

LEGISLATIVE BILL 767

Approved by the Governor May 26, 1989

Introduced by Smith, 33; R. Johnson, 34; Elmer, 38

AN ACT relating to bingo, lotteries, and other gambling; to amend sections 9-202, 9-250, 9-254, 9-257, 9-310, 9-332, 9-335, 9-601, 9-603, 9-605, and 9-607 to 9-612, Reissue Revised Statutes of Nebraska, 1943, and sections 9-1,101, 9-201, 9-203, 9-209, 9-212, 9-226, 9-231, 9-234, 9-235.02, 9-235.03, 9-242, 9-244, 9-253, 9-266, 9-305.01, 9-306.01, 9-322, 9-326, 9-328, 9-329.02, 9-331, 9-340, 9-340.02, 9-344, 9-345.02, 9-346, 9-347, 9-347.01, 9-348, and 9-348.01, Revised Statutes Supplement, 1988; to change provisions relating to administration and enforcement of gambling statutes, the amount and distribution of certain taxes, the conduct of bingo and lotteries by the sale of pickle cards, and the renewal of certain licenses; to define and redefine terms; to change and provide for the regulation of lotteries conducted by counties, cities, and villages; to require elections and licensing as prescribed; to provide powers, duties, and restrictions on activities; to provide and change fees, administrative fines, penalties, and taxes; to eliminate filing requirements as prescribed; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections, and also section 9-241, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. That section 9-1,101, Revised Statutes Supplement, 1988, be amended to read as follows:

9-1,101. (1) The Nebraska Bingo Act, the Nebraska ~~Pickle Card County and City Lottery Act~~, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, and the Nebraska Small Lottery and Raffle Act; and the Nebraska ~~County and City Lottery Act~~ shall be administered and enforced by the Charitable Gaming Division of the Department of Revenue, which

division is hereby created. The Department of Revenue shall make quarterly annual reports to the Governor, Legislature, Auditor of Public Accounts, and Attorney General on all tax revenue received, expenses incurred, and other activities relating to the administration and enforcement of such acts.

(2) The Charitable Gaming Operations Fund is hereby created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

(3) Thirty-five Thirty percent of the taxes collected pursuant to sections 9-239, 9-344, and 9-429 and section 87 of this act shall be available to the Charitable Gaming Division for administering and enforcing the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, and the Nebraska County and City Lottery Act acts. The remaining seventy sixty-five percent, along with any portion of the thirty thirty-five percent not used by the division in its administration and enforcement of such acts, shall be transferred to the General Fund.

(4) The Tax Commissioner shall employ investigators and inspectors who shall be appointed deputy state sheriffs by the Governor and who shall, upon qualifying for such office, possess all the powers which attach to such office, except that their powers and duties shall be restricted to the enforcement of the acts.

Sec. 2. Any person applying for or holding a license as (1) a commercial lessor, distributor, gaming manager, or manufacturer pursuant to the Nebraska Bingo Act, (2) a distributor, manufacturer, pickle card operator, or sales agent pursuant to the Nebraska Pickle Card Lottery Act, or (3) a lottery operator or manufacturer-distributor pursuant to the Nebraska County and City Lottery Act shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation through the Nebraska State Patrol for the purpose of determining whether the Department of Revenue has a basis to deny the license application or to suspend, cancel, or revoke the person's license.

If the applicant or licensee is a corporation, the persons subject to such requirement shall include any officer or director of the corporation, his or her spouse, and any stockholder owning in the aggregate more than ten percent of the stock of the corporation. If

the applicant or licensee is a partnership, the persons subject to such requirement shall include any partner and his or her spouse.

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

The applicant or licensee shall pay the actual cost of any fingerprinting or check of his or her criminal history record information.

Sec. 3. That section 9-201, Revised Statutes Supplement, 1988, be amended to read as follows:

9-201. Sections 9-201 to 9-266 and sections 8 to 13, 15, and 25 of this act shall be known and may be cited as the Nebraska Bingo Act.

Sec. 4. That section 9-202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-202. (1) The purpose of the Nebraska Bingo Act is to protect the health and welfare of the public, to protect the economic welfare and interest in the fair play of bingo participants, to insure that the profits derived from the operation of bingo are accurately reported in order that their revenue-raising potential be fully exposed, to insure that the profits are used for legitimate purposes, and to prevent the purposes for which the profits of bingo are to be used from being subverted by improper elements. Bingo shall be played and conducted only by those methods permitted in the act. No other form, means of selection, or method of play shall be authorized or permitted.

(2) The purpose of the Nebraska Bingo Act act is also to completely and fairly regulate each level of the traditional marketing, conducting, and playing schemes of bingo to insure fairness, quality, and compliance with the Constitution of the State of Nebraska. To accomplish such purpose, the regulation and licensure of manufacturers and distributors of bingo supplies and equipment, nonprofit organizations conducting bingo, supervising members, members responsible for the proper utilization of gross receipts, and any other person involved in the marketing, conducting, and playing schemes are necessary.

(3) The intent of the Nebraska Bingo Act act is that if facilities or supplies and equipment used for bingo occasions are leased or rented pursuant to the act; (a) they shall be leased or rented at not more than their fair market value, (b) no lease or rental

agreement shall provide a means for obtaining a percentage of the receipts or a portion of the profits from the bingo operation, and (c) rental or lease agreements entered into for facilities shall be separate and apart from lease and rental agreements for bingo equipment and supplies and equipment.

Sec. 5. That section 9-203, Revised Statutes Supplement, 1988, be amended to read as follows:

9-203. For purposes of the Nebraska Bingo Act, unless the context otherwise requires, the definitions found in sections 9-204 to 9-225 and section 8 of this act shall be used.

Sec. 6. That section 9-209, Revised Statutes Supplement, 1988, be amended to read as follows:

9-209. Distributor shall mean any person licensed pursuant to section 9-235 who purchases bingo supplies or equipment from a licensed manufacturer to sell, lease, distribute, or provide without charge or for a nominal fee bingo supplies and equipment in this state to a licensed organization and shall not include any person or persons who solely provide bingo supplies or equipment to be used for the conduct of bingo games which are not subject to regulation under the Nebraska Bingo Act.

Sec. 7. That section 9-212, Revised Statutes Supplement, 1988, be amended to read as follows:

9-212. License shall mean any license to conduct bingo as provided in section 9-231, any license for a designated supervising member or designated member responsible for the proper utilization of gross receipts as provided in section 9-232, any manufacturer's license as provided in section 9 of this act, any distributor's license as provided in section 9-235, any gaming manager's license as provided in sections 9-235.01 and 9-235.02, or any commercial lessor's license as provided in section 9-235.03.

Sec. 8. Manufacturer shall mean any person (1) who manufactures, converts, modifies, adds to, or removes parts or a portion from any bingo supplies and equipment, item, device, or assembly to further its promotion or sale for use in a bingo activity regulated by the Nebraska Bingo Act or (2) who assembles from raw materials or subparts a completed item or items defined as bingo supplies and equipment which are used in connection with any bingo activity regulated by the act.

Sec. 9. A manufacturer shall obtain a license from the department prior to selling or supplying any bingo supplies or equipment to any distributor or other person for use within this state in a bingo activity

regulated by the Nebraska Bingo Act. The applicant shall include with the application form supplied by the department a license fee of one thousand five hundred twenty-five dollars and the following information:

(1) The name and address of the applicant and the name and address of each of the applicant's separate locations manufacturing bingo supplies or equipment;

(2) The name and home address of all owners of the manufacturing business if the business is not a corporation. If the business is a corporation, the name and home address of each of the officers and directors of the corporation and of each stockholder owning ten percent or more of any class of stock in the corporation shall be supplied;

(3) A full description of each type of bingo supplies or equipment which the applicant seeks to manufacture or market in this state;

(4) For each such type of item, the brand name under which it is sold;

(5) If the applicant is a foreign manufacturer, the full name, business address, and home address of the agent who is a resident of this state designated pursuant to section 12 of this act;

(6) A list of all distributors of such bingo supplies or equipment in which the applicant has some financial interest and the details of such interest. For purposes of this subdivision, financial interest shall include, among all other interests, any indebtedness from the applicant to another person or from another person to the applicant in excess of five hundred dollars;

(7) A current list of all Nebraska-licensed distributors to whom the manufacturer wishes to sell; and

(8) Any other information which the department deems necessary.

The applicant shall notify the department within thirty days of any change in the information submitted on or with the application form. A license shall expire on September 30 of each year and may be renewed annually.

Any person licensed as a manufacturer pursuant to section 9-332 may act as a manufacturer pursuant to this section upon filing the proper forms without submitting the fees provided in this section. Such person shall comply in every other respect with the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, and all rules and regulations adopted and promulgated pursuant to such acts.

Sec. 10. Every licensed manufacturer shall keep and maintain a complete set of records which shall include all details of all activities of the licensee related to the conduct of the licensed activity as may be required by the department, including the quantities and types of all bingo supplies or equipment the manufacturer has sold to each Nebraska-licensed distributor. Such records shall be available for inspection by the department. The records shall be maintained for a period of not less than three years from the date of the end of the licensee's fiscal year.

Sec. 11. The department may require by rule and regulation periodic reporting by manufacturers and distributors. Such reporting may include, but not be limited to, the quantity and type of each bingo supply or equipment manufactured or sold, detailed information relating to whom the supplies or equipment was sold, and any other information which the department deems necessary to ensure compliance with the Nebraska Bingo Act or any rules or regulations adopted and promulgated pursuant to such act.

Sec. 12. Each manufacturer selling bingo supplies or equipment in this state who is not a resident of this state or is not a corporation shall designate a natural person who is a resident of and living in this state and nineteen years of age or older as a resident agent for the purpose of receipt and acceptance of service of process and other communications on behalf of the manufacturer. The name, business address where service of process and delivery of mail can be made, and home address of the agent shall be filed with the department.

Sec. 13. No manufacturer shall be licensed to conduct any other activity under the Nebraska Bingo Act or any other kind of gambling which is authorized or regulated under Chapter 9 except as provided in section 9-335 and section 72 of this act.

Sec. 14. That section 9-226, Revised Statutes Supplement, 1988, be amended to read as follows:

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

- (1) To issue licenses;
- (2) To deny any license application or renewal application for cause. Cause for denial of an application for or renewal of a license shall include, but not be limited to, instances in which the applicant or licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the

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

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include, but not be limited to, instances in which the licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act or any rules or regulations adopted and promulgated pursuant to the act; (b) knowingly caused, aided, abetted, or conspired with another to cause any person

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

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

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

or are being violated and at such time to examine such premises;

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

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

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

(9) To confiscate and seize bingo supplies and equipment pursuant to section 25 of this act; and

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

Sec. 15. Every distributor shall keep and maintain a complete set of records which shall include all details of all activities of the distributor related to the conduct of the licensed activity as may be required by the department, including the quantities and types of all bingo supplies or equipment the distributor has sold to each licensed organization. Such records shall be available for inspection by the department. The records shall be maintained for not less than three years after the last day of the distributor's fiscal year.

Sec. 16. That section 9-231, Revised Statutes

Supplement, 1988, be amended to read as follows:

9-231. (1) Any nonprofit organization holding a certificate of exemption under subsection (e), subdivision (3), (4), (8) or (19), of section 501(c)(3), (c)(4), (c)(5), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, may apply for a license to conduct bingo.

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

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

(b) Conduct activities within this state in addition to the conduct of bingo;

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

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

(e) Have been in existence for five years immediately preceding its application for a license, and shall have had during that five-year period a bona fide membership actively engaged in furthering a lawful purpose. A society defined in section 21-608 which is chartered in Nebraska under a state, grand, supreme, national, or other governing body may use the charter date of its parent organization to satisfy such five-year requirement.

(3) None of the provisions of this section shall prohibit a senior citizens group from organizing and conducting bingo pursuant to the Nebraska Bingo Act when bingo is played only by members of the senior citizens group conducting the bingo. For purposes of this section, senior citizens group shall mean any organization the membership of which consists entirely of persons who are at least sixty years old.

Sec. 17. That section 9-234, Revised Statutes Supplement, 1988, be amended to read as follows:

9-234. (1) No person shall sell, lease, distribute, or provide without charge or for a nominal fee bingo supplies or equipment except a distributor or a manufacturer operating pursuant to the Nebraska Bingo Act or a person or persons who solely provide bingo

supplies or equipment to be used for the conduct of bingo games which are not subject to regulation under the act.

(2) No distributor shall hold a license for bingo or any other kind of gambling which is authorized or regulated under Chapter 9 except as provided in section 9-235 and section 72 of this act.

(3) No distributor or employee or spouse of any distributor shall participate in the conduct or operation of any bingo or any other kind of gambling which is authorized or regulated under Chapter 9 except to the exclusive extent of his or her statutory duties as a licensed distributor ~~or~~ and as provided in section 9-235 and section 72 of this act. Membership in a licensed organization shall not be deemed a violation of this section.

(4) No distributor or person having a substantial interest therein shall hold any license (a) as a manufacturer of bingo supplies or equipment or (b) as a pickle card manufacturer issued pursuant to the Nebraska Pickle Card Lottery Act.

(5) All bingo supplies or equipment used in connection with a bingo activity which is regulated under the Nebraska Bingo Act:

(a) With respect to a licensed organization, shall be purchased, leased, or otherwise obtained only from a licensed distributor; and

(b) With respect to a licensed distributor, shall be purchased or otherwise obtained only from a licensed manufacturer.

(6) Nothing in this section shall prohibit:
(a) A licensed organization from lending without charge bingo supplies and equipment to another licensed organization on an emergency basis; (b) a licensed organization which has purchased or intends to purchase new bingo supplies and equipment from selling or donating its old bingo supplies and equipment to another licensed organization if prior written approval has been obtained from the department; or (c) an organization which has voluntarily canceled or allowed its license to conduct bingo to lapse or an organization which has had its license to conduct bingo suspended, canceled, or revoked from selling or donating its bingo supplies and equipment to another licensed organization if prior written approval has been obtained from the department.

Sec. 18. That section 9-235.02, Revised Statutes Supplement, 1988, be amended to read as follows:

9-235.02. (1) Any person who desires to

obtain a license as a gaming manager in this state shall file an application with the department for a license on a form prescribed by the department. Each application for a license shall include (a) the name, address, and social security number of the person applying for the license and (b) such other information which the department deems necessary. The information required by this subsection shall be kept current. A gaming manager shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information.

(2) A gaming manager shall not manage and operate a bingo game on behalf of a licensed organization until an authorization has been obtained from the department by the licensed organization. The licensed organization shall file an application with the department for such authorization on a form prescribed by the department. Each application for an authorization shall include (a) the name, address, and social security number of the licensed gaming manager and (b) such other information which the department deems necessary. The application shall include a statement signed by a person licensed as a member responsible for the proper utilization of gross receipts signifying that such licensed organization approves the gaming manager to manage and operate the bingo game on behalf of such organization.

(3) A gaming manager may operate as such for more than one licensed organization. Each licensed organization for which the gaming manager manages and operates a bingo game shall obtain the authorization described in subsection (2) of this section.

(4) A fee of one hundred fifty dollars shall be charged for each license issued pursuant to this section. Such licenses shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and ~~shall~~ may be renewed annually.

Sec. 19. That section 9-235.03, Revised Statutes Supplement, 1988, be amended to read as follows:

9-235.03. (1) Any commercial lessor who desires to lease premises to a licensed organization for the purpose of conducting bingo shall file an application with the department for a license on a form prescribed by the department. Each application for a license shall include (a) the name and address of the applicant and of all other persons who have a substantial interest in or who are in any capacity a

real party in interest in the applicant's business as pertains to the Nebraska Bingo Act, (b) a designated mailing address and legal description of the premises intended to be covered by the license sought, (c) the lawful capacity of the premises for public assembly purposes, (d) the names and mailing addresses of the officers of the licensed organization which is to conduct bingo at the premises and the place and time the licensed organization intends to conduct bingo, (e) the amount of rent to be paid or other consideration to be given directly or indirectly for each occasion for the use of the premises of the commercial lessor, and (f) any other information the department deems necessary.

(2) No person other than a licensed commercial lessor shall lease premises for the conduct of bingo unless specifically exempted from the requirement of being a licensed commercial lessor under the Nebraska Bingo Act. A commercial lessor wishing to lease premises for the conduct of bingo who does not receive more than two hundred fifty dollars per month as aggregate total rent from leasing such premises for the conduct of bingo shall be exempt from obtaining a license to lease bingo premises. A not-for-profit organization renting its premises solely to its own auxiliary shall be exempt from the requirement of holding a license to lease bingo premises.

(3) An application for a commercial lessor license shall be accompanied by a fee of one hundred dollars.

(4) A commercial lessor license shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and shall may be renewed annually. Each premises shall be separately licensed. A commercial lessor may lease the same premises under the same license to more than one licensed organization. A commercial lessor who wants to lease more than one premises shall file a separate application and pay a separate fee for each premises.

Sec. 20. That section 9-242, Revised Statutes Supplement, 1988, be amended to read as follows:

9-242. A licensed organization shall purchase or rent bingo supplies or equipment from any a distributor only. Such purchase or rental shall be for the fair market value of the supplies or equipment and shall not include any services rendered. If requested to do so by the department, an organization shall be required to show that the amount charged for the purchase or rental of such supplies or equipment is not in excess of fair market value.

Sec. 21. That section 9-244, Revised Statutes Supplement, 1988, be amended to read as follows:

9-244. (1) Not more than ten bingo occasions per month may be held by a licensed organization. Bingo occasions held as part of a limited period bingo shall not be counted in determining whether a licensed organization has exceeded the limitation provided in this subsection.

(2) Irrespective of the number of licensed organizations authorized to hold bingo occasions within the premises, not more than two limited period bingos per license year and, with the exception of a limited period bingo, not more than two bingo occasions per week may be held within such premises. A bingo occasion shall not begin within three hours of the completion of another bingo occasion conducted within the same premises. The governing board of the incorporated city or village in which such premises are situated or the governing board of the county in which such premises are situated, if such premises are situated outside the limits of an incorporated city or village, may allow, following actual notice to all licensed organizations within the boundaries of the political subdivision and published notice to the public and public hearing on such allowance, more than two bingo occasions per week within such premises. Such allowance may be granted for a period not to exceed three years and only upon an affirmative showing that no premises suitable for the conduct of a bingo occasion are available for lease or rental within such political subdivision, except the premises for which the allowance is sought, and that no injury to the public welfare will result from such allowance.

(3) No licensed organization shall use any premises in any week for any bingo occasion, except a limited period bingo occasion, when the premises have previously been used twice for bingo occasions during such week. For purposes of this section, week shall mean any period consisting of seven consecutive days.

Sec. 22. That section 9-250, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-250. No person under eighteen years of age shall play or participate in any bingo game. No such person shall be present at a bingo occasion unless such person's parent or legal guardian is present and approves such person's presence during the bingo occasion, except that any licensed organization may prohibit the presence of any person at its bingo

occasion.

Sec. 23. That section 9-253, Revised Statutes Supplement, 1988, be amended to read as follows:

9-253. Bingo games shall be conducted only in the following manner:

(1) All bingo cards used in a regular bingo game shall be sold at a price established before the start of the bingo occasion;

(2) Beginning January 1, 1990, an organization licensed to conduct bingo under a Class II license pursuant to section 9-233 shall be required to use only disposable bingo cards meeting the requirements of section 9-254 for all regular and special bingo games conducted at its bingo occasions.

~~(2)~~ (3) At any bingo occasion except limited period bingo, any player buying or renting an additional regular card shall be entitled to use such card in all regular games conducted after he or she buys or rents the card except when regular bingo games are played on disposable cards;

~~(3)~~ (4) Each person admitted to a bingo occasion, other than limited period bingo, shall be furnished with a regular bingo card enabling him or her to play in all regular bingo games conducted at such bingo occasion except when regular bingo games are played on disposable cards;

~~(4)~~ (5) The licensed organization shall keep an accurate, separate count of the number of regular bingo cards and special bingo cards which are sold, rented, or used at each bingo occasion. The department shall prescribe by rule and regulation the manner in which such records are kept, including, but not limited to, the manner in which disposable bingo cards may be issued at a bingo occasion. Such information shall be available for inspection at the close of the bingo occasion any time;

~~(5)~~ (6) Method of play:

(a) The method of play in any bingo game and the utilization of bingo equipment and supplies and equipment shall be such that each player is afforded an equal opportunity to win;

(b) For any means of selection permitted by subdivision (1) or (2) of section 9-255, the designators to be drawn shall be essentially the same in size, color, shape, weight, balance, and all other characteristics so that at all times during the conduct of bingo each designator possesses the capacity for equal agitation with any other object within the receptacle;

(c) All designators within the total set from which the selection is to be made shall be subject to random selection at the beginning of each bingo game;

(d) The announcement of all designators selected shall be clearly audible to the players present;

(e) When more than one room is used for any one bingo game, the receptacle or electronic selection device and the caller and any assistant shall be in the room where the greatest number of players are present and all numbers, letters, or other designators shall be announced in a manner clearly audible to the players in each room;

(f) Once removed, no designator shall be returned to the receptacle until after the verification of the winner of the game in which any means of selection permitted by subdivision (1) or (2) of section 9-255 is used; and

(g) The receptacle or electronic selection device and the caller shall be visible to the majority of players at all times;

~~(6)~~ (7) The particular arrangement of numbers, letters, or other designators required to be covered in order to win and the amount of the prize for any bingo game shall be clearly described and audibly announced to the players immediately before each game. The amount of the prize for any bingo game also shall be posted where the regular bingo cards are distributed;

~~(7)~~ (8) Verification of winner:

(a) The numbers, letters, or other designators appearing on the winning card at the time a winner is determined shall be verified in such a manner that all present can hear; and

(b) At the time a winner is determined, any player may call for a verification of all designators not yet selected. This verification shall be made in the immediate presence of the supervising member and at least one disinterested player;

~~(8)~~ (9) When more than one player is found to be the winner on the call of the same number, letter, or other designator in the same bingo game, a cash prize shall be divided equally, to the nearest nickel, among the winners. When equal division of a merchandise prize is not possible, identical substitute merchandise prizes, the aggregate retail value of which is approximately equal to that of the designated prize, shall be awarded, and if not immediately available, the licensed organization shall deliver the prizes to the winners;

~~(9)~~ (10) No licensed organization shall permit any person who is conducting or assisting in the conduct of bingo on a bingo occasion to participate as a player on that occasion; and

~~(10)~~ (11)(a) A licensed commercial lessor, distributor, or manufacturer, any person having a substantial interest in a licensed commercial lessor, distributor, or manufacturer, or any employee or agent of a licensed commercial lessor, distributor, or manufacturer shall not operate, manage, conduct, advise, or assist in the operating, managing, conducting, promoting, or administering of bingo. As used in this subdivision, the term assist shall include, but not be limited to, the payment of any expense of a licensed organization, whether such payment is by loan or otherwise, ; and

(b) A licensed commercial lessor shall not have a substantial interest in a licensed organization conducting bingo.

Sec. 24. That section 9-254, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-254. (1) Any number of cards may be purchased by a licensed organization and sold or rented to players at any bingo occasion. Each card in use by the organization at any bingo occasion shall differ from all others in use with respect to the distribution of playing numbers.

(2) All regular and special bingo cards furnished, sold, or rented for use at any bingo occasion subject to regulation under the Nebraska Bingo Act shall conform in all respects to the specifications imposed by rule and regulation by the department, including, but not limited to, the proper manufacture, assembly, packaging, and numbering of bingo cards. All bingo cards which do not conform to such specifications shall be contraband goods for purposes of section 25 of this act. The playing spaces on a regular bingo card shall be contained within an area not less than four inches square. The playing spaces on a special bingo card shall be contained within an area not less than three inches square.

Sec. 25. (1) The Tax Commissioner or his or her agents or employees, at the direction of the Tax Commissioner, or any peace officer of this state may seize, without a warrant, the following contraband goods found any place in this state: (a) Any bingo supplies and equipment which do not conform in all respects to specifications imposed by the Nebraska Bingo Act or any

rules or regulations adopted and promulgated pursuant to the act; (b) any bingo supplies and equipment purchased by any licensed organization from any source other than a licensed distributor or as provided in subsection (6) of section 9-234; and (c) any bingo supplies and equipment furnished, sold, or rented for use in a bingo occasion subject to regulation under the act without the proper licenses.

(2) The Tax Commissioner may, upon satisfactory proof, direct return of any confiscated bingo supplies and equipment when he or she has reason to believe that the owner has not willfully or intentionally failed to comply with the act.

(3) The Tax Commissioner may, upon finding that an owner of contraband goods has willfully or intentionally failed to comply with the act, confiscate such goods. Any bingo supplies and equipment confiscated may be destroyed.

(4) The seizure and destruction of bingo supplies and equipment shall not relieve any person from a fine, imprisonment, or other penalty for violation of the act.

(5) The Tax Commissioner or his or her agents or employees, when directed to do so by the Tax Commissioner, or any peace officer of this state shall not be responsible for negligence in any court for the seizure or confiscation of any bingo supplies and equipment pursuant to this section.

Sec. 26. That section 9-257, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-257. (1) Irrespective of whether a bingo game or a bingo occasion is conducted jointly by two or more licensed organizations, no prize in a single bingo game shall exceed one thousand dollars in value, and the aggregate value of bingo prizes at any bingo occasion shall not exceed four thousand dollars. No advertising for any bingo occasion or occasions conducted by any licensed organization shall include any reference to an aggregate value of bingo prizes exceeding four thousand dollars.

(2) The gross receipts from any bingo occasion shall not exceed eight thousand dollars. At least fifty percent of the gross receipts from each bingo occasion shall be awarded as prizes.

(3) Merchandise prizes shall be valued at their fair market retail value. No merchandise prize shall be redeemable or convertible into cash directly or indirectly by the licensed organization.

Sec. 27. That section 9-266, Revised Statutes Supplement, 1988, be amended to read as follows:

9-266. All reports, tax returns, and license applications filed with the department by any licensee or license applicant pursuant to the Nebraska Bingo Act, including any attachments filed in connection with such reports, returns, or applications, shall be deemed public records and shall be available for inspection by the public upon request to the department. (1) Except in accordance with a proper judicial order or as otherwise provided by this section or other law, it shall be a Class I misdemeanor for the Tax Commissioner or any employee or agent of the Tax Commissioner to make known, in any manner whatsoever, the contents of any reports or records submitted by a licensed distributor or manufacturer to the department pursuant to the Nebraska Bingo Act and any rules and regulations adopted and promulgated pursuant to such act.

(2) Nothing in this section shall be construed to prohibit (a) the delivery to a licensee, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, a certified copy of any report or record, (b) the publication of statistics so classified as to prevent the identification of particular reports or records, (c) the inspection by the Attorney General, a county attorney, or other legal representative of the state of reports or records submitted by a licensed distributor or manufacturer when information on the reports or records is considered by the Attorney General, county attorney, or other legal representative to be relevant to any action or proceeding instituted by the licensee or against whom an action or proceeding is being considered or has been commenced by any state agency or county, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner for the collection of delinquent taxes under the Nebraska Bingo Act, (f) the publication or disclosure of final administrative opinions and orders made by the Tax Commissioner in the adjudication of license denials, suspensions, cancellations, or revocations, (g) the release of any application filed with the department to obtain a license to conduct activities under the act, which shall be deemed a public record, or (h) the release of any report filed pursuant

to section 9-259 or any other report filed by a license holder pursuant to the act, which shall be deemed a public record.

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

(4) Notwithstanding the provisions of subsection (1) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect reports or records submitted by a licensed distributor or manufacturer pursuant to the act when information on the reports or records is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

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

Sec. 28. That section 9-305.01, Revised Statutes Supplement, 1988, be amended to read as follows:

9-305.01. Definite profit shall mean the gross proceeds from the sale of all of the pickle cards in a pickle card unit less all of the possible prizes in the unit.

Sec. 29. That section 9-306.01, Revised Statutes Supplement, 1988, be amended to read as follows:

9-306.01. Designated premises shall mean one location selected by a licensed organization at which individual pickle cards may be sold as opportunities for participation in a lottery by the sale of pickle cards. Only one of the following types of locations may be selected as a designated premises: (1) In the case of an organization holding a certificate of exemption under section 501(c)(3), (c)(4), or (c)(5) of the Internal

Revenue Code or a volunteer fire company, one piece of real property which is owned, leased, or used by the organization as its principal office, which is in use by the organization primarily for purposes other than the conduct of gaming activities, and which is not used in connection with any other type of retail business activity other than an occasional sale as defined in subdivision (6) of section 77-2702; or (2) in the case of an organization holding a certificate of exemption under section 501(c)(8), ~~(c)(10)~~, or (c)(19) of the Internal Revenue Code, one piece of real property which is owned, leased, or used by the organization as its principal office and which has been in use by the organization primarily for purposes other than the conduct of gaming activities for at least one year prior to its selection as a designated premises. For purposes of this section, principal office shall mean the place where the principal affairs and business of the licensed organization are transacted, including where the officers and members assemble to discuss and transact the business of the organization, where its meetings are held, and generally where its records are kept.

Sec. 30. That section 9-310, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-310. License shall mean any license to conduct a lottery by the sale of pickle cards as provided in section 9-326, any license for a designated member responsible for supervising the conduct of the lottery by the sale of pickle cards and for the proper utilization of gross proceeds as provided in section 9-327, any sales agent's license ~~or pickle card operator's license~~ as provided in section 9-329, any pickle card operator's license as provided in section 9-329.02, any distributor's license as provided in section 9-330, or any manufacturer's license as provided in section 9-332.

Sec. 31. That section 9-322, Revised Statutes Supplement, 1988, be amended to read as follows:

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

- (1) To issue licenses;
- (2) To deny any license application or renewal application for cause. Cause for denial of an application for or renewal of a license shall include, but not be limited to, instances in which the applicant or licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the

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

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include, but not be limited to, instances in which the licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Pickle

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

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

(5) To impose or levy an administrative fine of not more than one thousand dollars on a licensee for cause. For purposes of this subdivision, cause shall include instances in which the licensee violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Pickle Card Lottery Act. In determining whether to levy an administrative fine and the amount of the fine, if any such fine is levied, the department shall take into consideration the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation;

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

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

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

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

corporation, the court order may be directed to any principal officer of the corporation. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

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

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

(12) To confiscate and seize pickle cards or pickle card units pursuant to section 9-350;

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

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

Sec. 32. That section 9-326, Revised Statutes Supplement, 1988, be amended to read as follows:

9-326. (1) Any nonprofit organization holding a certificate of exemption under section 501 (c)(3), (c)(4), (c)(5), (c)(8), ~~(c)(10)~~ or (c)(19) of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, may apply for a license to conduct a lottery by the sale of pickle cards.

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

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

(b) Conduct activities within this state in addition to the conduct of lottery by the sale of pickle cards;

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

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

(e) Be a volunteer fire department or an organization devoted solely to the operation of youth amateur athletics or have been in existence in this state for five years immediately preceding its

application for a license and have had during that period a bona fide membership actively engaged in furthering a lawful purpose. A society defined in section 21-608 which is chartered in Nebraska under a state, grand, supreme, national, or other governing body may use the charter date of its parent organization to satisfy such five-year requirement.

Sec. 33. That section 9-328, Revised Statutes Supplement, 1988, be amended to read as follows:

9-328. (1) All licenses to conduct a lottery by the sale of pickle cards and licenses issued to designated members responsible for the proper utilization of gross proceeds shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. Each annual application for a license shall be accompanied by a sworn statement of the designated member responsible for the proper utilization of gross proceeds that all gross proceeds will be used in accordance with section 9-347 and that he or she will be responsible for compliance with the Nebraska Pickle Card Lottery Act and all rules and regulations adopted and promulgated pursuant to such act.

(2) The department shall establish classes of licenses for licensed organizations based upon the manner in which the licensed organization intends to sell the pickle cards. The classes shall include:

(a) Class I licenses which shall include organizations which sell individual pickle cards only at the organization's designated premises and at the organization's licensed regularly scheduled bingo occasions pursuant to the Nebraska Bingo Act; and

(b) Class II licenses which shall include organizations which sell the pickle cards on the premises of one or more licensed pickle card operators.

A licensed organization holding a Class II license shall be required to ~~license a~~ market its pickle cards through a licensed sales agent.

(3) A license fee of one hundred dollars shall be charged for each Class I license, one hundred fifty dollars for each Class II license, and five dollars for a license for each designated member responsible for the proper utilization of gross proceeds.

(4) The department shall adopt and promulgate rules and regulations establishing reporting requirements for each class of license.

Sec. 34. That section 9-329.02, Revised Statutes Supplement, 1988, be amended to read as follows:

9-329.02. (1) A pickle card operator shall not be eligible to sell individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards without first obtaining a license.

(2) Any sole proprietorship, partnership, or corporation wishing to operate as a pickle card operator in this state shall file an application with the department for a license on a form prescribed by the department. Each application for a license shall include (a) the name, address, and state identification number of the sole proprietorship, partnership, or corporation applying for the license, (b) a description of the premises on which the pickle cards will be sold or offered for sale, and (c) such other information which the department deems necessary. The information required by this subsection shall be kept current. A pickle card operator shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information.

(3) A fee of fifty dollars shall be charged for each license issued pursuant to this section and shall be paid for by the applicant. A licensed organization shall not pay the required licensing fees of a pickle card operator as an inducement for the pickle card operator to sell individual pickle cards on its behalf. Such licenses shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and shall ~~shall~~ may be renewed annually. The proceeds from such license fees shall be deposited in the Charitable Gaming Operations Fund.

(4) One license issued to any sole proprietorship, partnership, or corporation under this section as a pickle card operator shall cover the sole proprietorship, partnership, or corporation and the employees of the licensed pickle card operator. Any license issued pursuant to this section shall be valid only for the sole proprietorship, partnership, or corporation in the name of which it was issued and shall allow the sale of individual pickle cards only on the premises described in the pickle card operator's application for a license. A pickle card operator's license may not be transferred under any circumstances including change of ownership. For purposes of this subsection, a change of ownership of stock in a corporation which does not result in any person becoming the owner of a substantial interest in such corporation who was not the owner of a substantial interest immediately preceding the transaction shall not be

deemed a change of ownership.

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

(6) A licensed pickle card operator shall not sell individual pickle cards on behalf of a licensed organization until an authorization has been obtained from the department by the licensed organization. The licensed organization shall file an application with the department for such authorization on a form prescribed by the department. Each application for an authorization shall include (a) the name, address, and state identification number of the licensed pickle card operator and (b) such other information which the department deems necessary. The application shall include a statement signed by a person licensed as a member responsible for the proper utilization of gross proceeds signifying that such licensed organization approves the pickle card operator to sell individual pickle cards on behalf of such organization.

(7) A pickle card operator may sell individual pickle cards on behalf of more than one licensed organization. Each licensed organization for which the pickle card operator desires to sell individual pickle cards shall obtain the authorization described in subsection (6) of this section.

(8) A pickle card operator who sells individual pickle cards through a coin-operated or currency-operated dispensing device shall purchase, lease, or rent its own equipment. If such equipment is obtained from a licensed organization or distributor, it shall be purchased, leased, or rented at a rate not less than fair market value. A licensed organization or distributor shall not provide such equipment to a pickle card operator free of charge or at a rate less than fair market value as an inducement for the pickle card operator to sell its individual pickle cards.

(9) No pickle card operator shall generate revenue from the sale of individual pickle cards which exceeds the revenue generated from other retail sales on an annual basis. For purposes of this subsection, retail sales shall not include revenue generated from other charitable gaming activities authorized by Chapter 9. The department shall prescribe by rule and regulation a report to be submitted to the department by the pickle card operator which will allow the department to determine compliance with this subsection.

Sec. 35. That section 9-331, Revised Statutes Supplement, 1988, be amended to read as follows:

9-331. (1) No person, except a distributor

operating pursuant to the Nebraska Pickle Card Lottery Act, shall sell or distribute any pickle card units to any licensed organization.

(2) No distributor shall hold a license to conduct a lottery by the sale of pickle cards or any other kind of gambling activity which is authorized or regulated under Chapter 9 or a license to act as a sales agent, pickle card operator, or manufacturer of pickle cards or pickle card units except as provided in section 9-235 and section 72 of this act.

(3) If a distributor delivers any pickle card unit, he or she shall deliver such unit only to a licensed designated member of the licensed organization responsible for the proper utilization of gross proceeds or a sales agent and shall not deliver any pickle card unit to any other person, whether or not such person is a pickle card operator.

(4) No distributor shall offer or agree to offer anything of value to any pickle card operator in exchange for an agreement or commitment by such pickle card operator to exclusively sell pickle cards sold by such distributor. Nothing in this section shall prohibit a pickle card operator from exclusively selling pickle cards sold by a single distributor. No pickle card operator shall accept or agree to accept anything of value from a distributor in exchange for an agreement or commitment by such pickle card operator to exclusively sell pickle cards sold by such distributor.

(5) No distributor or employee or spouse of any distributor shall participate in the conduct or operation of any lottery by the sale of pickle cards or any other kind of gambling activity which is authorized or regulated under Chapter 9 except to the exclusive extent of his or her statutory duties as a licensed distributor and as provided in section 9-235 and section 72 of this act. No distributor or employee or spouse of any distributor shall have a substantial interest in another distributor, a manufacturer, a manufacturer-distributor as defined in section 57 of this act other than itself, or a licensed organization regulated under Chapter 9. Membership in any organization shall not be deemed a violation of this section.

(6) A distributor shall purchase pickle card units only from a licensed manufacturer and shall pay for such units by check within fifteen days of delivery.

Sec. 36. That section 9-332, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-332. A manufacturer shall obtain a license from the department prior to manufacturing or selling or supplying to any persons for use within this state any pickle cards or pickle card units or engaging in any interstate activities relating to such pickle cards or pickle card units. The applicant shall include, with the application form supplied by the department a license fee of one thousand five hundred twenty-five dollars and the following information:

(1) The name and address of the applicant and the name and address of each of its separate locations manufacturing pickle cards and pickle card units;

(2) The name and home address of all owners of the manufacturing business, if the business is not a corporation. If the business is a corporation, the name and home address of each of the officers and directors of the corporation and of each stockholder owning ten percent or more of any class of stock in the corporation shall be supplied;

(3) A full description of each type of pickle card and pickle card unit which the applicant seeks to manufacture or market in this state;

(4) For each such type of pickle card or pickle card unit, the brand name under which it is sold;

(5) If the applicant is a foreign manufacturer, the full name, business address, and home address of the agent who is a resident of this state designated pursuant to section 9-334;

(6) A list of all distributors of such pickle cards and pickle card units in which the applicant has some financial interest and the details of such interest. For the purpose of this subdivision, financial interest shall include, among all other interests, any indebtedness from the applicant to another person or from another person to the applicant in excess of five hundred dollars; and

(7) A current list of all Nebraska-licensed distributors to whom the manufacturer wishes to sell.

The applicant shall notify the department within thirty days of any change in the information submitted on or with the application form. The applicant shall comply with all applicable laws of the United States and the State of Nebraska and all applicable rules and regulations of the department.

Manufacturers' licenses shall expire on September 30 of each year and shall ~~shall~~ may be renewed annually.

Sec. 37. That section 9-335, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

9-335. No manufacturer or manufacturer's representative shall be licensed to conduct any other activity under the Nebraska Pickle Card Lottery Act. No manufacturer shall hold a license to conduct any other kind of gambling activity which is authorized or regulated under Chapter 9 except as provided in sections 9 and 72 of this act.

Sec. 38. That section 9-340, Revised Statutes Supplement, 1988, be amended to read as follows:

9-340. (1) No manufacturer shall sell any pickle card units to any person in Nebraska except a licensed distributor. No distributor licensed in Nebraska shall purchase such units except from manufacturers licensed in Nebraska.

(2) No distributor shall sell any pickle card units except to an organization licensed to conduct a lottery by the sale of pickle cards pursuant to the Nebraska Pickle Card Lottery Act. No pickle cards shall be sold by a distributor except in the form of pickle card units. No distributor shall market or sell any pickle card unit for use in this state:

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

(b) Which commencing on and after October 1, 1988, has a card or play count in excess of four thousand five hundred per pickle card unit;

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

(d) Which commencing on and after October 1, 1988, contains any pickle card or punch on a punchboard, the individual purchase price of which exceeds one dollar;

(e) In which any individual pickle card awards a prize or prizes in excess of five hundred dollars;

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

(g) Unless and until a stamp obtained from the department containing an identifying number has been permanently and conspicuously affixed upon the flare card supplied by the manufacturer for identification purposes. Once placed, such stamp shall not be removed or tampered with by any person. The state identification stamp shall be placed on each punchboard such that the complete number, together with the symbol appearing thereon, is plainly visible. State identification stamps shall be obtained only from the department and only by a licensed distributor for ten

cents each. Such stamps shall be placed by the licensed distributor only on items sold or furnished to licensed organizations in this state. Such stamps shall not be transferred or furnished to any other person unless already placed upon a punchboard or pickle card unit; or

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

Sec. 39. That section 9-340.02, Revised Statutes Supplement, 1988, be amended to read as follows:

9-340.02. (1) All pickle card units purchased by a licensed organization from a licensed distributor shall be paid for by a check drawn on the pickle card bank account of the licensed organization either in advance of or upon delivery of the pickle card units.

(2) Every licensed pickle card operator shall remit the definite profit, less not more than thirty percent of the definite profit as allowed by subsection (4) of section 9-347, of all pickle card units received to the sponsoring licensed organization by check either in advance of or upon delivery of the pickle card units from the sales agent to the pickle card operator. Upon delivery of the pickle card units, the sales agent shall issue the pickle card operator a standard receipt prescribed by the department.

(3) No licensed organization conducting a lottery by the sale of pickle cards shall extend credit in any form, including, but not limited to, the extension of any credit with regard to the receipt of the definite profit, less not more than thirty percent of the definite profit as allowed by subsection (4) of section 9-347, of a pickle card unit from a pickle card operator upon delivery of a pickle card unit to the pickle card operator and the extension of any credit with regard to the sale or lease of any equipment or device used in connection with a lottery by the sale of pickle cards.

Sec. 40. That section 9-344, Revised Statutes Supplement, 1988, be amended to read as follows:

9-344. Accompanying the monthly reports required in section 9-343, the distributor shall pay to the department a tax equal to twenty thirteen percent of the definite profit of each pickle card unit sold by the distributor. Such tax shall be remitted with and reported on a form prescribed by the department on a monthly basis commencing on and after October 1, 1988 1989, and shall be due and payable within thirty days after each monthly period or by the last day of the

month following each monthly period, whichever comes first. Such tax shall be credited to the Charitable Gaming Operations Fund of the state. The distributor shall include the tax due under this section in the selling price of units and shall separately state such tax on the invoice. All deficiencies of the tax prescribed in this section shall accrue interest and be subject to a penalty as provided for sales and use taxes in the Nebraska Revenue Act of 1967.

Sec. 41. That section 9-345.02, Revised Statutes Supplement, 1988, be amended to read as follows:

9-345.02. (1) Licensed organizations and pickle card operators selling individual pickle cards or punchboards shall conspicuously post the flare card for each pickle card unit in play at that location at the point at which the majority of the pickle cards is sold at such location.

(2) Licensed organizations and pickle card operators shall identify each flare card or punchboard in a manner prescribed by the department indicating the name and state identification number of each nonprofit organization on behalf of which individual pickle cards and punches from punchboards are sold at such location.

Sec. 42. That section 9-346, Revised Statutes Supplement, 1988, be amended to read as follows:

9-346. (1) The winning cards, boards, or tickets in any lottery by the sale of pickle cards shall be determined by a comparison of those numbers, letters, symbols, or configurations, or combination thereof, which are revealed on the pickle cards, to a set of numbers, letters, symbols, or configurations, or combination thereof, which has been previously specified as a winning combination. Whenever the winning combinations do not comprise a statement of the prize won, the winning combinations shall be printed on every pickle card that is wider than one inch or longer than two and one-half inches. Pickle cards that are smaller than such dimensions shall have the winning combinations printed on a flare card that is publicly displayed at the point of sale of the pickle cards.

(2) The winning chances of any pickle card shall not be determined or otherwise known until after its purchase and only upon opening, pulling, detaching, breaking open, or otherwise removing the tab or tabs to clearly reveal or otherwise appropriately revealing the combination. The winning chances shall be determined by and based upon an element of chance.

(3) Any person possessing a winning pickle

card shall receive the appropriate prize or value previously determined and specified for that winning combination.

(4) All pickle cards shall legibly bear on the outside of each pickle card the name of the nonprofit organization conducting the lottery by the sale of pickle cards and such organization's state identification number.

(5) Nothing in this section shall prohibit punchboards which allow the person who purchases the last punch on the punchboard to receive a prize predetermined by the manufacturer as a result of purchasing the last punch.

Sec. 43. That section 9-347, Revised Statutes Supplement, 1988, be amended to read as follows:

9-347. (1) The gross proceeds of any lottery by the sale of pickle cards shall be used solely for lawful purposes, awarding of prizes, payment of the unit cost, any commission paid to a pickle card operator, and allowable expenses.

(2) Until October 1, 1989, not ~~Not~~ less than sixty-five percent or more than seventy-five percent of the gross proceeds of any lottery by the sale of pickle cards shall be used for the awarding of prizes. Commencing October 1, 1989, not less than sixty-five percent or more than eighty percent of the gross proceeds of any lottery by the sale of pickle cards shall be used for the awarding of prizes.

(3) Not more than ~~four~~ six percent of the definite profit of a pickle card unit shall be used by the licensed organization to pay the allowable expenses of operating a lottery by the sale of pickle cards of which not more than ~~three~~ four percent of the definite profit may be used by the licensed organization for the payment of any commission, salary, or fee to a sales agent in connection with the marketing of a pickle card unit.

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

Sec. 44. That section 9-347.01, Revised Statutes Supplement, 1988, be amended to read as follows:

9-347.01. (1) For each type of pickle card unit marketed in this state, the department shall

determine the following: (a) When a licensed organization sells pickle cards through pickle card operators, the portion of the definite profit from that pickle card unit which shall go to the licensed organization, such amount to be not less than ~~seventy-two~~ seventy percent of the definite profit from such pickle card unit; (b) the maximum amount of the definite profit from the sale of a pickle card unit that a licensed organization may pay a pickle card operator as a commission, fee, or salary to sell its pickle cards, such amount not to exceed ~~twenty-eight~~ thirty percent of the definite profit from such pickle card unit; (c) the portion of the definite profit from the sale of a pickle card unit which may be expended by a licensed organization for allowable expenses, such amount not to exceed ~~four~~ six percent of the definite profit from such pickle card unit; and (d) the portion of the definite profit from the sale of a pickle card unit which may be utilized by a licensed organization for payment of a sales agent selling pickle cards on behalf of the licensed organization, such amount to be a portion of the allowable expenses and not to exceed ~~three~~ four percent of the definite profit from such pickle card unit.

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

Sec. 45. That section 9-348, Revised Statutes Supplement, 1988, be amended to read as follows:

9-348. (1) The definite profit, less not more than thirty percent of the definite profit as allowed by subsection (4) of section 9-347. of any lottery by the sale of pickle cards shall be segregated from other revenue of any licensed organization conducting the lottery and placed in a separate checking account. All lawful purpose donations and expenses relating to the licensed organization's lottery by the sale of pickle cards, including the allowable expenses, ~~any commission paid to a pickle card operator,~~ and the unit cost, but

excluding the payment of prizes for winning cards, shall be paid by check from such account and shall be made payable to the ultimate use of such lawful purpose donations or expenses.

(2) Separate records shall be maintained by any licensed organization conducting a lottery by the sale of pickle cards. Each nonprofit organization conducting a lottery by the sale of pickle cards shall keep a record of all locations or persons who are paid to sell pickle cards. Records and lists required by the Nebraska Pickle Card Lottery Act shall be preserved for at least three years. Any law enforcement agency or other agency of government shall have the authority to investigate the records relating to lotteries by the sale of pickle cards and gross proceeds from such lotteries at any time. Organizations shall, upon proper written request, deliver all such records to the department, law enforcement agency, or other agency of government for investigation.

Sec. 46. That section 9-348.01, Revised Statutes Supplement, 1988, be amended to read as follows:

9-348.01. (1) A lottery by the sale of pickle cards shall fund itself after its first year of existence and shall not receive money from any other source, including the operation of other charitable gaming activities, for the payment of prizes, unit cost, allowable expenses, any commission paid to a pickle card operator, lawful purpose donations, or any other expense associated with the operation of the lottery by the sale of pickle cards except as provided in subsection (2) of this section.

(2) A licensed organization establishing a lottery by the sale of pickle cards may finance such lottery with money from the general fund of the licensed organization during the first year of operation of the lottery by the sale of pickle cards. General fund money used to finance a lottery by the sale of pickle cards may be repaid from funds received by the lottery by the sale of pickle cards.

(3) A licensed organization conducting a lottery by the sale of pickle cards shall make all payments associated with the operation of the lottery by the sale of pickle cards, including allowable expenses, unit cost, any commission paid to a pickle card operator, and lawful purpose donations, but excluding prizes and any commission paid to a pickle card operator, by a check drawn upon its pickle card bank account. A licensed organization may commingle funds

received from the sale of pickle cards with any general operating funds of the licensed organization or transfer money received from the sale of pickle cards to other general operating accounts of the licensed organization, but the burden of proof shall be on the licensed organization to demonstrate that such commingled funds are not used to make any payments associated with the operation of the lottery by the sale of pickle cards and are used for a lawful purpose.

Sec. 47. That section 9-601, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-601. Sections 9-601 to 9-612 9-607 and sections 49, 50, 52, and 54 to 94 of this act shall be known and may be cited as the Nebraska County and City Lottery Act.

Sec. 48. That section 9-603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-603. For purposes of the Nebraska County and City Lottery Act, unless the context otherwise requires, the definitions found in sections 9-604 to 9-607 and sections 49, 50, 52, and 54 to 59 of this act shall be used.

Sec. 49. Cancel shall mean to discontinue all rights and privileges to hold a license for up to three years.

Sec. 50. Department shall mean the Department of Revenue.

Sec. 51. That section 9-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-605. Expenses shall mean (1) all costs associated with the purchasing, printing, or manufacturing of any items to be used or distributed in the lottery, (2) all office or clerical expenses in connection with the lottery, (3) all promotional expenses for the lottery, (4) all salaries of persons employed to operate, conduct, or supervise the lottery, (5) any rental or lease expense related to the lottery, and (6) any fee or commission paid to any person associated with the lottery. (7) license fees paid to the department, and (8) any other costs associated with the conduct of a lottery by a county, city, or village. Expenses shall not include taxes paid pursuant to section 9-610 87 of this act or prizes awarded to participants.

Sec. 52. License shall mean a license issued to any county, city, or village to conduct a lottery for

community betterment purposes, any license issued to any lottery operator, and any license issued to any manufacturer-distributor.

Sec. 53. That section 9-607, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-607. (1) Lottery shall mean a gambling scheme in which (a) the players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium one or more of which chances are to be designated the winning ones an opportunity to win, (b) the winning chances are to be determined by a drawing or by some other method based on an element of chance, and (c) winning opportunities are represented by tickets, (c) winners are solely determined by one of the following three methods: (i) By a random drawing of tickets differentiated by sequential enumeration from a receptacle by hand whereby each ticket has an equal chance of being chosen in the drawing; (ii) by rubbing or scraping a spot or spots on a disposable instant game ticket to reveal numbers, letters, symbols, or configurations, or any combination thereof, previously specified as winning numbers, letters, symbols, or configurations or a winning combination; or (iii) by use of a game known as keno in which a player selects up to twenty numbers from a total of eighty numbers on a ticket and a computer, other electronic selection device, or electrically operated blower machine which is not player activated randomly selects up to twenty numbers from the same pool of eighty numbers and the winning players are determined by the correct matching of the numbers selected by the players with the numbers randomly selected by the computer, other electronic selection device, or electrically operated blower machine, and (d) the holders of the winning chances tickets are to receive cash or prizes redeemable for cash. Selection of a winner or winners shall be predicated solely on chance.

(2) Lottery shall not include (a) any gambling scheme which uses any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has the capability of awarding monetary prizes something of value, free games redeemable for monetary prizes something of value, or tickets or stubs redeemable for monetary prizes something of value, (b) any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery and Raffle Act, the Nebraska Pickle Card Lottery and Raffle Act,

the Nebraska Small Lottery and Raffle Act, section 9-701, or Chapter 2, article 12, or (c) any activity prohibited under Chapter 28, article 11.

(3) Notwithstanding subsections (1) and (2) of this section, any county, city, or village lottery operation in existence and operating on March 1, 1989, which would not meet the requirements of subsection (1) of this section or the requirement in section 65 of this act that only one scheme or type of lottery be conducted may continue in operation until January 1, 1991. Such operation shall be restricted to operation upon the same terms as existed on March 1, 1989, and the operation of the lottery shall comply with the other provisions of the Nebraska County and City Lottery Act.

Sec. 54. Lottery equipment shall mean all proprietary devices, machines, and parts used in the manufacture or maintenance of equipment which is used in and is an integral part of the conduct of any lottery activity authorized or regulated under the Nebraska County and City Lottery Act.

Sec. 55. Lottery operator shall mean any individual, sole proprietorship, partnership, or corporation which operates a lottery on behalf of a county, city, or village.

A lottery operator shall be a resident of Nebraska or, if a partnership or corporation, shall be organized under the laws of this state as a partnership or incorporated under the laws of this state.

Sec. 56. Lottery supplies shall mean all tickets, cards, boards, sheets, or other supplies which are used in and are an integral part of the conduct of any lottery activity authorized or regulated under the Nebraska County and City Lottery Act.

Sec. 57. Manufacturer-distributor shall mean any individual, sole proprietorship, partnership, or corporation which assembles, produces, makes, prints, or supplies lottery equipment or supplies for sale, use, or distribution in this state.

Sec. 58. Revoke shall mean to permanently void and recall all rights and privileges to obtain or hold a license.

Sec. 59. Suspend shall mean to cause a temporary interruption of all rights and privileges of a license or renewal thereof.

Sec. 60. The department shall have the following powers, functions, and duties:

(1) To issue licenses;

(2) To deny any license application or renewal application for cause. Cause for denial of an

application for or renewal of a license shall include, but not be limited to, instances in which the applicant or licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or any rules or regulations adopted and promulgated pursuant to such acts; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of such acts or any rules or regulations adopted and promulgated pursuant to such acts; (c) obtained a license or permit pursuant to such acts by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the Nebraska County and City Lottery Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed in accordance with the Nebraska County and City Lottery Act; (h) failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; or (i) failed to pay an administrative fine imposed pursuant to the Nebraska County and City Lottery Act;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include, but not be limited to, instances in which the licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska County

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

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

(5) To impose or levy an administrative fine of not more than one thousand dollars on a licensee for cause. For purposes of this subdivision, cause shall

include instances in which the licensee violated the provisions, requirements, conditions, limitations, or duties imposed by the act. In determining whether to levy an administrative fine and the amount of the fine, if any such fine is levied, the department shall take into consideration the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation;

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

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

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

(9) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid as taxes pursuant to section 87 of this act in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

(10) To confiscate and seize lottery equipment or supplies pursuant to section 88 of this act;

(11) To adopt and promulgate such rules and

regulations and prescribe all forms as are necessary to carry out the Nebraska County and City Lottery Act; and

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

Sec. 61. (1) All money collected by the department as an administrative fine shall be remitted on a monthly basis to the State Treasurer for credit to the permanent school fund.

(2) Any administrative fine imposed under section 60 of this act and unpaid shall constitute a debt to the State of Nebraska which may be collected by lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property.

Sec. 62. (1) Before any application is denied pursuant to section 60 of this act, the department shall notify the applicant in writing of the department's intention to deny the application and the reasons for the denial. Such notice shall inform the applicant of his or her right to request an administrative hearing for the purpose of reconsideration of the intended denial of the application.

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

(3) If a request for hearing is filed within the thirty-day period, the Tax Commissioner shall grant the applicant a hearing and shall, at least ten days before the hearing, serve notice upon the applicant by certified mail, return receipt requested, of the time, date, and place of the hearing. Such proceedings shall be considered contested cases pursuant to the Administrative Procedure Act.

Sec. 63. Before the adoption, amendment, or repeal of any rule or regulation, the suspension, revocation, or cancellation of any license pursuant to section 60 of this act, or the imposition of an administrative fine pursuant to such section, the department shall set the matter for hearing. Such suspension, revocation, or cancellation proceedings or proceedings to impose an administrative fine shall be contested cases pursuant to the Administrative Procedure Act.

At least ten days before the hearing, the department shall (1) in the case of suspension, revocation, or cancellation proceedings or proceedings to impose an administrative fine, serve notice upon the licensee by certified mail, return receipt requested, of the time, date, and place of any hearing or (2) in the case of adoption, amendment, or repeal of any rule or regulation, issue a public notice of the time, date, and place of such hearing.

Sec. 64. (1) A copy of the order or decision of the department in any proceeding before it pursuant to the Nebraska County and City Lottery Act shall be served upon each party of record to the proceeding before the department. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the department shall enter his or her appearance and indicate to the department his or her address for the service of a copy of any order, decision, or notice. The mailing of any copy of any order or decision or of any notice in the proceeding, to such party at such address, shall be deemed to be service upon such party.

(2) Any decision of the department in any proceeding before it pursuant to the act may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 65. That section 9-608, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-608- Any county, city, or village may establish and conduct a lottery if an election is first held pursuant to this section. Only one scheme or type of lottery may be conducted by a county, city, or village at one time. No county, city, or village shall establish and conduct a lottery until such course of action has been approved by a majority of the registered voters of such county, city, or village casting ballots on the issue at a regular election or a special election called by the governing board of the county, city, or village for such purpose. This section shall not be construed to prohibit any county, city, or village from conducting a lottery if such course of action was approved prior to July 17, 1986, by a majority of the registered voters of such county, city, or village casting ballots on the issue.

Any lottery established pursuant to this section which is authorized by an election held on or after October 1, 1989, pursuant to this section that is not in operation for any four consecutive years shall no

longer be authorized under this section. If the voters in a county, city, or village approve a lottery on or after October 1, 1989, pursuant to this section but the lottery does not actually begin operation within four years of the date that the results of the election are certified, the lottery shall no longer be authorized under this section. Any lottery no longer authorized under this section because it did not operate within the four-year period provided in this section may be reauthorized by a majority vote of the registered voters of the county, city, or village casting ballots on the issue at a subsequent election pursuant to this section.

Except for any restriction imposed pursuant to section 83 of this act, any county, city, or village may conduct a lottery only within the boundaries of such county, city, or village, except that nothing in this section shall prohibit a county, city, or village from entering into an agreement pursuant to the Interlocal Cooperation Act to conduct a joint lottery with another county, city, or village which has established a lottery in accordance with this section.

Sec. 66. (1) A governing board of a county, city, or village may submit to the registered voters of such county, city, or village the question whether an existing lottery should be continued. The question may be submitted at a regular election or a special election called by the governing board of the county, city, or village for such purpose.

(2) The question shall be submitted in substantially the following form:

Shall the (county, city, or village) of (here insert the name of the county, city, or village) continue operating a lottery pursuant to the Nebraska County and City Lottery Act?

For continued operation of lottery

Against continued operation of lottery

(3) A majority of the voters voting on the issue shall determine such issue. The vote shall be binding on the affected county, city, or village, and if the majority vote is to discontinue the lottery, such county, city, or village shall discontinue the lottery within sixty days of the certification of the election results.

(4) An election pursuant to this section shall not be held within two years of the election authorized under section 65 of this act and shall not be held more often than once every two years.

(5) An election held by a county, city, or village pursuant to section 65 of this act shall not be

held within two years of an election authorized under this section and section 67 of this act if such election results in the discontinuation of the lottery in the county, city, or village.

Sec. 67. (1) The registered voters of any county, city, or village shall have the right to vote on the question of whether an existing lottery should be continued. The question shall be submitted to such voters whenever petitions calling for its submission, signed by at least twenty percent of the number of persons voting in the county, city, or village at the last preceding general election, are presented to the governing board of the county, city, or village.

(2) Upon receipt of the petitions provided under subsection (1) of this section, it shall be the duty of the governing board to submit the question at a special election to be held not less than thirty nor more than forty-five days after receipt of the petitions, except that if any other election is to be held in such county, city, or village within ninety days of receipt of the petitions, the governing board may provide for the holding of the lottery election on the same day.

(3) The governing board shall give notice of the submission of the question of whether an existing lottery should be continued, not more than twenty days nor less than ten days prior to the election, by publication one time in one or more newspapers published in or of general circulation in the county, city, or village in which such question is to be submitted. Such notice shall be in addition to any other notice required under the general election laws of this state.

(4) The question shall be submitted to the registered voters in the form provided in subsection (2) of section 66 of this act.

(5) A majority of the voters voting on the issue shall determine such issue. The vote shall be binding on the affected county, city, or village, and if the majority vote is to discontinue the lottery, such county, city, or village shall discontinue the lottery within sixty days of the certification of the election results.

Sec. 68. On and after October 1, 1989, any contract entered into by a county, city, or village relating to the conduct of a lottery shall include a provision permitting the county, city, or village to terminate the contract by giving thirty days' notice to the other party if such lottery has been discontinued by an election authorized under section 66 or 67 of this

act.

Sec. 69. That section 9-609, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-609. (1) The gross proceeds of any lottery conducted by a county, city, or village shall be used solely for community betterment purposes, awarding of prizes, taxes, and expenses.

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

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

Sec. 70. (1) No county, city, village, or lottery operator shall conduct a lottery without having first been issued a license by the department. An applicant for such license shall apply on a form prescribed by the department.

(2) Each application by any county, city, or village shall include:

(a) The name and address of the applicant;

(b) A certified copy of the election results at which the lottery was approved by a majority of the registered voters of the county, city, or village in the manner prescribed in section 65 of this act;

(c) Any approval by ordinance or resolution approved by a governing board of a county, city, or village sanctioning the conduct of a lottery;

(d) The names, addresses, and dates of birth of each person employed by the county, city, or village to conduct the lottery;

(e) The name and address of at least one person employed by the county, city, or village who shall represent the county, city, or village in all matters with the department regarding the conduct of the lottery;

(f) A written statement describing the type of lottery to be conducted by the county, city, or village;

(g) If the county, city, or village enters

into a written agreement with a lottery operator:

(i) A copy of each proposal submitted to the county, city, or village by any individual, sole proprietorship, partnership, or corporation to operate the lottery; and

(ii) A copy of the proposed contract or written agreement between the county, city, or village and the chosen lottery operator; and

(h) Any other information which the department deems necessary.

(3) Each application by any lottery operator shall include:

(a) The name, address, and date of birth of every individual who is the lottery operator or the sole proprietor, a partner, a corporate officer, or an employee of the lottery operator;

(b) The name and state identification number of the county, city, or village on whose behalf a lottery will be conducted;

(c) A statement signed by an authorized representative of the county, city, or village signifying that such county, city, or village approves the applicant to act as a lottery operator on behalf of such county, city, or village; and

(d) Any other information which the department deems necessary.

A separate license shall be obtained by a lottery operator for each county, city, or village on whose behalf a lottery will be conducted.

(4) The information required by this section shall be kept current. A county, city, village, or lottery operator shall notify the department thirty days in advance of any changes in the information originally submitted in the application form.

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

(6) The application and all supporting information shall be public records.

Sec. 71. (1) All licenses issued to any county, city, or village to conduct a lottery and licenses issued to any lottery operator may be renewed biennially. The biennial expiration date shall be September 30 of every odd-numbered year.

(2) A biennial license fee of one hundred dollars shall be charged for each license issued to any county, city, or village to conduct a lottery. A biennial license fee of five hundred dollars shall be charged for each license issued to a lottery operator.

Sec. 72. (1) No individual, sole

proprietorship, partnership, or corporation shall manufacture, sell, print, or distribute lottery equipment or supplies for use or play in this state without having first been issued a manufacturer-distributor license by the department.

(2) The department shall charge a biennial license fee of one thousand five hundred twenty-five dollars for the issuance or renewal of a manufacturer-distributor license. The proceeds from such license fees shall be deposited in the Charitable Gaming Operations Fund. All manufacturer-distributor licenses may be renewed biennially. The biennial expiration date shall be September 30 of every odd-numbered year.

(3) An applicant for issuance or renewal of a manufacturer-distributor license shall apply for a license on a form prescribed by the department. The application form shall include:

(a) The name and address of the applicant and the name and address of each of its separate locations manufacturing or distributing lottery equipment or supplies;

(b) The name and home address of all owners of the manufacturer-distributor business if the business is not a corporation. If the business is a corporation, the name and home address of each of the officers and directors of the corporation and of each stockholder owning ten percent or more of any class of stock in the corporation shall be supplied;

(c) If the applicant is a foreign manufacturer-distributor, the full name, business address, and home address of the agent who is a resident of this state designated pursuant to section 73 of this act; and

(d) Such other information as the department deems necessary.

(4) The applicant shall notify the department within thirty days of any change in the information submitted on or with the application form. The applicant shall comply with all applicable laws of the United States and the State of Nebraska and all applicable rules and regulations of the department.

(5) Any person licensed as a manufacturer pursuant to section 9 of this act or section 9-332 or as a distributor pursuant to section 9-235 or 9-330 may act as a manufacturer-distributor pursuant to this section upon the filing of the proper application form and payment of a biennial license fee of one thousand five hundred twenty-five dollars.

Sec. 73. Each manufacturer-distributor selling lottery equipment or supplies in this state that is not a resident of this state or is not a corporation shall designate a natural person who is a resident of and living in this state and is nineteen years of age or older as a resident agent for the purpose of receipt and acceptance of service of process and other communications on behalf of the manufacturer-distributor. The name, business address where service of process and delivery of mail can be made, and home address of such agent shall be filed with the department.

Sec. 74. Each manufacturer-distributor shall receive departmental approval of lottery supplies prior to offering or marketing in this state any type of lottery supplies for use in a lottery conducted pursuant to the Nebraska County and City Lottery Act. Approval by the department shall be based upon, but not be limited to, conformance with specifications imposed by the department regarding the manufacture, assembly, and packaging of lottery supplies, the provisions of the act, and any other specifications imposed by rule or regulation adopted and promulgated pursuant to the act.

Sec. 75. (1) Each manufacturer-distributor shall receive departmental approval of lottery equipment prior to offering or marketing in this state any type of lottery equipment for use in a lottery conducted pursuant to the Nebraska County and City Lottery Act. Approval by the department shall be based upon, but not be limited to, conformance with the provisions of the act and any other specifications imposed by rule or regulation adopted and promulgated pursuant to the act.

(2) Lottery equipment shall not be submitted for approval by the department until the manufacturer-distributor has obtained a license as required in section 72 of this act.

(3) The department may require a manufacturer-distributor seeking approval of any lottery equipment to pay the anticipated actual costs of the examination of the equipment by the department. If required, such costs shall be paid in advance by the manufacturer-distributor. After completion of the examination, the department shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(4) Lottery equipment which does not conform in all respects to the requirements of the act and any other specifications imposed by the department by rule and regulation shall be contraband goods for purposes of

section 88 of this act.

Sec. 76. (1) Scrape-off or rub-off tickets used in a lottery conducted pursuant to the Nebraska County and City Lottery Act shall be constructed so that it is impossible to determine the covered or concealed number, letter, symbol, configuration, or combination thereof on the ticket, until it has been dispensed to and scraped or rubbed by the player, by any method or device, including, but not limited to, the use of a marking, variance in size, variance in paper fiber, or light.

(2) All scrape-off or rub-off tickets shall be constructed to ensure that, when offered for sale to the public, the ticket is virtually opaque and free of security defects so that winning tickets cannot be determined, prior to being scraped or rubbed, through the use of high-intensity lights or any other method.

(3) All lottery supplies shall be constructed to conform in all other respects to the provisions and specifications imposed by the act and the rules and regulations adopted and promulgated pursuant to the act as to the manufacture, assembly, printing, and packaging of lottery supplies.

(4) Any lottery supplies which do not conform in all respects to the requirements of the act and any other specifications imposed by the department by rule and regulation shall be contraband goods for purposes of section 88 of this act.

Sec. 77. No ticket used in the conduct of any lottery shall have an individual purchase price in excess of one hundred dollars.

Sec. 78. Each manufacturer-distributor shall, not later than thirty days after the last day of each calendar quarter, report to the department in a manner prescribed by the department the following information: (1) The name of each purchaser of lottery equipment or supplies; (2) relative to each sale, the quantity and type of lottery equipment or supplies sold; and (3) any other information concerning lottery equipment or supplies sold which the department deems necessary.

Sec. 79. No manufacturer-distributor shall be licensed to conduct any other activity under the Nebraska County and City Lottery Act. No manufacturer-distributor shall hold a license to conduct any other kind of gambling activity which is authorized or regulated under Chapter 9 except as provided in section 72 of this act. No manufacturer-distributor or employee or spouse of any manufacturer-distributor shall participate in the conduct or operation of any lottery

conducted by any county, city, or village or any other kind of gambling activity which is authorized or regulated under Chapter 9 except to the exclusive extent of his or her statutory duties as a licensed manufacturer-distributor and as provided in section 9 of this act and sections 9-235, 9-330, and 9-332.

Sec. 80. No manufacturer-distributor shall sell any lottery equipment or supplies to any person in Nebraska except a county, city, or village licensed to conduct a lottery, a licensed lottery operator, or another licensed manufacturer-distributor. No county, city, or village licensed to conduct a lottery or a licensed lottery operator shall purchase lottery equipment or supplies except from a manufacturer-distributor licensed in Nebraska.

Sec. 81. Every licensed manufacturer-distributor shall keep and maintain a complete set of records which shall include all details of all activities of the licensee related to the conduct of the licensed activity as may be required by the department, including the total quantity and types of lottery equipment or supplies sold to any county, city, or village, to any licensed lottery operator, and to other licensed manufacturer-distributors. Such records shall be available for inspection by the department. The records shall be maintained for a period of not less than three years from the date of the end of the licensee's fiscal year.

Sec. 82. (1) No individual, partner in a partnership, or officer or director of a corporation applying for a lottery operator license shall be connected with or interested in, directly or indirectly, any person, partnership, firm, corporation, or other party licensed as a distributor or manufacturer under section 9 of this act or section 9-235, 9-330, or 9-332.

(2) No member of the governing board or governing official of a county, city, or village shall be connected with or interested in, directly or indirectly, any lottery operator with whom the county, city, or village contracts to conduct its lottery or any manufacturer-distributor.

Sec. 83. (1) Any county, city, or village may, by resolution or ordinance, tax, regulate, control, or prohibit any lottery conducted pursuant to the Nebraska County and City Lottery Act within the boundaries of such county, city, or village, except that no county may impose a tax or otherwise regulate, control, or prohibit any lottery within the corporate limits of a city or village. Any tax imposed pursuant

to this subsection shall be remitted to the general fund of the county, city, or village imposing such tax.

(2) Nothing in this section shall be construed to authorize any lottery or raffle not otherwise authorized under Nebraska law.

Sec. 84. If a city or village which has exercised its authority under section 83 of this act to prohibit lotteries within its boundaries annexes any area in which a lottery is being lawfully conducted by a county, the county may continue the lottery for a period not to exceed the shorter of (1) the remainder of the term of the county's agreement with the lottery operator or (2) two years. The lottery shall be subject to all taxes, regulations, and controls imposed by the city or village under such section, whether imposed before or after annexation.

Sec. 85. Any county, city, or village licensed to conduct a lottery pursuant to the Nebraska County and City Lottery Act shall be exempt from the Uniform Disposition of Unclaimed Property Act solely with respect to unclaimed lottery prizes.

Sec. 86. No person under nineteen years of age shall play or participate in any way in any lottery conducted pursuant to the Nebraska County and City Lottery Act.

Sec. 87. That section 9-610, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-610- Any county, city, or village which conducts a lottery shall submit to the Department of Revenue department on a quarterly basis a tax of two percent of the gross proceeds. Such tax shall be submitted within thirty days of the end of each quarter. The tax shall be deposited in the General Fund remitted not later than thirty days from the close of the preceding quarter on forms provided by the department and shall be credited to the Charitable Gaming Operations Fund. All deficiencies of the tax imposed by this section shall accrue interest and be subject to a penalty as provided for sales and use taxes in the Nebraska Revenue Act of 1967.

Sec. 88. (1) The Tax Commissioner or his or her agents or employees, at the direction of the Tax Commissioner, or any peace officer of this state may seize, without a warrant, the following contraband goods found any place in this state: (a) Any lottery equipment or supplies which do not conform in all respects to the requirements of the Nebraska County and City Lottery Act and any other specifications imposed by

the department by rule and regulation; (b) any lottery equipment or supplies that are being sold without the proper license; (c) any lottery equipment or supplies that have been sold in violation of the act or any rule or regulation adopted and promulgated pursuant to the act; or (d) any lottery equipment or supplies used in connection with any lottery that has been or is being conducted in violation of the act or any rule or regulation adopted and promulgated pursuant to the act.

(2) The Tax Commissioner may, upon satisfactory proof, direct the return of any confiscated lottery equipment or supplies when he or she has reason to believe that the owner has not willfully or intentionally failed to comply with the act.

(3) The Tax Commissioner may, upon finding that an owner of contraband goods has willfully or intentionally failed to comply with the act, confiscate such goods. Any lottery equipment or supplies confiscated shall be destroyed.

(4) The seizure of contraband goods under this section shall not relieve any person from a fine, imprisonment, or other penalty for violation of the act.

(5) The Tax Commissioner or his or her agents or employees, when directed to do so by the Tax Commissioner, or any peace officer of this state shall not be responsible for negligence in any court for the seizure or confiscation of any lottery equipment or supplies pursuant to this section.

Sec. 89. The gross proceeds of any lottery, less the amount awarded in prizes and any salary, fee, or commission paid to a licensed lottery operator, shall be segregated from other revenue of any licensed county, city, or village and placed in a separate account. Separate records shall be maintained by such licensed county, city, or village. Records required by the Nebraska County and City Lottery Act shall be preserved for at least three years. Any law enforcement agency or other agency of government shall have the authority to investigate the records relating to lotteries and gross proceeds from such lottery at any time. Any county, city, or village shall, upon proper written request, deliver all such records to the department or other law enforcement agency for investigation.

Sec. 90. That section 9-611, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-611- Each county, city, or village conducting a lottery shall have its name clearly printed on each ticket ~~or stub~~ used in the lottery. Each ticket

or stub shall bear a number, which numbers shall be in sequence. No such ticket or stub shall be sold unless the name and number are is printed thereon. Each county, city, or village conducting a lottery shall keep a record of all locations where its tickets or stubs are sold.

Sec. 91. That section 9-612, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-612- The Department of Revenue department shall regulate lotteries conducted by counties, cities, and villages to insure fairness, equity, and uniformity.

Sec. 92. (1) Except when another penalty is specifically provided, any person, lottery operator, manufacturer-distributor, other licensee, or employee or agent of any person or licensee who violates any provision of the Nebraska County and City Lottery Act shall be guilty of a Class I misdemeanor for the first offense and a Class IV felony for any second or subsequent violation. Any licensee guilty of violating the act more than once in a twelve-month period shall have its license canceled or revoked.

(2) Each of the following violations of the act shall be a Class IV felony:

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

(b) Employing or possessing any device to facilitate cheating in any lottery or using any fraudulent scheme or technique in connection with any lottery when the amount gained through the use of such device, scheme, or technique results in a person obtaining over five hundred dollars;

(c) Causing, aiding, abetting, or conspiring with another to cause any person or organization to violate any provision of the act;

(d) Knowingly filing a false report under the act; or

(e) Knowingly falsifying or making any false entry in any books or records with respect to any transaction connected with the conduct of a lottery.

(3) It shall be the duty of the Attorney General or appropriate county attorney to prosecute and defend all proceedings initiated in any court or otherwise under the act.

(4) The failure to do any act required by or under the Nebraska County and City Lottery Act shall be deemed an act in part in the principal office of the department. Any prosecution under such act may be conducted in any county where the defendant resides or has a place of business or in any county in which any violation occurred.

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

Sec. 93. (1) Except in accordance with a proper judicial order or as otherwise provided by this section or other law, it shall be a Class I misdemeanor for the Tax Commissioner or any employee or agent of the Tax Commissioner to make known, in any manner whatsoever, the contents of any reports or records submitted by a licensed manufacturer-distributor to the department pursuant to the Nebraska County and City Lottery Act and any rules and regulations adopted and promulgated pursuant to the act.

(2) Nothing in this section shall be construed to prohibit (a) the delivery to a licensee, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, of a certified copy of any report or record, (b) the publication of statistics so classified as to prevent the identification of particular reports or records, (c) the inspection by the Attorney General, a county attorney, or other legal representative of the state of reports or records submitted by a licensed manufacturer-distributor when information on the reports or records is considered by the Attorney General, county attorney, or other legal representative to be relevant to any action or proceeding instituted by the licensee or against whom an action or proceeding is being considered or has been commenced by any state agency or county, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner for the collection of delinquent taxes under the act, (f) the publication or disclosure of

final administrative opinions and orders made by the Tax Commissioner in the adjudication of license denials, suspensions, cancellations, or revocations or the imposition of fines, (g) the release of any application filed with the department to obtain a license to conduct activities under the act, which application shall be deemed a public record, or (h) the release of any report filed by a licensed county, city, village, or lottery operator pursuant to the act, which report shall be deemed a public record.

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

(4) Notwithstanding the provisions of subsection (1) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect reports or records submitted by a licensed manufacturer-distributor pursuant to the act when information on the reports or records is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

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

Sec. 94. No lottery shall be conducted between the hours of 1:00 a.m. and 6:00 a.m.

Sec. 95. Sections 1, 39, 43 to 46, and 98 of this act shall become operative on July 1, 1989. Sections 83, 84, 95, 96, and 99 of this act shall become operative on their effective date. The other sections of this act shall become operative on October 1, 1989.

Sec. 96. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions

thereof.

Sec. 97. That original sections 9-202, 9-250, 9-254, 9-257, 9-310, 9-332, 9-335, 9-601, 9-603, 9-605, and 9-607 to 9-612, Reissue Revised Statutes of Nebraska, 1943, and sections 9-201, 9-203, 9-209, 9-212, 9-226, 9-231, 9-234, 9-235.02, 9-235.03, 9-242, 9-244, 9-253, 9-266, 9-305.01, 9-306.01, 9-322, 9-326, 9-328, 9-329.02, 9-331, 9-340, 9-344, 9-345.02, and 9-346, Revised Statutes Supplement, 1988, and also section 9-241, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 98. That original sections 9-1,101, 9-340.02, 9-347, 9-347.01, 9-348, and 9-348.01, Revised Statutes Supplement, 1988, are repealed.

Sec. 99. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.