

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 280

Introduced by von Gillern, 4.

Read first time January 15, 2025

Committee: General Affairs

1 A BILL FOR AN ACT relating to gaming; to amend sections 9-1202, 9-1205,
2 9-1206, and 9-1207, Reissue Revised Statutes of Nebraska, and
3 sections 2-1202 and 9-1107, Revised Statutes Cumulative Supplement,
4 2024; to change the authorized uses of the Racing and Gaming
5 Commission's Racetrack Gaming Fund; to require an authorized gaming
6 operator to have an annual audit as prescribed; to require reports;
7 to provide powers and duties for the Auditor of Public Accounts to
8 review the audit report of an authorized gaming operator and examine
9 the books, records, funds, and accounts of authorized gaming
10 operators as prescribed; and to repeal the original sections.
11 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 2-1202, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 2-1202 (1) The commission shall elect one of its members to be
4 chairperson thereof, and it shall be authorized to employ such other
5 assistants and employees as may be necessary to carry out the purposes of
6 sections 2-1201 to 2-1218, the Nebraska Racetrack Gaming Act, and
7 sections 9-1201 to 9-1209 and section 7 of this act. The commission shall
8 employ an executive director who shall be selected by the commission
9 subject to the approval of the Governor. The executive director shall
10 devote full time to the duties of the office and shall not engage in any
11 other business or profession or hold any other state public office. The
12 executive director shall keep a record of the proceedings of the
13 commission, preserve the books, records, and documents entrusted to the
14 executive director, and perform such other duties as the commission shall
15 prescribe; and the commission shall require the executive director to
16 give bond in such sum as it may fix, conditioned for the faithful
17 performance of the duties of the executive director. The commission shall
18 be authorized to fix the compensation of the executive director, and also
19 the compensation of its other employees, subject to the approval of the
20 Governor. The commission shall have an office at such place within the
21 state as it may determine and shall meet at least eight times per year.

22 (2) The commission shall appoint or employ deputies, investigators,
23 inspectors, agents, security personnel, and other persons as deemed
24 necessary to administer and effectively enforce the regulation of
25 horseracing, the Nebraska Racetrack Gaming Act, and sections 9-1201 to
26 9-1209 and section 7 of this act. Any appointed or employed personnel
27 shall perform the duties assigned by the commission.

28 (3) All personnel appointed or employed by the commission shall be
29 bonded or insured as required by section 11-201. As specified by the
30 commission, certain personnel shall be vested with the authority and
31 power of a law enforcement officer to carry out the laws of this state

1 administered by the commission.

2 **Sec. 2.** Section 9-1107, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 9-1107 The Racing and Gaming Commission's Racetrack Gaming Fund is
5 created. The fund shall consist of all license, application, and other
6 fees collected under the Nebraska Racetrack Gaming Act. The fund shall be
7 used for administration of the Nebraska Racetrack Gaming Act and for any
8 audit, examination, or review required or authorized pursuant to section
9 7 of this act. Any money in the Racing and Gaming Commission's Racetrack
10 Gaming Fund available for investment shall be invested by the state
11 investment officer pursuant to the Nebraska Capital Expansion Act and the
12 Nebraska State Funds Investment Act. Beginning October 1, 2024, any
13 investment earnings from investment of money in the fund shall be
14 credited to the General Fund.

15 **Sec. 3.** Section 9-1202, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 9-1202 For purposes of sections 9-1201 to 9-1209 and section 7 of
18 this act:

19 (1) Authorized gaming operator means a person or entity licensed
20 pursuant to the Nebraska Racetrack Gaming Act to operate games of chance
21 within a licensed racetrack enclosure;

22 (2) Designated sports wagering area means an area, as designated by
23 the gaming commission, in which sports wagering is conducted;

24 (3) Dollar amount collected means the total dollar amount wagered by
25 players of games of chance less the total dollar amount returned to such
26 players as prizes;

27 (4) Game of chance means any game which has the elements of chance,
28 prize, and consideration, including any wager on a slot machine, table
29 game, counter game, or card game, a keno lottery conducted in accordance
30 with the Nebraska County and City Lottery Act, or sports wagering. Game
31 of chance does not include any game the operation of which is prohibited

1 at a casino by federal law;

2 (5) Gaming commission means the State Racing and Gaming Commission;

3 (6) Gross gaming revenue means the dollar amount collected by an
4 authorized gaming operator from operation of all games of chance within a
5 licensed racetrack enclosure as computed pursuant to applicable statutes,
6 rules, and regulations less the total of (a) all federal taxes, other
7 than income taxes, imposed on the operation of such games of chance and
8 (b) the amount provided to players by an authorized gaming operator as
9 promotional gaming credits, but only to the extent such promotional
10 gaming credits are redeemed by players to play one or more games of
11 chance being operated by the authorized gaming operator;

12 (7) Licensed racetrack enclosure means a premises at which licensed
13 live horseracing is conducted in accordance with the Constitution of
14 Nebraska and applicable Nebraska law;

15 (8) Promotional gaming credit means a credit, token, or other item
16 of value provided by an authorized gaming operator to a player for the
17 purpose of enabling the player to play a game of chance; and

18 (9) Sports wagering has the same meaning as in section 9-1103.

19 **Sec. 4.** Section 9-1205, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 9-1205 Every authorized gaming operator subject to taxation as set
22 forth in sections 9-1201 to 9-1209 and section 7 of this act shall pay
23 such tax by the fifteenth of each month to the gaming commission and make
24 report thereof to the gaming commission under such rules and regulations
25 as may be prescribed by the gaming commission.

26 **Sec. 5.** Section 9-1206, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 9-1206 If the tax provided for in sections 9-1201 to 9-1209 and
29 section 7 of this act is not paid within such time as provided in section
30 9-1205 or as may be prescribed for payment thereof by rules and
31 regulations prescribed by the gaming commission, the same shall become

1 delinquent and a penalty of ten percent shall be added thereto, together
2 with interest at the rate specified in section 45-104.02, as such rate
3 may from time to time be adjusted, until paid.

4 **Sec. 6.** Section 9-1207, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 9-1207 Any authorized gaming operator that willfully fails,
7 neglects, or refuses to make any report required by sections 9-1201 to
8 9-1209 and section 7 of this act, or by rules and regulations adopted and
9 promulgated under sections 9-1201 to 9-1209 and section 7 of this act, or
10 that knowingly makes any false statement in any such report, is guilty of
11 a Class IV felony.

12 **Sec. 7.** (1) Each authorized gaming operator shall cause an audit to
13 be performed, at its own expense, of the annual financial statements,
14 including a report on the internal control system, covering all financial
15 transactions and affairs of the authorized gaming operator in Nebraska
16 for the preceding fiscal year. The annual audit shall be performed by an
17 independent certified public accountant who is, or whose firm is,
18 authorized to practice accountancy in the State of Nebraska.

19 (2)(a) The audit required pursuant to subsection (1) of this section
20 shall be completed and the annual audit report shall be submitted
21 electronically to both the Auditor of Public Accounts and the gaming
22 commission within six months after the close of the fiscal year being
23 audited unless an extension is granted in writing by the Auditor of
24 Public Accounts.

25 (b) The Auditor of Public Accounts shall review the annual audit
26 report for errors in mathematics, improper accounting, or other
27 deficiencies, especially any affecting the proper calculation of either
28 the gross gaming revenue generated by the authorized gaming operator or
29 the annual gaming tax imposed thereon. The Auditor of Public Accounts
30 shall report the results of the review electronically to the Governor,
31 the Legislature, and the gaming commission.

1 (c) The expenses of the review by the Auditor of Public Accounts
2 shall be paid from the Racing and Gaming Commission's Racetrack Gaming
3 Fund.

4 (3)(a) The Auditor of Public Accounts may examine or cause to be
5 examined at his or her discretion the books, records, funds, and accounts
6 of an authorized gaming operator pertaining to the annual gaming tax
7 imposed on the gross gaming revenue generated by such authorized gaming
8 operator pursuant to section 9-1203. Such examination shall include, but
9 not be limited to, an assessment of whether the annual gaming tax is
10 being calculated, collected, and credited to the Property Tax Credit Cash
11 Fund as required by law. The examination shall be done in accordance with
12 generally accepted government auditing standards for financial audits and
13 attestation engagements set forth in Government Auditing Standards
14 published by the Comptroller General of the United States, Government
15 Accountability Office.

16 (b) The Auditor of Public Accounts shall submit a report of such
17 examination to the Governor, the Legislature, and the gaming commission.
18 The report submitted to the Legislature shall be submitted
19 electronically.

20 (c) The expenses of the examination shall be paid from the Racing
21 and Gaming Commission's Racetrack Gaming Fund.

22 **Sec. 8.** Original sections 9-1202, 9-1205, 9-1206, and 9-1207,
23 Reissue Revised Statutes of Nebraska, and sections 2-1202 and 9-1107,
24 Revised Statutes Cumulative Supplement, 2024, are repealed.