

## LEGISLATIVE BILL 344

Approved by the Governor June 6, 1995

Introduced by General Affairs Committee: Schellpeper, 18, Chairperson;  
Cudaback, 36; Elmer, 44; Hall, 7; Hartnett, 45; Hudkins, 21;  
Robinson, 16; Will, 8

AN ACT relating to bingo and other gambling; to amend sections 9-262, 9-323, 9-340.02, 9-345.03, 9-347.01, 9-350, 9-352, 9-419, 9-434, and 9-625, Reissue Revised Statutes of Nebraska, and sections 9-211, 9-226, 9-227, 9-228, 9-232.01, 9-241.09, 9-255.02, 9-255.04, 9-266, 9-309, 9-322, 9-324, 9-329.02, 9-347, 9-348, 9-349, 9-356, 9-418, 9-420, 9-620, 9-623, 9-629, 9-652, and 9-653, Revised Statutes Supplement, 1994; to redefine terms; to change provisions relating to bingo, lottery by the sale of pickle cards, lotteries, and raffles; to change and eliminate provisions on the use of proceeds; to change penalty provisions; to eliminate a fund; to harmonize provisions; to repeal the original sections; and to outright repeal section 9-629.02, Revised Statutes Supplement, 1994.

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

Section 1. Section 9-211, Revised Statutes Supplement, 1994, is amended to read:

9-211. (1) Lawful purpose, for a licensed organization or a qualifying nonprofit organization making a donation of its profits derived from the conduct of bingo solely for its own organization, shall mean donating such profits for any activity which benefits and is conducted by the organization, including any charitable, benevolent, humane, religious, philanthropic, youth sports, educational, civic, or fraternal activity conducted by the organization for the benefit of its members.

(2) Lawful purpose, for a licensed organization or a qualifying nonprofit organization making a donation of its profits derived from the conduct of bingo outside of its organization, shall mean donating such profits only to:

(a) The State of Nebraska or any political subdivision of the state but only if the donation is made exclusively for public purposes;

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

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

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

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

(iv) Which is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, by reason of attempting to influence legislation; and

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

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

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

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

(d) A volunteer fire department or volunteer first-aid, rescue, or emergency squad or volunteer fire company serving any city, village, county, township or rural or suburban fire protection district.

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

(4) Upon dissolution of a licensed organization or if a previously licensed organization does not renew its license to conduct bingo, its license renewal application is denied, or its license is canceled, suspended, or revoked, all remaining profits derived from the conduct of bingo shall be

utilized for a lawful purpose and shall not be distributed to any private individual or shareholder. The disbursement of such remaining profits shall be subject to approval by the department.

Sec. 2. Section 9-226, Revised Statutes Supplement, 1994, is amended to read:

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

- (1) To issue licenses, temporary licenses, and permits;
- (2) To deny any license or permit application or renewal license application for cause. Cause for denial of an application or renewal of a license shall include instances in which the applicant individually or, in the case of a business entity or a nonprofit organization, any officer, director, employee, or limited liability company member of the applicant, licensee, or permittee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such applicant, licensee, or permittee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 of the Internal Revenue Code of 1986, as amended, from such applicant for past or present services in a consulting capacity or otherwise, the licensee, or any person with a substantial interest in the applicant, licensee, or permittee:
  - (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 the State 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 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 or nolo contendere to any offense or crime, whether a felony or misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;
  - (e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application;
  - (f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where bingo activity required to be licensed or for which a permit is required 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, rule, or regulation;
  - (g) Made a misrepresentation of or failed to disclose a material fact to the department;
  - (h) Failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed or granted a permit in accordance with the Nebraska Bingo Act;
  - (i) 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;
  - (j) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;
  - (k) Failed to demonstrate good character, honesty, and integrity; or
  - (l) Failed to demonstrate, either individually or, in the case of a business entity or a nonprofit organization, through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made.

No license renewal shall be issued when the applicant for renewal would not be eligible for a license upon a first application;
- (3) To revoke, cancel, or suspend for cause any license or permit. Cause for revocation, cancellation, or suspension of a license or permit shall include instances in which the licensee or permittee individually or, in the case of a business entity or a nonprofit organization, any officer, director, employee, or limited liability company member of the licensee or permittee, other than an employee whose duties are purely ministerial in nature, any

other person or entity directly or indirectly associated with such licensee or permittee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 of the Internal Revenue Code of 1986, as amended, from such licensee or permittee for past or present services in a consulting capacity or otherwise, or any person with a substantial interest in the licensee or permittee:

(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, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to ~~the act~~ such acts;

(b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the ~~act~~ Nebraska Bingo Act or any rules or regulations adopted and promulgated pursuant to the act;

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

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

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

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where bingo activity required to be licensed or for which a permit is required under the ~~act~~ Nebraska Bingo Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

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

(h) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the ~~act~~ Nebraska Bingo Act;

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

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

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

(4) To issue and cause to be served upon any licensee, or permittee, or other person an order requiring the licensee, or permittee, or other person to cease and desist from violations of the Nebraska Bingo Act. The order shall give reasonable notice of the rights of the licensee, or permittee, or other person 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 after 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 licensee, or permittee, or other person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the licensee, or permittee, or other person shall be deemed in default and the proceeding may be determined against the licensee, or permittee, or other person upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To levy an administrative fine of not more than one thousand dollars on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which an individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the act or rules and regulations adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of the fine if any fine is levied, the department shall take into consideration the seriousness of the violation and the extent to which the violator derived financial gain as a result of the

violation. If an administrative fine is levied, the fine shall not be paid from bingo gross receipts of an organization and shall be remitted by the violator to the department within thirty days ~~from~~ after the date of the order issued by the department levying such fine;

(6) To enter or to authorize any law enforcement officer to enter at any time upon any premises where bingo activity required to be licensed or for which a permit is required 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 the act have been or are being violated and at such time to examine such premises;

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

(8) 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 or permittee, 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. If the documents requested by the department are in the custody of a limited liability company, the court order may be directed to any member when management is reserved to the members or otherwise to any manager. 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 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;

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

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

Sec. 3. Section 9-227, Revised Statutes Supplement, 1994, is amended to read:

9-227. (1) The Tax Commissioner may suspend any license or permit, except that no order to suspend any license or permit shall be issued unless the department determines that the licensee or permittee is not operating in accordance with the purposes and intent of 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, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to such acts.

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

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

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

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

(6) The decision of the department shall be made within twenty days ~~of~~ after the conclusion of the hearing. The suspension shall continue in effect until the decision is issued. If the decision is that an order of suspension, revocation, or cancellation is not appropriate, the suspension

shall terminate immediately by order of the Tax Commissioner. If the decision is an order for the suspension, revocation, or cancellation of the license or permit, the suspension shall continue pending an appeal of the decision of the department.

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

Sec. 4. Section 9-228, Revised Statutes Supplement, 1994, is amended to read:

9-228. Before the adoption, amendment, or repeal of any rule or regulation, the suspension, revocation, or cancellation of any license or permit, or the levying of any administrative fine pursuant to section 9-226, the department shall set the matter for hearing. Such suspension, revocation, or cancellation proceedings or proceedings to levy an administrative fine shall be considered 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 levy an administrative fine, serve notice upon the licensee, ~~or permittee,~~ or violator, by personal service or certified or registered 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.

This section shall not apply to an order of suspension by the Tax Commissioner prior to a hearing as provided in section 9-227.

Sec. 5. Section 9-232.01, Revised Statutes Supplement, 1994, is amended to read:

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

(a) The name and address of the applicant organization;  
 (b) Sufficient facts relating to the incorporation or organization of the applicant organization to enable the department to determine if the organization is eligible for a license pursuant to section 9-231;

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

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

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

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

(a) The name, address, social security number, date of birth, and years of membership of an active and bona fide member of the applicant organization to be licensed as the utilization-of-funds member. Such person shall have been an active and bona fide member of the applicant organization for at least one year preceding the date the application is filed with the department unless the applicant organization can provide evidence that the one-year requirement would impose an undue hardship on the organization. All utilization-of-funds members shall sign a sworn statement indicating that they agree to comply with all provisions of the Nebraska Bingo Act and all rules and regulations adopted pursuant to the act, that they will insure that no commission, fee, rent, salary, profits, compensation, or recompense will be paid to any person or organization, except payments authorized by the act, and that all profits will be spent only for lawful purposes. A fee of twenty dollars shall be charged for a license for each utilization-of-funds member, and the department may prescribe a separate application form for such license;

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

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

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

(3) The information required by this section shall be kept current. The bingo chairperson shall notify the department within thirty days of any changes to the information contained on or with the application.

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

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

(6) No person shall act as a gaming manager until he or she has received a license from the department. A gaming manager may apply for a license to act as a gaming manager for more than one licensed organization by completing a separate application and paying the fifty-dollar license fee for each organization for which he or she intends to act as a gaming manager. No gaming manager shall be a bingo chairperson or alternate bingo chairperson, and no gaming manager shall hold any other type of license issued under Chapter 9 the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, and the Nebraska Pickle Card Lottery Act.

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

Sec. 6. Section 9-241.09, Revised Statutes Supplement, 1994, is amended to read:

9-241.09. (1) A bingo chairperson or another member of the licensed organization who has been designated by the bingo chairperson in an emergency situation as an alternate bingo chairperson shall be present during the duration of each bingo occasion conducted pursuant to a Class I license.

(2) A licensed gaming manager shall be present during the duration of each bingo occasion conducted pursuant to a Class II license, except that in the case of an emergency, the licensed organization's bingo chairperson or alternate bingo chairperson may substitute for the gaming manager.

Sec. 7. Section 9-255.02, Revised Statutes Supplement, 1994, is amended to read:

9-255.02. (1) Irrespective of whether a bingo game or a bingo occasion is conducted jointly by two or more licensed organizations, no prize for a single bingo game shall exceed one thousand dollars in value and the aggregate value of all bingo prizes at any bingo occasion shall not exceed four thousand dollars.

(2) A winner shall be determined for each bingo game, and each winner shall be awarded and delivered the prize on the same day that the bingo occasion is conducted.

(3) At least fifty percent of the gross receipts derived from the conduct of bingo shall be awarded in bingo prizes during each quarterly reporting period. The licensed organization shall clearly post at each bingo occasion the percentage of gross receipts paid out in prizes for the last preceding quarter.

(4) In addition to the prizes permitted by subsection (1) of this section, a licensed organization may award promotional prizes in cash or merchandise to players at a bingo occasion if:

(a) No consideration is charged in order to be eligible to win a promotional prize except that given to participate as a player in the bingo occasion;

(b) The total fair market value of all promotional prizes awarded at a bingo occasion does not exceed one hundred dollars in value or, in the case of a limited period bingo, does not exceed two hundred fifty dollars in value;

(c) The winner of any promotional prize is a bingo player who is present at the bingo occasion;

(d) The winners are determined by an element of chance or some other factor which does not involve any scheme which utilizes any type of pickle card, the game of keno, a scratch-off or rub-off ticket, any promotional game tickets authorized by section 9-701, any non-telecommunication-related, player-activated electronic or electromechanical facsimile of any game of chance, or any slot machine of any kind; and

(e) The total fair market value of all promotional prizes awarded at a bingo occasion shall be excluded from determination of the fifty-percent prize payout requirement in subsection (3) of this section.

(5) The licensed organization's cost of promotional prizes permitted by subsection (4) of this section shall be considered a bingo expense that is subject to the expense limitation of fourteen percent of bingo gross receipts provided in section 9-255.04.

Sec. 8. Section 9-255.04, Revised Statutes Supplement, 1994, is amended to read:

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

(2) A licensed organization shall not spend more than twelve fourteen percent of its bingo gross receipts to pay the expenses of conducting bingo. The actual cost of (a) license and local permit fees, (b) any taxes authorized by the Nebraska Bingo Act, (c) bingo prizes other than promotional prizes, (d) the purchase, rental, or lease of bingo equipment, and (e) the rental or lease of a premises for the conduct of bingo as prescribed by the department in rules and regulations shall not be included in determining compliance with the expense limitation contained in this section.

(3) A licensed organization which is also licensed to conduct a lottery by the sale of pickle cards pursuant to the Nebraska Pickle Card Lottery Act may allocate a portion of the expenses associated with the conduct of its bingo occasions to its lottery by the sale of pickle cards conducted at such bingo occasions. Such allocation shall be based upon the percentage that pickle card gross proceeds derived from the sale of pickle cards at the bingo occasions represents to the total of bingo gross receipts and pickle card gross proceeds derived from such bingo occasions for the previous annual period July 1 through June 30. An organization licensed to conduct bingo that has not been previously licensed shall determine such allocation based upon the percentage that pickle card gross proceeds derived from the sale of pickle cards at the bingo occasions represents to the total of bingo gross receipts and pickle card gross proceeds derived from such bingo occasions for the initial three consecutive calendar months of operation.

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

(5) All persons paid for working at a bingo occasion, including pickle card sellers but excluding concession workers, shall be paid only by a check written from the licensed organization's bingo checking account and shall not receive any other compensation or payment for working at a bingo occasion from any other source. Such wages shall be at an hourly or occasion rate and shall be included in the amount allowed by the expense limitation provided in subsection (2) of this section. No person shall receive any compensation or payment from a licensed organization based upon a percentage of the organization's bingo gross receipts or profit.

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

Sec. 9. Section 9-262, Reissue Revised Statutes of Nebraska, is amended to read:

9-262. (1) Except when another penalty is specifically provided, any person, distributor, licensed organization, other licensee, or employee or agent of any person or licensee who violates any provision of the Nebraska

representative of the existence of and the grounds for an administrative action to deny the license application of, to revoke, cancel, or suspend the license of, or to levy an administrative fine upon any agent or employee of the applicant, the licensee, or any other person upon whom the applicant or licensee relies to conduct activities authorized by the act.

(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 or issued a permit to conduct activities under the act, the locations at which such activities are conducted by licensees or permittees, or the dates on which such licenses or permits were issued.

(4) Notwithstanding 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 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. 11. Section 9-309, Revised Statutes Supplement, 1994, is amended to read:

9-309. (1) Lawful purpose, for a licensed organization making a donation of its net profits derived from its lottery by the sale of pickle cards solely for its own organization, shall mean donating such net profits for any activity which benefits and is conducted by the organization, including any charitable, benevolent, humane, religious, philanthropic, youth sports, educational, civic, or fraternal activity conducted by the organization for the benefit of its members.

(2) Lawful purpose, for a licensed organization making a donation of its net profits derived from its lottery by the sale of pickle cards outside of its organization, shall mean donating such net profits only to:

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

(b) A corporation, trust, community chest, fund, or foundation:  
(i) Created or organized under the laws of Nebraska which has been in existence for five consecutive years immediately preceding the date of the donation and which has its principal office located in Nebraska;

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

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

(iv) Which is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, by reason of attempting to influence legislation; and

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

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

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

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

(d) A volunteer fire department or volunteer first-aid, rescue, or emergency squad or volunteer fire company serving any city, village, county, township, or rural or suburban fire protection district.

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

(4) Upon dissolution of a licensed organization or in the event a previously licensed organization does not renew its license to conduct a

lottery by the sale of pickle cards, its license renewal application is denied, or its license is canceled, suspended, or revoked, all remaining net profits derived from the conduct of a lottery by the sale of pickle cards under the Nebraska Pickle Card Lottery Act shall be utilized for a lawful purpose and shall not be distributed to any private individual or shareholder. The disbursement of such remaining net profits shall be subject to approval by the department.

Sec. 12. Section 9-322, Revised Statutes Supplement, 1994, is amended to read:

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

(1) To issue licenses and temporary 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 instances in which the applicant individually or, in the case of a business entity or a nonprofit organization, any officer, director, employee, or limited liability company member of the applicant or licensee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such applicant or licensee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 of the Internal Revenue Code of 1986, as amended, from such applicant or licensee for past or present services in a consulting capacity or otherwise, the licensee, or any person with a substantial interest in the applicant or licensee:

(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 the State Lottery 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 or nolo contendere to any offense or crime, whether a felony or misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

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

(f) Denied the department or its authorized representatives, including authorized 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;

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

(h) 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;

(i) 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;

(j) Failed to pay an administrative fine imposed levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(k) Failed to demonstrate good character, honesty, and integrity; or  
 (l) Failed to demonstrate, either individually or, in the case of a business entity or a nonprofit organization, through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made.

No license renewal shall be issued when the applicant for renewal would not be eligible for a license upon a first application;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include instances in which the licensee individually or, in the case of a business entity or a

nonprofit organization, any officer, director, employee, or limited liability company member of the licensee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such licensee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 of the Internal Revenue Code of 1986, as amended, from such licensee for past or present services in a consulting capacity or otherwise, or any person with a substantial interest in the licensee:

(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, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to ~~the act~~ such acts;

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

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

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

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

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where pickle card 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;

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

(h) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the ~~act~~ Nebraska Pickle Card Lottery Act;

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

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

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

(4) To issue and cause to be served upon any license holder licensee or other person an order requiring the license holder licensee or other person to cease and desist from violations of the Nebraska Pickle Card Lottery Act. The order shall give reasonable notice of the rights of the license holder licensee or other person 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~~ after 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 licensee or other person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the license holder licensee or other person shall be deemed in default and the proceeding may be determined against the license holder licensee or other person upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To levy an administrative fine of not more than one thousand dollars on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which an individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the ~~act~~ Nebraska Pickle Card Lottery Act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of

the fine if any fine is levied, the department shall take into consideration the seriousness of the violation and the extent to which the violator derived financial gain as a result of the violation. If an administrative fine is levied, the fine shall not be paid from pickle card lottery gross proceeds of a licensed organization and shall be remitted by the licensee violator to the department within thirty days from the date of the order issued by the department levying such fine;

(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 such act 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, limited liability companies, or corporations as the department deems necessary to carry out the 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, and to impose administrative penalties for failure to properly register 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. If the documents requested by the department are in the custody of a limited liability company, the court order may be directed to any member when management is reserved to the members or otherwise to any manager. 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 imposed by the act~~ 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, seize, or seal pickle cards, pickle card units, or coin-operated or currency-operated pickle card dispensing devices 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. 13. Section 9-323, Reissue Revised Statutes of Nebraska, is amended to read:

9-323. (1) The Tax Commissioner may suspend any license issued pursuant to the Nebraska Pickle Card Lottery Act except a license issued pursuant to section 9-326, except that no order to suspend any license shall be issued unless the department determines that the licensee is not operating in accordance with the purposes and intent of 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, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to such acts. ~~act.~~ The Tax Commissioner may suspend a license issued pursuant to section 9-326 after a hearing upon a finding by the department that the licensee is not operating in accordance with the purposes and intent of such acts. ~~the act.~~

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

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

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

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

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

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

Sec. 14. Section 9-324, Revised Statutes Supplement, 1994, is amended to read:

9-324. Before the adoption, amendment, or repeal of any rule or regulation, the suspension, revocation, or cancellation of any license pursuant to section 9-322, or the levying of an administrative fine pursuant to section 9-322, the department shall set the matter for hearing. Such suspension, revocation, or cancellation proceedings or proceedings to levy 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 levy an administrative fine, serve notice upon the licensee or violator by personal service or 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.

This section shall not apply to an order of suspension by the Tax Commissioner prior to a hearing as provided in section 9-323.

Sec. 15. Section 9-329.02, Revised Statutes Supplement, 1994, is amended to read:

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, limited liability company, 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, limited liability company, 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 may be renewed annually. The department shall remit the proceeds from such license fees to the State Treasurer for credit to the Charitable Gaming Operations Fund. An application for license renewal shall

be submitted to the department at least sixty days prior to the expiration date of the license.

(4) One license issued to any sole proprietorship, partnership, limited liability company, or corporation under this section as a pickle card operator shall cover the sole proprietorship, partnership, limited liability company, 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, limited liability company, 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.

(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 utilization-of-funds member 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~~ a licensed organization's individual pickle cards. The department may require a licensed organization, distributor, or pickle card operator to provide such documentation as the department deems necessary to verify that a pickle card operator has purchased, leased, or rented the equipment for a rate not less than fair market value.

(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.

Sec. 16. Section 9-340.02, Reissue Revised Statutes of Nebraska, is amended to read:

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~~ A 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) Pickle card units shall be delivered by the sales agent to the pickle card operator in any manner which results in a signed receipt from the pickle card operator, including personal delivery or delivery through the mail or by a common carrier.

(4) 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 coin-operated or currency-operated pickle card dispensing device used in connection with a lottery by the sale of pickle cards.

(5) All payments for the purchase, lease, or rental of a coin-operated or currency-operated pickle card dispensing device by a licensed organization shall be made by a check drawn on the organization's pickle card checking account.

(6) All payments for the purchase, lease, or rental of a coin-operated or currency-operated pickle card dispensing device by a licensed pickle card operator from a licensed organization shall be made by a check drawn on the business checking account of the pickle card operator or a personal checking account of an owner, partner, or officer of the pickle card operator, either at the time of or before placement of the device or on or before the first day of the period of the lease, whichever comes first.

(7) All lease or rental agreements between a licensed organization and a licensed pickle card operator for coin-operated or currency-operated pickle card dispensing devices shall be subject to approval by the department.

Sec. 17. Section 9-345.03, Reissue Revised Statutes of Nebraska, is amended to read:

9-345.03. (1) Any person who places a coin-operated or currency-operated pickle card dispensing device in operation in this state without a current registration decal affixed permanently and conspicuously to the device shall be subject to an administrative penalty of thirty dollars for each violation. The department shall remit the proceeds from such penalties to the State Treasurer for credit to the Charitable Gaming Operations Fund. No coin-operated or currency-operated device for the dispensing of pickle cards shall be used by any individual to obtain a pickle card unless and until a registration decal is obtained from the department and the decal has been permanently and conspicuously affixed to the device.

(2) Registration of the device with the department shall be made by application to the department and shall be the responsibility of the licensed organization when such device is to be used in a licensed organization's designated premises or at the location of its regularly scheduled bingo occasion or of the licensed pickle card operator when such device is to be used on the premises of the pickle card operator.

(3) Each application for registration shall include (a) the name and address of the licensed pickle card operator or licensed organization registering the device, (b) the state identification number of the licensed pickle card operator or licensed organization registering the device, (c) a detailed description of the physical appearance and operation of the coin-operated or currency-operated dispensing device, and (d) such other information which the department deems necessary.

(4) A fee of fifty dollars shall be charged for each decal issued pursuant to this section. The department shall remit the proceeds from the fee to the State Treasurer for credit to the Charitable Gaming Operations Fund. All decals issued by the department pursuant to this section shall expire on December 31 of each year and shall be renewed annually.

(5) The registration decal issued by the department pursuant to this section shall not be transferable.

(6) Upon request by the Tax Commissioner or his or her agents or employees, the licensed organization or pickle card operator responsible for registering the coin-operated or currency-operated device used for the dispensing of pickle cards shall provide the requesting individual immediate access to any pickle cards contained within such device.

(7) Any person violating any provision of this section shall be deemed guilty of a Class II misdemeanor. Each day on which any person engages in or conducts the business of operating any device subject to this section without having paid the penalty or the registration as provided constitutes a separate offense.

Sec. 18. Section 9-347, Revised Statutes Supplement, 1994, is amended to read:

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, allowable expenses, and allocations for bingo expenses as provided by subsection (5) of this section.

(2) 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 six eight 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, except that license fees paid to the department to license the organization, each utilization-of-funds member, and any sales agent and pickle card dispensing device registration fees shall not be included in determining the six percent

~~eight-percent~~ limitation on expenses and no portion of such ~~six eight~~ percent shall be used to pay any expenses associated with the sale of pickle cards at a bingo occasion conducted pursuant to the Nebraska Bingo Act, and of such ~~six eight~~ percent not more than 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. When determining the ~~six eight~~ percent of definite profit that is permitted to pay the allowable expenses of operating a lottery by the sale of pickle cards, the definite profit from the sale of pickle cards at the organization's bingo occasions shall not be included.

(4) Not more than 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.

(5) An organization licensed to conduct bingo pursuant to the Nebraska Bingo Act may allocate a portion of the expenses associated with the conduct of its bingo occasions to its lottery by the sale of pickle cards conducted at such bingo occasions. Such allocation shall be based upon the percentage that pickle card gross proceeds derived from the sale of pickle cards at the bingo occasions represents to the total of bingo gross receipts and pickle card gross proceeds derived from such bingo occasions for the previous annual period July 1 through June 30. An organization licensed to conduct bingo that has not been previously licensed shall determine such allocation based upon the percentage that pickle card gross proceeds derived from the sale of pickle cards at the bingo occasions represents to the total of bingo gross receipts and pickle card gross proceeds derived from such bingo occasions for the initial three consecutive calendar months of operation. The total amount of expenses that may be allocated to the organization's lottery by the sale of pickle cards shall be subject to the limitations on bingo expenses as provided for in the Nebraska Bingo Act with respect to the ~~twelve-percent~~ fourteen-percent expense limitation and the fair-market-value limitation on the purchase, rental, or lease of bingo equipment and the rental or lease of a premises for the conduct of bingo. No expenses associated with the conduct of bingo may be paid directly from the pickle card checking account. A licensed organization which needs to allocate a portion of the expenses associated with the conduct of its bingo occasions to its lottery by the sale of pickle cards conducted at such bingo occasions to pay bingo expenses as provided by this section shall transfer funds from the pickle card checking account to the bingo checking account by a check drawn on the pickle card checking account or by electronic funds transfer.

Sec. 19. Section 9-347.01, Reissue Revised Statutes of Nebraska, is amended to read:

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 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 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 ~~six eight~~ 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 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. 20. Section 9-348, Revised Statutes Supplement, 1994, is amended to read:

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 and all amounts received by any licensed organization from the sale, lease, or rental of coin-operated or currency-operated pickle card dispensing devices 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 license fees paid to the department to license the organization, each utilization-of-funds member, and any sales agent, coin-operated or currency-operated pickle card dispensing device registration fees, and the unit cost but excluding the payment of prizes for winning pickle 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. 21. Section 9-349, Revised Statutes Supplement, 1994, is amended to read:

9-349. A licensed organization conducting a lottery by the sale of pickle cards shall report annually to the department a complete and accurate accounting of its gross proceeds from the lottery by the sale of pickle cards on a form prescribed by the department. The annual report shall demonstrate that the organization's definite profit from pickle card sales has been retained in the organization's pickle card checking account or expended solely for allowable expenses, unit costs, any pickle card operator commissions, lawful purpose donations, any license fees paid to the department to license the organization, each utilization-of-funds member, and any sales agent, coin-operated or currency-operated pickle card dispensing device registration fees, or any bingo expenses allocated to the sale of pickle cards as provided for in section 9-347. A copy of the annual report shall be submitted to the organization's membership. The annual report shall cover the organization's lottery by the sale of pickle cards activities from July 1 through June 30 of each year and shall be submitted to the department on or before August 15 of each year.

Sec. 22. Section 9-350, Reissue Revised Statutes of Nebraska, is amended to read:

9-350. (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 pickle cards and pickle card units declared to be contraband goods in section 9-338; (b) any pickle cards that are not properly printed as required in section 9-346 or on which the tax has not been paid, except for pickle cards in the possession of a licensed distributor or licensed manufacturer; (c) any pickle cards or pickle card units purchased by any licensed organization from any source other than a licensed distributor; (d) any pickle cards or pickle card units that are being sold without all of the proper licenses; (e) any pickle card units or pickle cards that have been sold in violation of the Nebraska Pickle Card Lottery Act or any rules or regulations adopted and promulgated pursuant to such act; (f) any pickle cards or pickle card units in the possession of any licensee whose license has been revoked, canceled, or suspended or any pickle cards or pickle card units in the possession of any former licensee whose license has expired; or (g) any coin-operated or currency-operated pickle card dispensing device which contains any pickle cards deemed to be contraband goods pursuant to this subsection or any such device which does not have permanently and conspicuously affixed to it a current registration decal required by section 9-345.03.

(2) The Tax Commissioner may, upon satisfactory proof, direct return of any confiscated pickle cards or pickle card units when he or she has reason to believe that the owner has not willfully or intentionally evaded any tax or failed to comply with the Nebraska Pickle Card Lottery Act. Upon receipt of an affidavit of ownership, the Tax Commissioner shall relinquish possession of a seized coin-operated or currency-operated pickle card dispensing device to

the lawful owners of the device if the device is not needed as evidence by the department, any county attorney, or the Attorney General at an administrative or judicial hearing, if contraband pickle cards have been removed from the device, and in the event the device was seized due to the owner's violation of subsection (2) of section 9-345.03, if the owner has applied for and has received a current registration decal for the seized device.

(3) The Tax Commissioner may, upon finding that an owner of contraband goods has willfully or intentionally evaded any tax or failed to comply with the act, confiscate such goods. Any pickle cards or pickle card units confiscated shall be destroyed.

(4) The seizure and destruction of the coin-operated or currency-operated pickle card dispensing devices, pickle cards, or pickle card units 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, at the direction of the Tax Commissioner, may seal any pickle cards, pickle card units, or coin-operated or currency-operated pickle card dispensing devices deemed to be contraband goods pursuant to this section. Such seal shall not be broken until authorized by the Tax Commissioner or his or her agents or employees. If the seal on a coin-operated or currency-operated pickle card dispensing device is broken prior to payment of the penalty and registration of the device required under section 9-345.03, the device shall be subject to forfeiture and sale by the Tax Commissioner.

(6) 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 sealing, seizure, or confiscation of any coin-operated or currency-operated pickle card dispensing device, pickle card, or pickle card unit pursuant to this section.

Sec. 23. Section 9-352, Reissue Revised Statutes of Nebraska, is amended to read:

9-352. (1) Except when another penalty is specifically provided, any person, licensed organization, distributor, manufacturer, sales agent, pickle card operator, other licensee, or employee or agent of any person or licensee who violates any provision of the Nebraska Pickle Card 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 licensed organization guilty of violating any provision of the act more than once in a twelve-month period shall have its license canceled or revoked. Such matters shall also be referred to any other state licensing agencies for appropriate action.

(2) Each of the following violations of the Nebraska Pickle Card Lottery 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 Chapter 9 in consideration for obtaining any license, authorization, permission, or privilege to participate in any gaming operations except as authorized under Chapter 9 or any rules and regulations adopted and promulgated pursuant to such chapter;

(b) Making or receiving payment of a portion of the purchase price of pickle cards by a seller of pickle cards to a buyer of pickle cards to induce the purchase of pickle cards or to improperly influence future purchases of pickle cards;

(c) Using bogus, counterfeit, or nonopaque pickle cards, pull tabs, break opens, punchboards, jar tickets, or any other similar card, board, or ticket or substituting or using any pickle cards, pull tabs, or jar tickets that have been marked or tampered with;

(d) Employing intentionally employing or possessing any device to facilitate cheating in any lottery by the sale of pickle cards or use of any fraudulent scheme or technique in connection with any lottery by the sale of pickle cards when the amount gained or intended to be gained through the use of such items, schemes, or techniques results in a person obtaining over five hundred dollars is three hundred dollars or more;

(e) Causing, aiding, abetting, or conspiring with another to cause any person or organization to violate any provision of the Nebraska Pickle Card Lottery Act;

(f) Knowingly filing a false report under the Nebraska Pickle Card Lottery Act;

(g) Knowingly falsifying or making any false entry in any books or records with respect to any transaction connected with the conduct of a lottery by the sale of pickle cards; or

(h) Knowingly selling or distributing or knowingly receiving with

intent to sell or distribute, pickle cards or pickle card units without first obtaining a license in accordance with the Nebraska Pickle Card Lottery Act pursuant to section 9-329, 9-329.03, 9-330, or 9-332.

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

(4) The failure to do any act required by or under the Nebraska Pickle Card 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. 24. Section 9-356, Revised Statutes Supplement, 1994, is amended to read:

9-356. (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 tax return or any reports or records submitted by a licensed distributor or manufacturer or the contents of any personal history reports submitted by any licensee or license applicant to the department pursuant to the Nebraska Pickle Card Lottery 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 taxpayer, licensee, or his or her duly authorized representative or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, a certified copy of any tax return or report or record, (b) the publication of statistics so classified as to prevent the identification of particular tax returns or reports or records, (c) the inspection by the Attorney General, a county attorney, or other legal representative of the state of tax returns or reports or records submitted by a licensed distributor or manufacturer when information on the tax returns or 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 taxpayer or 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 Pickle Card Lottery 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 levying of fines, (g) the release of any application, without the contents of any submitted personal history report, 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 9-349 or any other report filed by a licensed organization, sales agent, or pickle card operator pursuant to the act, which shall be deemed a public record, or (i) the notification of an applicant, a licensee, or a licensee's duly authorized representative of the existence of and the grounds for any administrative action to deny the license application of, to revoke, cancel, or suspend the license of, or to levy an administrative fine upon any agent or employee of the applicant, the licensee, or any other person upon whom the applicant or licensee relies to conduct activities authorized by the act.

(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 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 a tax return or reports or records submitted by a licensed distributor or manufacturer pursuant to the act when information on the returns or 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 subsection (1) of this section, the Tax

Commissioner may permit other tax officials of this state to inspect a tax return or 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. 25. Section 9-418, Revised Statutes Supplement, 1994, is amended to read:

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

(1) To issue licenses, temporary licenses, and permits;  
 (2) To deny any license or permit application or renewal application for cause. Cause for denial of an application or renewal of a license or permit shall include instances in which the applicant individually or, in the case of a nonprofit organization, any officer, director, or employee, or limited liability company member of the applicant, licensee, or permittee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such applicant, licensee, or permittee which directly or indirectly receives compensation other than distributions from a bona fide retirement plan established pursuant to Chapter 400 of the Internal Revenue Code of 1986, as amended, from such applicant, licensee, or permittee for past or present services in a consulting capacity or otherwise, the licensee, the permittee, or any person with a substantial interest in the applicant, licensee, or permittee:

(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 the State Lottery 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 the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act by fraud, misrepresentation, or concealment;

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

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

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where lottery or raffle activity required to be licensed under the Nebraska Lottery and Raffle Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

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

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

(i) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo 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;

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

(k) Failed to demonstrate good character, honesty, and integrity; or  
 (l) Failed to demonstrate, either individually or, in the case of a nonprofit organization, through its managers or employees, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made.

No license renewal shall be issued when the applicant for renewal would not be eligible for a license upon a first application;

(3) To revoke, cancel, or suspend for cause any license or permit. Cause for revocation, cancellation, or suspension of a license or permit shall include instances in which the licensee or permittee individually or, in the case of a nonprofit organization, any officer, director, or employee, or

limited liability company member of the licensee or permittee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such licensee or permittee which directly or indirectly receives compensation other than distributions from a bona fide retirement plan established pursuant to Chapter 400 of the Internal Revenue Code of 1986, as amended, from such licensee or permittee for past or present services in a consulting capacity or otherwise, or any person with a substantial interest in the licensee or permittee:

(a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Lottery and Raffle Act, 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, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to ~~the act~~ such acts;

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

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

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

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

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where lottery or raffle activity required to be licensed under the ~~act~~ Nebraska Lottery and Raffle Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

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

(h) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the ~~act~~ Nebraska Lottery and Raffle Act;

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

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

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

(4) 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 lottery or raffle activities required to be licensed pursuant to the Nebraska Lottery and Raffle Act, to require by 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;

(5) To levy an administrative fine of not more than one thousand dollars on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which an individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of the fine if any fine is levied, the department shall take into consideration the seriousness of the violation and the extent to which the violator derived financial gain as a

result of the violation. If an administrative fine is levied, the fine shall not be paid from lottery or raffle gross proceeds of a licensed organization and shall be remitted by the violator to the department within thirty days ~~from~~ after the date of the order issued by the department levying such fine;

(6) 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;

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

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

Sec. 26. Section 9-419, Reissue Revised Statutes of Nebraska, is amended to read:

9-419. (1) The Tax Commissioner may suspend any license or permit, except that no order to suspend any license or permit shall be issued unless the department determines that the licensee or permittee is not operating in accordance with the purposes and intent of 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, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to such acts.

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

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

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

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

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

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

Sec. 27. Section 9-420, Revised Statutes Supplement, 1994, is amended to read:

9-420. Before the adoption, amendment, or repeal of any rule or regulation, the suspension, revocation, or cancellation of any license or permit, or the levying of an administrative fine pursuant to section 9-418, the department shall set the matter for hearing. Such suspension, revocation, or cancellation proceedings or proceedings to levy an administrative fine shall be considered 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 levy an administrative fine, serve notice by personal service or certified mail, return receipt requested, upon the licensee, or permittee, or violator 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.

This section shall not apply to an order of suspension by the Tax Commissioner prior to a hearing as provided in section 9-419.

Sec. 28. Section 9-434, Reissue Revised Statutes of Nebraska, is amended to read:

9-434. (1) Except when another penalty is specifically provided, any person, licensed organization, other licensee, permittee, or employee or agent of any person, licensee, or permittee who violates any provision of the Nebraska Lottery and Raffle 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 licensed organization guilty of violating any provision of 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 Nebraska Lottery and Raffle Act shall be a Class IV felony:

(a) Giving, providing, or offering to give or provide, directly or indirectly, to any public official or 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 authorized under Chapter 9 in consideration for obtaining any license, authorization, permission, or privileges to participate in any gaming operations except as authorized under Chapter 9 or any rules and regulations adopted and promulgated pursuant to such chapter;

(b) Employing intentionally employing or possessing any device to facilitate cheating in any lottery or raffle or using any fraudulent scheme or technique in connection with any lottery or raffle when the amount gained or intended to be gained through the use of items, schemes, or techniques results in a person obtaining over five hundred dollars is three hundred dollars or more;

(c) Causing, aiding, abetting, or conspiring with another to cause any person or organization to violate any provision of the Nebraska Lottery and Raffle Act; or

(d) Knowingly filing a false report under the Nebraska Lottery and Raffle Act.

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

(4) The failure to do any act required by or under the Nebraska Lottery and Raffle 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. 29. Section 9-620, Revised Statutes Supplement, 1994, is amended to read:

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

(1) To issue licenses and temporary licenses;

(2) To deny any license application or renewal application for cause. Cause for denial of an application or renewal of a license shall include instances in which the applicant individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the applicant or licensee other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such applicant or licensee which directly or indirectly receives compensation, other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 of the Internal Revenue Code of 1986, as amended, from such applicant or licensee for past or present services in a consulting capacity or otherwise, the licensee, or any person with a substantial interest in the applicant or licensee:

(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, the State Lottery 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 or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

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

(f) 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;

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

(h) 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;

(i) 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;

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

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

(l) Failed to demonstrate, either individually or in the case of a business entity through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made.

No license renewal shall be issued when the applicant for renewal would not be eligible for a license upon a first application;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include instances in which the licensee individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the licensee other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such licensee which directly or indirectly receives compensation, other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 of the Internal Revenue Code of 1986, as amended, from such licensee for past or present services in a consulting capacity or otherwise, or any person with a substantial interest in the licensee;

(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, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to ~~the act~~ such acts;

(b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the ~~act~~ Nebraska County and City Lottery Act or any rules or regulations adopted and promulgated pursuant to the act;

(c) Obtained a license pursuant to the ~~act~~ Nebraska County and City Lottery Act by fraud, misrepresentation, or concealment;

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

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

(f) 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~~ 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;

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

fact to the department;

(h) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the act Nebraska County and City Lottery Act;

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

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

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

(4) To issue and cause to be served upon any licensee or other person an order requiring the licensee or other person to cease and desist from violations of the Nebraska County and City Lottery Act. The order shall give reasonable notice of the rights of the licensee or other person 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 after 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 licensee or other person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the licensee or other person shall be deemed in default and the proceeding may be determined against the licensee or other person upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To levy an administrative fine on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which the individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of the fine if any fine is levied, the department shall take into consideration the seriousness of the violation, the intent of the violator, whether the violator voluntarily reported the violation, whether the violator derived financial gain as a result of the violation and the extent thereof, and whether the violator has had previous violations of the act and regulations. A fine levied on a violator under this section shall not exceed twenty-five thousand dollars for each violation of the act or any rules and regulations adopted and promulgated pursuant to the act. If an administrative fine is levied, the fine shall not be paid from lottery gross proceeds of the county, city, or village and shall be remitted by the violator to the department within thirty days from the date of the order issued by the department levying such fine;

(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, limited liability companies, 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. If the documents requested by the department are in the custody of a limited liability company, the court order may be directed to any member when management is reserved to the members or otherwise to any manager. 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 9-648 imposed by the 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 9-649;

(11) To investigate the activities of any person applying for a license under the Nebraska County and City Lottery Act or relating to the conduct of any lottery activity under the act. Any license applicant or licensee shall produce such information, documentation, and assurances as may be required by the department to establish by a preponderance of the evidence the financial stability, integrity, and responsibility of the applicant or licensee, including, but not limited to, bank account references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, business entity and personal accounting records, and check records and ledgers. Any such license applicant or licensee shall authorize the department to examine bank accounts and other such records as may be deemed necessary by the department;

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

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

Sec. 30. Section 9-623, Revised Statutes Supplement, 1994, is amended to read:

9-623. Before the adoption, amendment, or repeal of any rule or regulation, the suspension, revocation, or cancellation of any license pursuant to section 9-620, or the levying 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 levy 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 levy an administrative fine, serve notice upon the licensee or violator by personal service or 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. 31. Section 9-625, Reissue Revised Statutes of Nebraska, is amended to read:

9-625. 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 9-643, any county, city, or village may conduct a lottery only within the boundaries of such county, city, or village, or within a licensed racetrack enclosure which abuts the corporate limits thereof or which is within the zoning jurisdiction of a city, 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. 32. Section 9-629, Revised Statutes Supplement, 1994, is amended to read:

9-629. (1) ~~Except as provided in section 9-629.02,~~ ~~the~~ 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)(ii) 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 more than 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 need not be included in determining the fourteen-percent limitation on expenses.

(4) For purposes of this section, audit and legal expenses shall include all expenses relating to: (a) The governmental organization of the lottery; (b) government maintenance, monitoring, and examination of lottery records; and (c) enforcement, regulatory, administrative, investigative, and litigation functions undertaken by government, but shall not include the expenses of the actual conduct of the game. Audit and legal expenses during an annual period from July 1 to June 30 of each year in excess of one percent of gross proceeds or five thousand dollars, whichever is greater, shall be subject to the fourteen-percent limitation on expenses under subsection (3) of this section. In the case of a joint lottery conducted pursuant to an interlocal agreement as provided for in section 9-625, the combined gross proceeds of the joint lottery shall be used to determine that portion of audit and legal expenses that are not subject to the fourteen-percent limitation on expenses.

Sec. 33. Section 9-652, Revised Statutes Supplement, 1994, is amended to read:

9-652. (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 knowingly or intentionally 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) Intentionally 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 or intended to be gained through the use of such device, scheme, or technique exceeds one hundred dollars is three hundred dollars or more;

(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. 34. Section 9-653, Revised Statutes Supplement, 1994, is amended to read:

9-653. (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 or the contents of any personal history reports submitted by any licensee or license applicant 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 levying of fines, (g) the release of any application, without the contents of any submitted personal history report, 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, or (i) the notification of an applicant, a licensee, or a licensee's duly authorized representative of the existence of and the grounds for any administrative action to deny the license application of, to revoke, cancel, or suspend the license of, or to levy an administrative fine upon any agent or employee of the applicant, the licensee, or any other person upon whom the applicant or licensee relies to conduct activities authorized by the act.

(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 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 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. 35. Original sections 9-262, 9-323, 9-340.02, 9-345.03, 9-347.01, 9-350, 9-352, 9-419, 9-434, and 9-625, Reissue Revised Statutes of Nebraska, and sections 9-211, 9-226, 9-227, 9-228, 9-232.01, 9-241.09, 9-255.02, 9-255.04, 9-266, 9-309, 9-322, 9-324, 9-329.02, 9-347, 9-348, 9-349, 9-356, 9-418, 9-420, 9-620, 9-623, 9-629, 9-652, and 9-653, Revised Statutes Supplement, 1994, are repealed.

Sec. 36. The following section is outright repealed: Section 9-629.02, Revised Statutes Supplement, 1994.