially
12 similar to any type of pickle card approved by the Department of
13 Revenue pursuant to section 9-332.01; and

14 (b) Operator means any person, firm, corporation,
15 association, governmental entity, or agent or employee thereof who
16 promotes, operates, or conducts a gift enterprise. Operator does
17 not include any nonprofit organization or any agent or employee
18 thereof, except that operator includes any credit union chartered
19 under state or federal law or any agent or employee thereof who
20 promotes, operates, or conducts a gift enterprise.

21 (2) Any operator may conduct a gift enterprise within
22 this state in accordance with this section.

23 (3) An operator shall not:

24 (a) Design, engage in, promote, or conduct a gift
25 enterprise in connection with the promotion or sale of consumer

1 products or services in which the winner may be unfairly
2 predetermined or the game may be manipulated or rigged;

3 (b) Arbitrarily remove, disqualify, disallow, or reject
4 any entry;

5 (c) Fail to award prizes offered;

6 (d) Print, publish, or circulate literature or
7 advertising material used in connection with such gift enterprise
8 which is false, deceptive, or misleading; or

9 (e) Require an entry fee, a payment or promise of payment
10 of any valuable consideration, or any other consideration as a
11 condition of entering a gift enterprise or winning a prize from the
12 gift enterprise, except that a contest, game of chance, or business
13 promotion may require, as a condition of participation, evidence
14 of the purchase of a product or service as long as the purchase
15 price charged for such product or service is not greater than it
16 would have been without the contest, game of chance, or business
17 promotion. For purposes of this section, consideration shall not
18 include (i) filling out an entry blank, (ii) entering by mail with
19 the purchase of postage at a cost no greater than the cost of
20 postage for a first-class letter weighing one ounce or less, or
21 (iii) entering by a telephone call to the operator of or for the
22 gift enterprise at a cost no greater than the cost of postage for a
23 first-class letter weighing one ounce or less. When the only method
24 of entry is by telephone, the cost to the entrant of the telephone
25 call shall not exceed the cost of postage for a first-class letter

1 weighing one ounce or less for any reason, including (A) whether
2 any communication occurred during the call which was not related to
3 the gift enterprise or (B) the fact that the cost of the call to
4 the operator was greater than the cost to the entrant allowed under
5 this section.

6 (4) (a) The Department of Revenue may adopt and promulgate
7 rules and regulations necessary to carry out the operation of gift
8 enterprises.

9 (b) Whenever the department has reason to believe that a
10 gift enterprise is being operated in violation of this section or
11 the department's rules and regulations, it may bring an action in
12 the district court of Lancaster County in the name of and on behalf
13 of the people of the State of Nebraska against the operator of
14 the gift enterprise to enjoin the continued operation of such gift
15 enterprise anywhere in the state.

16 (5) (a) Any person, firm, corporation, association, or
17 agent or employee thereof who engages in any unlawful acts or
18 practices pursuant to this section or violates any of the rules and
19 regulations promulgated pursuant to this section shall be guilty of
20 a Class II misdemeanor.

21 (b) Any person, firm, corporation, association, or agent
22 or employee thereof who violates any provision of this section
23 or any of the rules and regulations promulgated pursuant to this
24 section shall be liable to pay a civil penalty of not more than
25 one thousand dollars imposed by the district court of Lancaster

1 County for each such violation which shall ~~accrue to the permanent~~
2 ~~school fund.~~ be remitted to the State Treasurer for distribution
3 in accordance with Article VII, section 5, of the Constitution
4 of Nebraska. Each day of continued violation shall constitute a
5 separate offense or violation for purposes of this section.

6 (6) In all proceedings initiated in any court or
7 otherwise under this section, the Attorney General or appropriate
8 county attorney shall prosecute and defend all such proceedings.

9 (7) This section shall not apply to any activity
10 authorized and regulated under the Nebraska Bingo Act, the Nebraska
11 Charitable Poker Act, the Nebraska County and City Lottery Act, the
12 Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery
13 Act, or the Nebraska Small Lottery and Raffle Act.

14 Sec. 71. Section 9-826, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 9-826 A contract may be awarded to an applicant to
17 operate as a lottery game retailer only after the director finds
18 all of the following:

19 (1) The applicant is at least nineteen years of age;

20 (2) The applicant has not been convicted of a felony
21 or misdemeanor involving gambling, moral turpitude, dishonesty, or
22 theft and the applicant has not been convicted of any other felony
23 within ten years preceding the date such applicant applies for a
24 contract;

25 (3) The applicant has not been convicted of a violation

1 of the Nebraska Bingo Act, the Nebraska Charitable Poker Act, the
2 Nebraska County and City Lottery Act, the Nebraska Lottery and
3 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
4 Small Lottery and Raffle Act, the State Lottery Act, or Chapter 28,
5 article 11;

6 (4) The applicant has not previously had a license
7 revoked or denied under the Nebraska Bingo Act, the Nebraska
8 Charitable Poker Act, the Nebraska County and City Lottery Act, the
9 Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery
10 Act, the Nebraska Small Lottery and Raffle Act, the State Lottery
11 Act, or Chapter 28, article 11;

12 (5) The applicant has not had a license or contract
13 to sell tickets for a lottery in another jurisdiction revoked
14 by the authority regulating such lottery or by a court of such
15 jurisdiction;

16 (6) The applicant has demonstrated financial
17 responsibility, as determined in rules and regulations of
18 the division, sufficient to meet the requirements of a lottery game
19 retailer;

20 (7) All persons holding at least a ten percent ownership
21 interest in the applicant's business or activity have been
22 disclosed;

23 (8) The applicant has been in substantial compliance with
24 Nebraska tax laws as determined by the director based on the
25 severity of any possible violation for the five years prior to

1 applying, is not delinquent in the payment of any Nebraska taxes
2 at the time of application, and is in compliance with Nebraska tax
3 laws at the time of application; and

4 (9) The applicant has not knowingly made a false
5 statement of material fact to the director.

6 For purposes of this section, applicant shall include the
7 entity seeking the contract and every sole proprietor, partner in
8 a partnership, member in a limited liability company, officer of
9 a corporation, shareholder owning in the aggregate ten percent or
10 more of the stock of a corporation, and governing officer of an
11 organization or political subdivision.

12 Sec. 72. Section 14-102, Revised Statutes Supplement,
13 2009, is amended to read:

14 14-102 In addition to the powers granted in section
15 14-101, cities of the metropolitan class shall have power by
16 ordinance:

17 Taxes, special assessments.

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

20 Corporate seal.

21 (2) To provide a corporate seal for the use of the city,
22 and also any official seal for the use of any officer, board,
23 or agent of the city, whose duties under this act or under any
24 ordinance require an official seal to be used. Such corporate
25 seal shall be used in the execution of municipal bonds, warrants,

1 conveyances, and other instruments and proceedings as this act or
2 the ordinances of the city require;

3 Regulation of public health.

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

9 Appropriations for debts and expenses.

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

12 Protection of strangers and travelers.

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

16 Concealed weapons, firearms, fireworks, explosives.

17 (6) To punish and prevent the carrying of concealed
18 weapons, except the carrying of a concealed handgun in compliance
19 with the Concealed Handgun Permit Act, and the discharge of
20 firearms, fireworks, or explosives of any description within the
21 city, other than the discharge of firearms at a shooting range
22 pursuant to the Nebraska Shooting Range Protection Act;

23 Sale of foodstuffs.

24 (7) To regulate the inspection and sale of meats, flour,
25 poultry, fish, milk, vegetables, and all other provisions or

1 articles of food exposed or offered for sale in the city;

2 Official bonds.

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

8 Official reports of city officers.

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

12 Cruelty to children and animals.

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

15 Dogs; taxes and restrictions.

16 (11) To regulate, license, or prohibit the running at
17 large of dogs and other animals within the city as well as in areas
18 within three miles of the corporate limits of the city, to guard
19 against injuries or annoyance from such dogs and other animals, and
20 to authorize the destruction of the dogs and other animals when
21 running at large contrary to the provisions of any ordinance. Any
22 licensing provision shall comply with subsection (2) of section
23 54-603 for service animals;

24 Cleaning sidewalks.

25 (12) To provide for keeping sidewalks clean and free

1 from obstructions and accumulations, to provide for the assessment
2 and collection of taxes on real estate and for the sale and
3 conveyance thereof, and to pay the expenses of keeping the sidewalk
4 adjacent to such real estate clean and free from obstructions and
5 accumulations as herein provided;

6 Planting and trimming of trees; protection of birds.

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

18 Naming and numbering streets and houses.

19 (14) To provide for, regulate, and require the numbering
20 or renumbering of houses along public streets or avenues; to care
21 for and control and to name and rename streets, avenues, parks, and
22 squares within the city;

23 Weeds.

24 (15) To require weeds and worthless vegetation growing
25 upon any lot or piece of ground within the city to be cut and

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

12 Animals running at large.

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

22 Use of streets.

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

1 other vehicles;

2 Playing on streets and sidewalks.

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

10 Combustibles and explosives.

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

14 Public sale of chattels on streets.

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

19 Signs and obstruction in streets.

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

1 Disorderly conduct.

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

8 Vagrants and tramps.

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

16 Disorderly houses, gambling, offenses against public
17 morals.

18 (24) To prohibit, restrain, and suppress tippling shops,
19 houses of prostitution, opium joints, gambling houses, prize
20 fighting, dog fighting, cock fighting, and other disorderly houses
21 and practices, all games and gambling and desecration of the
22 Sabbath, commonly called Sunday, and all kinds of indecencies; to
23 regulate and license or prohibit the keeping and use of billiard
24 tables, ten pins or ball alleys, shooting galleries except as
25 provided in the Nebraska Shooting Range Protection Act, and other

1 similar places of amusement; and to prohibit and suppress all
2 lotteries and gift enterprises of all kinds under whatsoever name
3 carried on, except that nothing in this subdivision shall be
4 construed to apply to bingo, charitable poker, lotteries, lotteries
5 by the sale of pickle cards, or raffles conducted in accordance
6 with the Nebraska Bingo Act, the Nebraska Charitable Poker Act, the
7 Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery
8 Act, the Nebraska Small Lottery and Raffle Act, or the State
9 Lottery Act;

10 Police regulation in general.

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

22 Fast driving on streets.

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

1 streets;

2 Libraries, art galleries, and museums.

3 (27) To establish and maintain public libraries, reading
4 rooms, art galleries, and museums and to provide the necessary
5 grounds or buildings therefor; to purchase books, papers, maps,
6 manuscripts, works of art, and objects of natural or of scientific
7 curiosity, and instruction therefor; to receive donations and
8 bequests of money or property for the same in trust or otherwise
9 and to pass necessary bylaws and regulations for the protection and
10 government of the same;

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

13 (28) To erect, designate, establish, maintain, and
14 regulate hospitals or workhouses, houses of correction, jails,
15 station houses, fire engine houses, asphalt repair plants, and
16 other necessary buildings; and to erect, designate, establish,
17 maintain, and regulate plants for the removal, disposal, or
18 recycling of garbage and refuse or to make contracts for garbage
19 and refuse removal, disposal, or recycling, or all of the same, and
20 to charge equitable fees for such removal, disposal, or recycling,
21 or all of the same, except as hereinafter provided. The fees
22 collected pursuant to this subdivision shall be credited to a
23 single fund to be used exclusively by the city for the removal,
24 disposal, or recycling of garbage and refuse, or all of the same,
25 including any costs incurred for collecting the fee. Before any

1 contract for such removal, disposal, or recycling is let, the
2 city council shall make specifications therefor, bids shall be
3 advertised for as now provided by law, and the contract shall be
4 let to the lowest and best bidder, who shall furnish bond to the
5 city conditioned upon his or her carrying out the terms of the
6 contract, the bond to be approved by the city council. Nothing
7 in this act, and no contract or regulation made by the city
8 council, shall be so construed as to prohibit any person, firm,
9 or corporation engaged in any business in which garbage or refuse
10 accumulates as a byproduct from selling, recycling, or otherwise
11 disposing of his, her, or its garbage or refuse or hauling such
12 garbage or refuse through the streets and alleys under such uniform
13 and reasonable regulations as the city council may by ordinance
14 prescribe for the removal and hauling of garbage or refuse;

15 Market places.

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

23 Cemeteries, registers of births and deaths.

24 (30) To prohibit the establishment of additional
25 cemeteries within the limits of the city, to regulate the

1 registration of births and deaths, to direct the keeping and
2 returning of bills of mortality, and to impose penalties on
3 physicians, sextons, and others for any default in the premises;

4 Plumbing, etc., inspection.

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

10 Fire limits and fire protection.

11 (32) To prescribe fire limits and regulate the erection
12 of all buildings and other structures within the corporate limits;
13 to provide for the removal of any buildings or structures or
14 additions thereto erected contrary to such regulations, to provide
15 for the removal of dangerous buildings, and to provide that wooden
16 buildings shall not be erected or placed or repaired in the fire
17 limits; but such ordinance shall not be suspended or modified by
18 resolution nor shall exceptions be made by ordinance or resolution
19 in favor of any person, firm, or corporation or concerning any
20 particular lot or building; to direct that all and any building
21 within such fire limits, when the same shall have been damaged by
22 fire, decay, or otherwise, to the extent of fifty percent of the
23 value of a similar new building above the foundation, shall be torn
24 down or removed; and to prescribe the manner of ascertaining such
25 damages and to assess the cost of removal of any building erected

1 or existing contrary to such regulations or provisions, against the
2 lot or real estate upon which such building or structure is located
3 or shall be erected, or to collect such costs from the owner of
4 any such building or structure and enforce such collection by civil
5 action in any court of competent jurisdiction;

6 Building regulations.

7 (33) To regulate the construction, use, and maintenance
8 of party walls, to prescribe and regulate the thickness, strength,
9 and manner of constructing stone, brick, wood, or other buildings
10 and the size and shape of brick and other material placed therein,
11 to prescribe and regulate the construction and arrangement of fire
12 escapes and the placing of iron and metallic shutters and doors
13 therein and thereon, and to provide for the inspection of elevators
14 and hoist-way openings to avoid accidents; to prescribe, regulate,
15 and provide for the inspection of all plumbing, pipefitting, or
16 sewer connections in all houses or buildings now or hereafter
17 erected; to regulate the size, number, and manner of construction
18 of halls, doors, stairways, seats, aisles, and passageways of
19 theaters, tenement houses, audience rooms, and all buildings of
20 a public character, whether now built or hereafter to be built,
21 so that there may be convenient, safe, and speedy exit in case
22 of fire; to prevent the dangerous construction and condition of
23 chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers,
24 and heating appliances used in or about any building or a
25 manufactory and to cause the same to be removed or placed in

1 safe condition when they are considered dangerous; to regulate and
2 prevent the carrying on of manufactures dangerous in causing and
3 promoting fires; to prevent the deposit of ashes in unsafe places
4 and to cause such buildings and enclosures as may be in a dangerous
5 state to be put in a safe condition; to prevent the disposing of
6 and delivery or use in any building or other structure, of soft,
7 shelly, or imperfectly burned brick or other unsuitable building
8 material within the city limits and provide for the inspection of
9 the same; to provide for the abatement of dense volumes of smoke;
10 to regulate the construction of areaways, stairways, and vaults
11 and to regulate partition fences; to enforce proper heating and
12 ventilation of buildings used for schools, workhouses, or shops of
13 every class in which labor is employed or large numbers of persons
14 are liable to congregate;

15 Warehouses and street railways.

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

21 Lighting railroad property.

22 (35) To require the lighting of any railway within the
23 city, the cars of which are propelled by steam, and to fix and
24 determine the number, size, and style of lampposts, burners, lamps,
25 and all other fixtures and apparatus necessary for such lighting

1 and the points of location for such lampposts; and in case any
2 company owning or operating such railways shall fail to comply with
3 such requirements, the council may cause the same to be done and
4 may assess the expense thereof against such company, and the same
5 shall constitute a lien upon any real estate belonging to such
6 company and lying within such city and may be collected in the same
7 manner as taxes for general purposes;

8 City publicity.

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

12 Offstreet parking.

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

20 Public passenger transportation systems.

21 (38) To acquire, by the exercise of the power of eminent
22 domain or otherwise, lease, purchase, construct, own, maintain,
23 operate, or contract for the operation of public passenger
24 transportation systems, excluding taxicabs and railroad systems,
25 including all property and facilities required therefor, within and

1 without the limits of the city, to redeem such property from prior
2 encumbrance in order to protect or preserve the interest of the
3 city therein, to exercise all powers granted by the Constitution
4 of Nebraska and laws of the State of Nebraska or exercised by or
5 pursuant to a home rule charter adopted pursuant thereto, including
6 but not limited to receiving and accepting from the government of
7 the United States or any agency thereof, from the State of Nebraska
8 or any subdivision thereof, and from any person or corporation
9 donations, devises, gifts, bequests, loans, or grants for or in
10 aid of the acquisition, operation, and maintenance of such public
11 passenger transportation systems and to administer, hold, use, and
12 apply the same for the purposes for which such donations, devises,
13 gifts, bequests, loans, or grants may have been made, to negotiate
14 with employees and enter into contracts of employment, to employ
15 by contract or otherwise individuals singularly or collectively, to
16 enter into agreements authorized under the Interlocal Cooperation
17 Act or the Joint Public Agency Act, to contract with an operating
18 and management company for the purpose of operating, servicing, and
19 maintaining any public passenger transportation systems any city
20 of the metropolitan class shall acquire under the provisions of
21 this act, and to exercise such other and further powers as may be
22 necessary, incident, or appropriate to the powers of such city; and
23 Regulation of air quality.

24 (39) In addition to powers conferred elsewhere in the
25 laws of the state and notwithstanding any other law of the state,

1 to implement and enforce an air pollution control program within
2 the corporate limits of the city under subdivision (23) of section
3 81-1504 or subsection (1) of section 81-1528, which program shall
4 be consistent with the federal Clean Air Act, as amended, 42 U.S.C.
5 7401 et seq. Such powers shall include without limitation those
6 involving injunctive relief, civil penalties, criminal fines, and
7 burden of proof. Nothing in this section shall preclude the control
8 of air pollution by resolution, ordinance, or regulation not in
9 actual conflict with the state air pollution control regulations.

10 Sec. 73. Section 15-258, Revised Statutes Supplement,
11 2009, is amended to read:

12 15-258 A city of the primary class may restrain,
13 prohibit, and suppress unlicensed tippling shops, billiard tables,
14 bowling alleys, houses of prostitution, opium joints, dens, and
15 other disorderly houses and practices, games, gambling houses,
16 desecration of the Sabbath day, commonly called Sunday, and may
17 prohibit all public amusements, shows, exhibitions, or ordinary
18 business pursuits upon such day, all lotteries, all fraudulent
19 devices and practices for the purposes of obtaining money or
20 property, all shooting galleries except as provided in the Nebraska
21 Shooting Range Protection Act, and all kinds of public indecencies,
22 except that nothing in this section shall be construed to apply
23 to bingo, charitable poker, lotteries, lotteries by the sale of
24 pickle cards, or raffles conducted in accordance with the Nebraska
25 Bingo Act, the Nebraska Charitable Poker Act, the Nebraska Lottery

1 and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
2 Small Lottery and Raffle Act, or the State Lottery Act.

3 Sec. 74. Section 16-226, Revised Statutes Supplement,
4 2009, is amended to read:

5 16-226 A city of the first class by ordinance may
6 regulate, prohibit, and suppress unlicensed tippling shops,
7 billiard tables, and bowling alleys, may restrain houses of
8 prostitution, opium joints, dens, and other disorderly houses and
9 practices, games, gambling houses, desecration of the Sabbath day,
10 commonly called Sunday, and may prohibit all public amusements,
11 shows, exhibitions, or ordinary business pursuits upon such day,
12 all lotteries, all fraudulent devices and practices for the purpose
13 of obtaining money or property, all shooting galleries except as
14 provided in the Nebraska Shooting Range Protection Act, and all
15 kinds of public indecencies, except that nothing in this section
16 shall be construed to apply to bingo, charitable poker, lotteries,
17 lotteries by the sale of pickle cards, or raffles conducted in
18 accordance with the Nebraska Bingo Act, the Nebraska Charitable
19 Poker Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
20 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or
21 the State Lottery Act.

22 Sec. 75. Section 17-120, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 17-120 A city of the second class shall have power
25 to restrain, prohibit, and suppress houses of prostitution and

1 unlicensed tippling shops, gambling and gambling houses, and
2 other disorderly houses and practices, and all kinds of public
3 indecencies, and all lotteries or fraudulent devices and practices
4 for the purpose of obtaining money or property, except that nothing
5 in this section shall be construed to apply to bingo, charitable
6 poker, lotteries, lotteries by the sale of pickle cards, or raffles
7 conducted in accordance with the Nebraska Bingo Act, the Nebraska
8 Charitable Poker Act, the Nebraska Lottery and Raffle Act, the
9 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and
10 Raffle Act, or the State Lottery Act. It may license, regulate, or
11 prohibit billiard halls and billiard tables, pool halls and pool
12 tables, and bowling alleys.

13 Sec. 76. Section 17-207, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 17-207 The board of trustees shall have power to
16 pass ordinances to prevent and remove nuisances; to restrain
17 and prohibit gambling; to provide for licensing and regulating
18 theatrical and other amusements within such village; to prevent the
19 introduction and spread of contagious diseases; to establish and
20 regulate markets; to erect and repair bridges; to erect, repair,
21 and regulate wharves and the rates of wharfage; to regulate the
22 landing of watercraft; to provide for the inspection of building
23 materials to be used or offered for sale in such village; to govern
24 the planting and protection of shade trees in the streets and the
25 building of structures projecting upon or over and adjoining, and

1 all excavations through and under, the sidewalks of such village;
2 and in addition to the special powers herein conferred and granted,
3 to maintain the peace, good government, and welfare of the town or
4 village and its trade, commerce, and manufactories, and to enforce
5 all ordinances by inflicting penalties upon inhabitants or other
6 persons, for the violation thereof, not exceeding five hundred
7 dollars for any one offense, recoverable with costs. Nothing in
8 this section shall be construed to apply to bingo, charitable
9 poker, lotteries, lotteries by the sale of pickle cards, or raffles
10 conducted in accordance with the Nebraska Bingo Act, the Nebraska
11 Charitable Poker Act, the Nebraska Lottery and Raffle Act, the
12 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and
13 Raffle Act, or the State Lottery Act.

14 Sec. 77. Section 28-1101, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 28-1101 As used in this article, unless the context
17 otherwise requires:

18 (1) A person advances gambling activity if, acting other
19 than as a player, he or she engages in conduct that materially aids
20 any form of gambling activity. Conduct of this nature includes,
21 but shall not be limited to, conduct directed toward (a) the
22 creation or establishment of the particular game, contest, scheme,
23 device, or activity involved, (b) the acquisition or maintenance of
24 premises, paraphernalia, equipment, or apparatus therefor, or (c)
25 engaging in the procurement, sale, or offering for sale within this

1 state of any chance, share, or interest in a lottery of another
2 state or government whether or not such chance, share, or interest
3 is an actual lottery ticket, receipt, contingent promise to pay,
4 order to purchase, or other record of such interest except as
5 provided in the Nebraska Charitable Poker Act, the Nebraska County
6 and City Lottery Act, the Nebraska Lottery and Raffle Act, the
7 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and
8 Raffle Act, the State Lottery Act, or section 9-701;

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

12 (3) A person profits from gambling activity if, other
13 than as a player, he or she accepts or receives money or other
14 property pursuant to an agreement or understanding with any person
15 whereby he or she participates or is to participate in the proceeds
16 of gambling activity;

17 (4) A person engages in gambling if he or she bets
18 something of value upon the outcome of a future event, which
19 outcome is determined by an element of chance, or upon the outcome
20 of a game, contest, or election, or conducts or participates in
21 any bingo, charitable poker, lottery by the sale of pickle cards,
22 lottery, raffle, gift enterprise, or other scheme not authorized or
23 conducted in accordance with the Nebraska Bingo Act, the Nebraska
24 Charitable Poker Act, the Nebraska County and City Lottery Act, the
25 Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery

1 Act, the Nebraska Small Lottery and Raffle Act, the State Lottery
2 Act, or section 9-701, but a person does not engage in gambling by:

3 (a) Entering into a lawful business transaction;

4 (b) Playing an amusement device or a coin-operated
5 mechanical game which confers as a prize an immediate, unrecorded
6 right of replay not exchangeable for something of value;

7 (c) Conducting or participating in a prize contest; or

8 (d) Conducting or participating in any bingo, charitable
9 poker, lottery by the sale of pickle cards, lottery, raffle, or
10 gift enterprise conducted in accordance with the Nebraska Bingo
11 Act, the Nebraska Charitable Poker Act, the Nebraska County and
12 City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska
13 Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act,
14 the State Lottery Act, or section 9-701;

15 (5) Gambling device shall mean any device, machine,
16 paraphernalia, writing, paper, instrument, article, or equipment
17 that is used or usable for engaging in gambling, whether that
18 activity consists of gambling between persons or gambling by a
19 person involving the playing of a machine. Gambling device shall
20 also include any mechanical gaming device, computer gaming device,
21 electronic gaming device, or video gaming device which has the
22 capability of awarding something of value, free games redeemable
23 for something of value, instant-win tickets which also provide
24 the possibility of participating in a subsequent drawing or event,
25 or tickets or stubs redeemable for something of value, except as

1 authorized in the furtherance of parimutuel wagering. Supplies,
2 equipment, cards, tickets, stubs, and other items used in any
3 bingo, charitable poker, lottery by the sale of pickle cards, other
4 lottery, raffle, or gift enterprise conducted in accordance with
5 the Nebraska Bingo Act, the Nebraska Charitable Poker Act, the
6 Nebraska County and City Lottery Act, the Nebraska Lottery and
7 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
8 Small Lottery and Raffle Act, the State Lottery Act, or section
9 9-701 are not gambling devices within this definition;

10 (6) Something of value shall mean any money or
11 property, any token, object, or article exchangeable for money or
12 property, or any form of credit or promise directly or indirectly
13 contemplating transfer of money or property or of any interest
14 therein, or involving extension of a service or entertainment; and

15 (7) Prize contest shall mean any competition in which one
16 or more competitors are awarded something of value as a consequence
17 of winning or achieving a certain result in the competition and
18 (a) the value of such awards made to competitors participating in
19 the contest does not depend upon the number of participants in the
20 contest or upon the amount of consideration, if any, paid for the
21 opportunity to participate in the contest or upon chance and (b)
22 the value or identity of such awards to be made to competitors is
23 published before the competition begins.

24 Sec. 78. Section 28-1105, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 28-1105 (1) A person commits the offense of possession of
2 gambling records if, other than as a player, he or she knowingly
3 possesses any writing, paper, instrument, or article which is:

4 (a) Of a kind commonly used in the operation or promotion
5 of a bookmaking scheme or enterprise and such writing, paper,
6 instrument, or article has been used for the purpose of recording,
7 memorializing, or registering any bet, wager, or other gambling
8 information; or

9 (b) Of a kind commonly used in the operation, promotion,
10 or playing of a lottery or mutuel scheme or enterprise or other
11 scheme not conducted pursuant to the Nebraska Bingo Act, the
12 Nebraska Charitable Poker Act, the Nebraska County and City Lottery
13 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
14 Card Lottery Act, the Nebraska Small Lottery and Raffle Act,
15 the State Lottery Act, or section 9-701 and such writing, paper,
16 instrument, or article has been used for the purpose of recording,
17 memorializing, or registering any bet, wager, or other gambling
18 information not permitted by such acts or section.

19 (2) Possession of gambling records in the first degree is
20 a Class II misdemeanor.

21 Sec. 79. Section 28-1113, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 28-1113 Nothing in this article shall be construed to:

24 (1) Apply to or prohibit wagering on the results of
25 horseraces by the parimutuel or certificate method when conducted

1 by licensees within the racetrack enclosure at licensed horserace
2 meetings; or

3 (2) Prohibit or punish the conducting or participating in
4 any bingo, charitable poker, lottery by the sale of pickle cards,
5 lottery, raffle, or gift enterprise when conducted in accordance
6 with the Nebraska Bingo Act, the Nebraska Charitable Poker Act,
7 the Nebraska County and City Lottery Act, the Nebraska Lottery
8 and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska
9 Small Lottery and Raffle Act, the State Lottery Act, or section
10 9-701.

11 Sec. 80. Section 35-901, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 35-901 (1) For purposes of this section, volunteer
14 department shall mean volunteer fire department or volunteer
15 first-aid, rescue, or emergency squad or volunteer fire company
16 serving any city, village, county, township, or rural or suburban
17 fire protection district.

18 (2) Except as provided in subsection (4) of this section,
19 each volunteer department may establish a volunteer department
20 trust fund. All general donations or contributions, bequests, or
21 annuities made to the volunteer department and all money raised by
22 or for the volunteer department shall be deposited in the trust
23 fund. The trust fund shall be under the control of the volunteer
24 department, and the volunteer department may make expenditures
25 from the trust fund as it deems necessary. The treasurer of the

1 volunteer department shall be the custodian of the trust fund.

2 (3) The trust fund shall not be considered public funds
3 or funds of any city, village, county, township, or rural or
4 suburban fire protection district for any purpose, including the
5 Nebraska Budget Act, nor shall any city, village, county, township,
6 or rural or suburban fire protection district incur any liability
7 solely by reason of any expenditure from such fund except liability
8 for property when any city, village, county, township, or rural
9 or suburban fire protection district receives title to property
10 acquired with money from such fund.

11 (4)(a) If the total amount of expenditures and receipts
12 in the trust fund exceeds one hundred thousand dollars in
13 any twelve-month period, the volunteer department shall inform
14 any city, village, county, township, or rural or suburban fire
15 protection district receiving service from the department and such
16 entity may examine or cause to be examined all books, accounts,
17 vouchers, records, and expenditures with regard to the trust fund.

18 (b) Funds, fees, or charges solicited, collected, or
19 received by a volunteer department that are (i) in consequence
20 of the performance of fire or rescue services by the volunteer
21 department at a given place and time, (ii) accomplished through the
22 use by the volunteer department of equipment owned by the taxing
23 authority supporting such department and provided to the volunteer
24 department for that purpose, and (iii) paid by or on behalf of
25 the recipient of those services shall not be deposited in a trust

1 fund authorized by this section. Such funds are public funds of the
2 taxing authority supporting the volunteer department and are deemed
3 to have been collected by the volunteer department as the agent of
4 the taxing authority and are held by the department on its behalf.
5 If such funds are in the possession of a volunteer department,
6 the taxing authority shall cause all the books, accounts, records,
7 vouchers, expenditures, and statements regarding such funds to be
8 examined and independently audited at the expense of the taxing
9 authority by a qualified professional auditor or the Auditor of
10 Public Accounts for the immediately preceding five years.

11 (5) Nothing in this section shall be construed or deemed
12 to permit a violation of the Nebraska Liquor Control Act.

13 (6) All expenditures of public funds as defined in the
14 Nebraska Budget Act for support of a volunteer department or its
15 purposes shall be submitted as claims, approved by the taxing
16 authority supporting such department or its purposes, and published
17 as required by law. All such claims shall be properly itemized for
18 proposed expenditure or reimbursement for costs already incurred
19 and paid except as may be otherwise permitted pursuant to section
20 35-106.

21 (7) All money raised pursuant to the Nebraska Bingo Act,
22 the Nebraska Charitable Poker Act, the Nebraska Lottery and Raffle
23 Act, the Nebraska Pickle Card Lottery Act, and the Nebraska Small
24 Lottery and Raffle Act shall be subject to such acts with respect
25 to the deposit and expenditure of such money.

1 (8) No volunteer department shall solicit, charge, or
2 collect any funds, fees, or charges as described in subdivision
3 (4)(b) of this section without the express authorization of the
4 taxing authority supporting the department by vote of a majority
5 of the members of the governing body of such taxing authority.
6 Such authorization shall not extend beyond a twelve-month period
7 but may be renewed at the discretion of the taxing authority in
8 the same manner in which it was initially granted. Upon collection
9 or receipt, such funds, fees, or charges shall be remitted to
10 the designated officer of the taxing authority for deposit to
11 the account of the taxing authority. The taxing authority may
12 appropriate and expend some or all of such funds for the support of
13 a service award benefit program adopted and conducted pursuant to
14 the Volunteer Emergency Responders Recruitment and Retention Act.

15 Sec. 81. The Revisor shall assign the Nebraska Charitable
16 Poker Act to Chapter 9.

17 Sec. 82. This act becomes operative after the adoption of
18 a constitutional amendment by the people of the State of Nebraska
19 authorizing charitable poker and the subsequent enactment of this
20 legislative bill.

21 Sec. 83. Original sections 2-219, 9-1,101, 9-1,103,
22 9-1,104, 9-204, 9-226, 9-227, 9-232.01, 9-312, 9-322, 9-323, 9-411,
23 9-415, 9-418, 9-419, 9-507, 9-509, 9-512, 9-607, 9-620, 9-701,
24 9-826, 17-120, 17-207, 28-1101, 28-1105, 28-1113, and 35-901,
25 Reissue Revised Statutes of Nebraska, and sections 14-102, 15-258,

LB 985

LB 985

1 and 16-226, Revised Statutes Supplement, 2009, are repealed.