

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 452**

Introduced by Ashford, 20.

Read first time January 14, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to courts; to amend section 9-810, Reissue  
2 Revised Statutes of Nebraska; to provide for lottery  
3 winnings and tax refund intercept for debts owed to a  
4 court; to harmonize provisions; to repeal the original  
5 section; and to outright repeal section 77-27,208,  
6 Reissue Revised Statutes of Nebraska.

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

1           Section 1. Section 9-810, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           9-810 (1) A person under nineteen years of age shall not  
4 purchase a lottery ticket. No lottery ticket shall be sold to any  
5 person under nineteen years of age. No person shall purchase a  
6 lottery ticket for a person under nineteen years of age, and no  
7 person shall purchase a lottery ticket for the benefit of a person  
8 under nineteen years of age.

9           (2) No lottery ticket shall be sold and no prize shall be  
10 awarded to the Tax Commissioner, the director, or any employee of the  
11 division or any spouse, child, brother, sister, or parent residing as  
12 a member of the same household in the principal place of abode of the  
13 Tax Commissioner, the director, or any employee of the division.

14           (3) With respect to a lottery game retailer under  
15 contract to sell lottery tickets whose rental payment for premises is  
16 contractually computed in whole or in part on the basis of a  
17 percentage of retail sales and when the computation of retail sales  
18 is not explicitly defined to include the sale of lottery tickets, the  
19 amount of retail sales for lottery tickets by the retailer for  
20 purposes of such a computation may not exceed the amount of  
21 compensation received by the retailer from the division.

22           (4) Once any prize is awarded in conformance with the  
23 State Lottery Act and any rules and regulations adopted under the  
24 act, the state shall have no further liability with respect to that  
25 prize.

1           (5) Prior to the payment of any lottery prize in excess  
2 of five hundred dollars for a winning lottery ticket presented for  
3 redemption to the division, the division shall check the name and  
4 social security number of the winner with a list provided by the  
5 Department of Revenue of people identified as having an outstanding  
6 state tax liability, ~~and~~ a list of people certified by the Department  
7 of Health and Human Services as owing a debt as defined in section  
8 77-27,161, and a list of people certified by the State Court  
9 Administrator as owing a debt as defined by section 4 of this act.  
10 The division shall credit any such lottery prize against any  
11 outstanding state tax liability owed by such winner and the balance  
12 of such prize amount, if any, shall be paid to the winner by the  
13 division. The division shall credit any such lottery prize against  
14 any certified debt in the manner set forth in sections 77-27,160 to  
15 77-27,173 or sections 2 to 13 of this act, whichever is applicable.  
16 If the winner has both an outstanding state tax liability and a  
17 certified debt, the division shall add the liability and the debt  
18 together and pay the appropriate agency or person a share of the  
19 prize in the proportion that the liability or debt owed to the agency  
20 or person is to the total liability and debt.

21           Sec. 2. It is the intent of the Legislature to establish  
22 and maintain a procedure to set off against a debtor's income tax  
23 refund or state lottery prize any debt owed to the Nebraska court  
24 system which has accrued as a result of an individual's failure to  
25 pay court costs, fines, fees, or other sums ordered by a court.

1           Sec. 3. The Department of Revenue, the Department of  
2 Administrative Services, and the State Court Administrator shall  
3 cooperate in the development and implementation of a collection  
4 system to carry out the intent of section 2 of this act.

5           Sec. 4. For purposes of sections 2 to 13 of this act:

6           (1) Debt means any unsatisfied costs, fines, fees, or  
7 other sums ordered by a court which are due and payable to the court;

8           (2) Refund means any Nebraska state income tax refund  
9 which the Department of Revenue determines to be due an individual,  
10 corporate, or business taxpayer. In the case of a joint income tax  
11 return, it shall be presumed that each partner to the marriage  
12 submitting such return contributed one-half of the earnings upon  
13 which the refund is based. The presumption may be contested by the  
14 state, the debtor, and the innocent spouse by virtue of the hearing  
15 process established by the procedures promulgated by the State Court  
16 Administrator; and

17           (3) State lottery prize shall mean any lottery prize in  
18 excess of five hundred dollars to be awarded to an individual  
19 pursuant to the State Lottery Act upon presentation of a winning  
20 lottery ticket to the Lottery Division of the Department of Revenue  
21 for redemption.

22           Sec. 5. The collection remedy authorized by sections 2 to  
23 13 of this act shall be in addition to and not in substitution for  
24 any other remedy available by law.

25           Sec. 6. (1) The State Court Administrator may submit any

1 debt of twenty-five dollars or more to the Department of Revenue for  
2 collection pursuant to sections 2 to 13 of this act except when the  
3 validity of the debt has not been finally determined by the debtor's  
4 exercise or failure to exercise all applicable appeal rights.

5 (2) The Lottery Division of the Department of Revenue  
6 shall review all current debts on the records of the State Court  
7 Administrator at the time of redeeming a lottery ticket for a state  
8 lottery prize to certify a debt owed by a winner of a state lottery  
9 prize.

10 Sec. 7. (1) If a debtor identified by the State Court  
11 Administrator pursuant to section 6 of this act is determined by the  
12 Department of Revenue to be entitled to a refund of twenty-five  
13 dollars or more or a state lottery prize, the Department of Revenue  
14 shall notify the State Court Administrator that a refund or prize is  
15 pending.

16 (2) Upon receipt of the notification, the State Court  
17 Administrator shall, within twenty days, send written notification to  
18 the debtor of an assertion of the court system's rights to all or a  
19 portion of the debtor's refund or state lottery prize.

20 (3) The notification to the debtor shall clearly set  
21 forth the basis for the claim to the refund or state lottery prize,  
22 the intention to apply the refund or state lottery prize against the  
23 debt, the debtor's opportunity to contest the validity of the claim  
24 before the court which ordered the costs, fines, fees, or other sums  
25 within twenty days after the date of the mailing of the notice and

1 notice that failure to contest the claim pursuant to such procedures  
2 shall be deemed a waiver of such opportunity, causing a setoff by  
3 default. In the case of a joint income tax return, the notice shall  
4 also state the name of the taxpayer named in the return against whom  
5 no debt is claimed. There shall be no affirmative duty placed upon  
6 the non-owing spouse to initiate an action to receive payment of the  
7 noninterceptable amount.

8           Sec. 8. A written application shall be made by the debtor  
9 or state lottery prize winner for a hearing to contest the validity  
10 of the claim and shall be filed in the court which ordered the costs,  
11 finer, fees, or other sums. Notice of such filing shall be provided  
12 by the court clerk to the State Court Administrator. Such hearing  
13 shall be ancillary to the original action with the only matters for  
14 determination to be (1) whether the setoff was appropriate because  
15 the debt was unsatisfied at the time the State Court Administrator  
16 submitted it to the Department of Revenue and (2) whether the debt  
17 remains unsatisfied. If the amount asserted as due and owing is not  
18 correct, an adjustment to the claimed amount shall be made. A  
19 certified copy of the court's final determination of the matter shall  
20 be sent by the clerk of the court to the State Court Administrator  
21 within three days after such determination.

22           Sec. 9. (1) Upon the final determination of the amount  
23 and validity of the debt due and owing or by the taxpayer's default  
24 through failure to contest the debt, the State Court Administrator  
25 shall certify the debt to the Department of Administrative Services

1 within twenty days after the date of the final determination.

2 (2) Upon receipt of the certified debt amount from the  
3 State Court Administrator, the Department of Administrative Services  
4 shall deduct an amount equal to the certified debt from the refund or  
5 state lottery prize due the debtor, up to the amount of the refund or  
6 state lottery prize, and shall transfer such amount to the State  
7 Court Administrator. The Department of Administrative Services shall  
8 refund any remaining balance to the debtor as if the setoff had not  
9 occurred.

10 Sec. 10. When the State Court Administrator receives all  
11 or a portion of a certified debt pursuant to these sections, the  
12 State Court Administrator shall notify the debtor of the completion  
13 of the setoff and amount received. Such notice shall include the  
14 final amount of the refund or state lottery prize to which the debtor  
15 was entitled prior to the setoff, the amount of the certified debt,  
16 and the amount of the refund or state lottery prize in excess of the  
17 debt, if any.

18 Sec. 11. The State Court Administrator shall reimburse  
19 the Department of Revenue and the Department of Administrative  
20 Services for all reasonable and necessary costs incurred in setting  
21 off debts pursuant to sections 2 to 13 of this act.

22 Sec. 12. Setoffs against state income tax refunds shall  
23 have priority in the following order:

24 (1) Setoffs by the Department of Health and Human  
25 Services;

- 1                   (2) Setoffs by the Internal Revenue Service;
- 2                   (3) Setoffs by the State Court Administrator;
- 3                   (4) Setoffs by the Department of Labor; and
- 4                   (5) Setoffs by the Department of Motor Vehicles.

5                   Sec. 13. The Nebraska Supreme Court or State Court  
6 Administrator may adopt and promulgate rules and regulations  
7 necessary to carry out sections 2 to 13 of this act.

8                   Sec. 14. Original section 9-810, Reissue Revised Statutes  
9 of Nebraska, is repealed.

10                  Sec. 15. The following section is outright repealed:  
11 Section 77-27,208, Reissue Revised Statutes of Nebraska.