

## LEGISLATIVE BILL 1027

Approved by the Governor April 18, 1986

Introduced by Revenue Committee, V. Johnson, 8,  
Chairperson; Hefner, 19; Miller, 37;  
Hartnett, 45; Rogers, 41; Sieck, 24;  
Landis, 46

AN ACT relating to revenue and taxation; to amend sections 2-219, 9-127, 9-129, 9-135, 9-139, 9-140, 9-140.10, 9-151, 9-152, 9-155, 9-162, 9-167, 9-175, 14-102, 15-258, 16-226, 17-120, 17-207, 28-1101, 28-1105, 28-1110, 28-1113 to 28-1116.01, 57-702, 57-710, 57-919, 66-448, 77-27,107, 77-27,147, and 81-1559, Reissue Revised Statutes of Nebraska, 1943, sections 9-128, 9-132 to 9-134, 9-136 to 9-138, 9-140.03 to 9-140.06, 9-140.11, 9-140.12, 9-141 to 9-143, 9-144, 9-147, 9-149, 9-150, 9-154, 9-156 to 9-161, 9-163 to 9-166, 9-171, 9-172, 9-174, 9-177, 9-178, 9-181, 9-182, 9-190, 9-195 to 9-199, 77-631.02, 77-1250, 77-2704.01, and 77-2753, Revised Statutes Supplement, 1984, and sections 9-124 to 9-126, 9-140.01, 9-140.07 to 9-140.09, 9-140.13 to 9-140.16, 9-143.01 to 9-143.06, 9-145, 9-146, 9-148, 9-153, 9-170, 9-173, 9-178.01, 9-179, 9-183 to 9-186.04, 9-187 to 9-189, 9-199.01, 76-214, 77-2702 to 77-2704, and 77-2715, Revised Statutes Supplement, 1985; to adopt the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the Nebraska County and City Lottery Act, and the Uniform State Tax Lien Registration and Enforcement Act; to change certain provisions relating to bingo, lotteries, raffles, gift enterprises, oil and gas taxes, tax credit gasoline, the sales and use tax, the income tax, and the Local Option Revenue Act; to redefine terms; to change penalties; to authorize the issuance of certain notes by municipalities; to authorize a tax amnesty; to provide duties for the Revisor of Statutes; to harmonize provisions; to eliminate the Bingo and Lottery Advisory Committee; to eliminate obsolete provisions;

to eliminate provisions relating to tax liens and remedies for nonpayment of certain taxes; to provide operative dates; and to repeal the original sections, and also sections 9-176, 28-1116.02, 66-416, 66-416.01, 66-628, 66-628.01, and 77-27,106, Reissue Revised Statutes of Nebraska, 1943, sections 9-140.02, 9-168, 9-169, 9-191, 9-192, 9-193, 9-193.01, 9-194, 77-2712, and 77-27,104, Revised Statutes Supplement, 1984, and sections 77-2701.03 and 77-27,105, Revised Statutes Supplement, 1985.

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

Section 1. That section 2-219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-219. No person shall be permitted to sell intoxicating liquors, wine, or beer of any kind, or exhibit or conduct indecent shows or dances, or be engaged in any gambling or other games of chance or horseracing, either inside the enclosure where any state, district, or county agricultural society fair is being held, or within forty rods thereof, during the time of holding such fairs. Nothing in this section shall be construed to prohibit wagering on the results of horseraces by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horserace meetings or to prohibit the operation of bingo games as provided in ~~Chapter 9-  
article 1~~ the Nebraska Bingo Act. Nothing in this section shall be construed to prohibit the sale of intoxicating liquors, wine, or beer by a person properly licensed pursuant to Chapter 53 on premises under the control of the State Board of Agriculture or any county agricultural society. Any person who violates ~~the provisions of~~ this section shall be guilty of a Class V misdemeanor. The trial of speed of horses under direction of the society shall not be included in the term horseracing. Upon the filing of proof with the State Treasurer of a violation of this section inside the enclosure of such fair, the amount of money appropriated shall be withheld from any money appropriated for the ensuing year.

Sec. 2. That section 9-173, Revised Statutes Supplement, 1985, be amended to read as follows:

9-173- Sections ~~9-124 to 9-199-01~~ 2 to 66 of this act shall be known and may be cited as the Nebraska Bingo and Lottery Control Act.



Sec. 3. That section 9-124, Revised Statutes Supplement, 1985, be amended to read as follows:

9-124- (1) The purpose of the Nebraska Bingo and Lottery Control Act is to protect the health and welfare of the public, to protect the economic welfare and interest in lotteries, raffles, and pickie card sales and winnings and in the fair play of bingo participants, to insure that the profits derived from the operation of bingo and any lottery, raffle, or lottery by the sale of pickie cards are accurately reported in order that their revenue-raising potential be fully exposed, to insure that the profits are used for legitimate purposes, and to prevent the purposes for which the profits of bingo and any lottery, raffle, or lottery by the sale of pickie cards are to be used from being subverted by improper elements. Bingo and any lottery, raffle, or lottery by the sale of pickie cards shall be played and conducted only by those methods permitted in the Nebraska Bingo and Lottery Control Act. No other form, means of selection, or method of play shall be authorized or permitted.

(2) The purpose of the Nebraska Bingo and Lottery Control Act is also to completely and fairly regulate each level of the traditional marketing, conducting, and playing schemes scheme of pickie cards bingo to insure fairness, quality, and compliance with the Constitution of the State of Nebraska. To accomplish such purpose, the regulation and licensure of manufacturers of pickie cards, distributors of pickie cards bingo supplies and equipment, nonprofit organizations, sales agents or sellers of pickie cards, operators or conductors of a lottery by the sale of pickie cards conducting bingo, supervising members, members responsible for the proper utilization of gross receipts, and any other person involved in the marketing, conducting, and playing schemes scheme are necessary.

(3) The intent of the Nebraska Bingo and Lottery Control Act is that (a) if facilities or supplies and equipment used for bingo occasions are leased or rented pursuant to the Nebraska Bingo and Lottery Control Act act, (a) they shall be leased or rented at not more than their fair market value, (b) no lease or rental agreement shall provide a means for obtaining a percentage of the receipts or a portion of the profits from the bingo operation, and (c) rental or lease agreements entered into for facilities shall be separate and apart from lease and rental agreements for bingo equipment and supplies.

{4} The intent of the Nebraska Bingo and Lottery Control Act is that if equipment and supplies used for bingo occasions are leased or rented, they shall be leased or rented at not more than their fair market value and that no lease or rental agreement shall provide a means for obtaining a percentage of the receipts or a portion of the profits from the bingo operation.

Sec. 4. That section 9-125, Revised Statutes Supplement, 1985, be amended to read as follows:

9-125- For purposes of the Nebraska Bingo and Lottery Control Act, unless the context otherwise requires, the definitions found in sections 9-126 to 9-140-16, and subdivisions {6} and {10} of section 28-1101 5 to 26 of this act shall be used.

Sec. 5. That section 9-127, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-127- Bingo shall mean that form of gambling in which:

(1) The winning chances are determined by a random selection of a subset of numbers or designators or objects numbered, lettered, or otherwise designated by some medium among a total set of numbers or designators or objects numbered, lettered, or otherwise designated by some medium; and

(2) The card or cards held by the player by which a winner or winners are ascertained is sold, rented, or used only at the time and place of the gambling activity.

Bingo shall not mean or include any activity which is authorized or regulated under the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the Nebraska County and City Lottery Act, section 184 of this act, or Chapter 2, article 12, nor shall bingo mean or include any activity which is prohibited under Chapter 28, article 11.

Sec. 6. That section 9-128, Revised Statutes Supplement, 1984, be amended to read as follows:

9-128- Bingo occasion shall mean a single gathering or session at which a bingo game or series of successive bingo games are played.

Sec. 7. That section 9-129, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-129- Bingo supplies and equipment shall mean all cards, boards, sheets, markers, pads, or other supplies, devices, or equipment designed for use in the



play of bingo.

Sec. 8. That section 9-140.08, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-140-08-~~ Cancel shall mean to discontinue all rights and privileges to hold ~~an annual a~~ license ~~or permit~~ for up to three years.

Sec. 9. That section 9-140.12, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-140-12-~~ Department shall mean the Department of Revenue.

Sec. 10. That section 9-140.04, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-140-04-~~ Distributor shall mean any person licensed pursuant to ~~the Nebraska Bingo and Lottery Control Act, who sells or distributes~~ section 36 of this act to sell, lease, distribute, or provide without charge or for a nominal fee bingo supplies and equipment ~~and pickie cards in units~~ in this state.

Sec. 11. That section 9-132, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-132-~~ Gross receipts shall mean total receipts received from the conduct of bingo, including, but not limited to, receipts from admission to the premises where bingo is conducted or from the sale, rental, or use of regular bingo cards, special bingo cards, and bingo supplies.

Sec. 12. That section 9-126, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-126-~~ (1) Lawful purpose shall mean charitable or community betterment purposes including, but not limited to, one or more of the following:

(a) Benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

(b) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; and

(c) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people.

(2) Lawful purpose shall not include any activity consisting of an attempt to influence legislation or participate in any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

(3) Nothing in this section shall prohibit any veterans' organization which is nationally chartered by the Congress of the United States, or any auxiliary thereof, or any nonprofit organization holding a certificate of exemption under subsection (c), subdivision 3, 5, 7, 8, 10, or 19, of section 501 of the Internal Revenue Code from using its proceeds or profits derived from activities under the Nebraska Bingo and Lottery Control Act in any activity which benefits and is conducted by the organization, including any charitable, benevolent, humane, religious, philanthropic, recreational, social, educational, civic, or fraternal activity conducted by the organization for the benefit of its members.

Sec. 13. That section 9-140.10, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~9-140-10-~~ Annual license License shall mean any license to conduct bingo as provided in issued pursuant to section 9-142 or 9-143 32 of this act, any license for a designated supervising member or designated member responsible for the proper utilization of gross receipts as provided in section 33 of this act, or any distributor's license as provided in section 36 of this act.

Sec. 14. That section 9-133, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-133-~~ Licensed organization shall mean an organization or volunteer fire company licensed to conduct bingo under the provisions of the Nebraska Bingo and Lottery Control Act.

Sec. 15. That section 9-134, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-134-~~ Limited period bingo shall mean the conduct of bingo at a festival, bazaar, picnic, carnival, or similar special function conducted by a licensed organization. No more than four limited periods with a total of not more than seven days shall be held in any annual license year. The licensee shall notify the department at least ten days prior to the start of any limited period bingo session conducted by the licensee.

Sec. 16. That section 9-140.16, Revised Statutes Supplement, 1985, be amended to read as



follows:

~~9-140-16-~~ Member shall mean a person who is recognized and acknowledged by the eligible a licensed organization as a member for purposes other than conducting activities under the Nebraska Bingo ~~and Lottery Control~~ Act. Member shall not include social or honorary members.

Sec. 17. That section 9-135, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~9-135-~~ Premises shall mean any room, hall, enclosure, or area in which bingo is being played.

Sec. 18. That section 9-136, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-136-~~ Profit shall mean the gross receipts collected from one or more permitted activities bingo games, less reasonable sums necessarily and actually expended for prizes, taxes, and other allowable expenses.

Sec. 19. That section 9-137, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-137-~~ Regular bingo card shall mean a reusable card which affords a person the opportunity to participate in all regular games played at a bingo occasion.

Sec. 20. That section 9-138, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-138-~~ Regular bingo game shall mean a bingo game in which a person, upon payment of an admission, is issued a regular bingo card and may purchase or rent additional regular cards.

Sec. 21. That section 9-140.09, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-140-09-~~ Revoke shall mean to permanently void and recall all rights and privileges of an organization or a person to obtain a license, ~~or permit-~~

Sec. 22. That section 9-140.11, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-140-11-~~ Security services shall mean services provided by a licensed detective agency or by off-duty law enforcement officers.

Sec. 23. That section 9-139, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~9-139-~~ Special bingo card shall mean a specially marked bingo card which affords a person the

opportunity to participate in a special bingo game to be played at a bingo occasion.

Sec. 24. That section 9-140, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~9-140-~~ Special bingo game shall mean any bingo game which is not a regular bingo game and which is played with special bingo cards.

Sec. 25. That section 9-140.06, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-140-06-~~ Structure or building shall include, but not be limited to, any premises, ~~as defined in section 9-135,~~ facility, or property on which bingo is played.

Sec. 26. That section 9-140.07, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-140-07-~~ Suspend shall mean to cause a temporary interruption of all rights and privileges of ~~an annual~~ a license or permit or the renewal thereof.

Sec. 27. That section 9-187, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-187-~~ The department shall have the following powers, functions, and duties:

(1) To issue licenses;

(2) To deny any license application or renewal application for nonpayment of taxes and additions to taxes including penalties and interest or for noncompliance with any other provision of the Nebraska Bingo Act or any rule or regulation adopted and promulgated pursuant to the act;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation or cancellation of a license shall include any noncompliance with any provision of the Nebraska Bingo Act or a violation of any rule or regulation adopted and promulgated pursuant to or permit issued under the Nebraska Bingo and Lottery Control Act such act;

~~{2}~~ (4) To enter or to authorize any law enforcement officer to enter at any time upon any premises where bingo or lottery by the sale of pickie cards activity required to be licensed under the Nebraska Bingo and Lottery Control Act act is being conducted to determine whether any of the provisions of such act or any rules or regulations adopted and promulgated under it have been or are being violated, and at such time to examine such premises;

(5) To examine or to cause to have examined,



by any agent or representative designated by the department for such purpose, any books, papers, records, or memoranda relating to bingo activities of any licensee, to require by 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;

(3) To examine or cause to be examined, under oath, any licensee upon whom notice of a hearing for revocation or cancellation has been served in the manner provided in sections 9-188 and 9-189; and to hear testimony and to examine evidence regarding the licensee's performance of his or her duties;

(4) To revoke or cancel any license if, upon notice and hearing as provided in sections 9-188 and 9-189, the department determines that the licensee has violated any rule or regulation adopted and promulgated pursuant to the Nebraska Bingo and Lottery Control Act;

(5) To regulate lotteries conducted by counties, cities, and villages pursuant to section 28-1116 to insure fairness, equity, and uniformity;

(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 Nebraska Bingo and Lottery Control Act act in the same manner as provided for sales and use taxes in Chapter 77, article 27 the Nebraska Revenue Act of 1967; and

(7) To confiscate and seize pickie cards or lottery or raffle tickets pursuant to section 9-187-02 To adopt and promulgate such rules and regulations, prescribe such forms, and employ such staff, including inspectors, as are necessary to carry out the act.

Sec. 28. That section 9-187.01, Revised Statutes Supplement, 1985, be amended to read as follows:

9-187-01- (1) The Tax Commissioner may suspend any licensee, issued pursuant to the Nebraska

~~Bingo and Lottery Control Act~~; except that no order to suspend any license shall be issued except upon a finding by the department that the licensee is not operating in accordance with the purposes and intent of the ~~Nebraska Bingo and Lottery Control Act~~, as provided in ~~section 9-124~~.

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

(3) The order of suspension shall 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 ~~Nebraska Bingo and Lottery Control Act~~ 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), (2), and (3) of this section when an action for cancellation or revocation is pending.

(5) The hearing for cancellation or revocation of the license shall be held within twenty days of 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 the conclusion of the hearing. The suspension shall continue in effect until the decision is issued. If the decision is that an order of 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 revocation or cancellation of the license, the suspension shall continue pending an application for rehearing or an appeal of the decision of the department.

(7) 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 a rehearing or appeal shall be counted as a part of the period of cancellation.

Sec. 29. That section 9-188, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-188~~. Before the adoption, amendment, or repeal of any rule or regulation ~~pursuant to section 9-169~~, or ~~before~~ the revocation or cancellation of any



license pursuant to section 9-187 27 of this act, the department shall set the matter for hearing. Such revocation or cancellation proceedings shall be considered contested cases pursuant to section 84-913.

At least ten days before the hearing, the department shall (1) in the case of revocation or cancellation, serve notice upon the licensee by certified mail, return receipt requested, of the time, date, and place of any hearing and issue a public notice of the same 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. 30. That section 9-189, Revised Statutes Supplement, 1985, be amended to read as follows:

9-189- (1) A copy of the order or decision of the department in any proceeding before it, certified under the seal of the department, shall be served upon each party of record to the proceeding before the department. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the department shall enter his or her appearance and indicate to the department his or her address for the service of a copy of any order, decision, or notice. The mailing of any copy of any order or decision or of any notice in the proceeding, to such party at such address, shall be deemed to be service upon such party.

(2) At the time of making an appearance before the department, as referred to in subsection (1) of this section, each party shall deposit in cash or furnish a sufficient security for costs in an amount the department shall deem adequate to cover all costs liable to accrue, including costs for (a) reporting the testimony to be adduced, (b) making up a complete transcript of the hearing, and (c) extending reporter's original notes in typewriting.

(3) Within twenty days after the service of any order or decision of the department upon any party to the proceeding, as provided for by subsection (1) of this section, such party may apply for a rehearing in respect to any matters determined by the department. The department shall consider such application for a rehearing within twenty days from the date of receipt of the rehearing application. If such application is granted, the department shall promptly consider the matters presented by such application. No appeal shall be allowed from any decision of the department, except as is provided for in subsection (5) of this section. Only one rehearing shall be granted by the department on

the application of any one party.

(4) Upon the final disposition of any proceeding, costs shall be paid by the party or parties against whom a final decision is rendered.

Only one rehearing, pursuant to subsection (3) of this section, shall be granted by the department on application of any one party.

(5) (4) Any decision of the department to revoke, cancel, or suspend, or to refuse to revoke, cancel, or suspend a license may be reversed, vacated, or modified by the district court as provided in section 84-917.

Sec. 31. That section 9-171, Revised Statutes Supplement, 1984, be amended to read as follows:

9-171- (1) No person, except a licensee licensed organization operating pursuant to the Nebraska Bingo and Lottery Control Act, shall conduct any game of bingo for which a charge is made or to the winner of which any prize with a value in excess of twenty-five dollars is awarded. Any such game conducted in violation of this subsection is hereby declared to be a public nuisance. Any person violating the provisions of this subsection shall be guilty of a Class IV III misdemeanor.

(2) No person shall play at any game of bingo conducted in violation of subsection (1) of this section. Any person violating the provisions of this subsection shall be guilty of a Class IV III misdemeanor.

Sec. 32. That section 9-141, Revised Statutes Supplement, 1984, be amended to read as follows:

9-141- (1) Any nonprofit organization holding a certificate of exemption under section 501 of the Internal Revenue Code section 501 or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, may apply for a license to conduct bingo, 7 a lottery or raffle conducted pursuant to section 9-199, or a lottery by sale of pickle cards.

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

(a) Be incorporated in this state as a not-for-profit corporation or organized in this state as a religious or not-for-profit organization;

(b) Have at least ten members in good standing;

(c) Conduct activities within this state in addition to the conduct of bingo, lotteries, raffles, and lottery by sale of pickle cards;

(d) Be authorized by its constitution,



articles, charter, or bylaws to further in this state a lawful purpose;

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

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

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

Sec. 33. That section 9-142, Revised Statutes Supplement, 1984, be amended to read as follows:

9-142- Each applicant for a license to conduct bingo, ~~a lottery or raffle conducted pursuant to section 9-199, or a lottery by sale of pickie cards~~ shall file with the department an application on a form prescribed by the department.

(1) Each application shall include:

(a) The name and address of the applicant;  
 (b) Sufficient facts relating to the incorporation or organization of the applicant to enable the department to determine if the applicant is eligible for a license under ~~this section 32 of this act~~;

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

(d) The name, address, date of birth, and years of membership of a bona fide and active member of the applicant organization who shall be responsible for the proper utilization of the gross receipts, ~~derived from the conduct of bingo or lottery by sale of pickie cards~~;

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

(f) Other information which the department deems necessary.

(2) In addition to the information required in subdivision (1) of this section, each application for a license to conduct bingo shall include:

(a) The name and address of the owner of the premises in which bingo will be conducted and the approximate capacity of the premises;

(b) The name, date of birth, and address of each supervising member for each bingo occasion who shall be a bona fide and active member of the applicant organization and of good moral character and one or more of whom shall be responsible for the conduct of bingo games at each bingo occasion; and

(c) Copies of all lease or rental agreements, if the department deems it necessary and proper.

(3) The information required by this section shall be kept current. An organization shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information. ~~Nothing in this section shall allow a licensed organization to hold or conduct any bingo game or occasion in any manner different from that described in its most recent filing with the department.~~

(4) A licensed organization shall not hold or conduct any bingo games or occasions until the changes proposed in subdivision (3) of this section have been approved by the department.

(5) The organization's bingo license shall be displayed conspicuously at the place where bingo is being conducted at all times during the conduct thereof.

(6) No member responsible for supervising the conduct of bingo for the organization or responsible for proper utilization of the gross proceeds shall be connected, interested, or otherwise concerned directly or indirectly with any party licensed as a distributor under section 36 of this act.

(7) The department may issue a temporary license pending receipt of additional information or further inquiry.

Sec. 34. That section 9-143, Revised Statutes Supplement, 1984, be amended to read as follows:

9-143- All licenses to conduct bingo, a lottery or raffle conducted pursuant to section 9-199, or a lottery by sale of pickle cards and licenses issued to designated supervising members and designated members responsible for the proper utilization of gross proceeds shall expire on September 30 of each year and may be renewed annually. Each and each annual application for a license shall be accompanied by:

(1) A sworn statement of each designated



supervising member that he or she will be responsible for compliance with appropriate rules and regulations;

(2) A sworn statement by the member designated as responsible for the proper utilization of gross receipts that no commission, fee, rent, salary, profits, compensation, reward, or recompense will be paid to any person or organization except payments sanctioned by the department and that all profits will be spent for a lawful purpose; and

(3) A fifteen dollar license fee, five dollars for an ~~annual~~ a license for each designated supervising member, and five dollars for an ~~annual~~ a license for each designated member responsible for the proper utilization of gross receipts, ~~or gross proceeds.~~

Sec. 35. That section 9-178.01, Revised Statutes Supplement, 1985, be amended to read as follows:

9-178-01. (1) No person, except a distributor operating pursuant to the Nebraska Bingo Act, shall sell, lease, distribute, or provide without charge or for a nominal fee bingo supplies or equipment.

(2) No distributor shall hold a license for bingo or any other kind of gambling which is authorized or regulated under Chapter 9 except as provided in section 36 of this act. 7 lettery, raffle, or lettery by the sale of pickle cards pursuant to sections 9-141 to 9-143.

(2) If a distributor delivers any pickle card unit, he or she shall deliver such unit only to a designated member of such organization responsible for the proper utilization of gross proceeds licensed pursuant to subdivision (3) of section 9-143 and shall not deliver such unit to any other person, whether or not such person is an agent or vendor of such licensed organization.

(3) No distributor shall offer or agree to offer anything of value to any (a) agent, vendor, or person paid by an organization licensed pursuant to sections 9-141 to 9-143 to sell pickle cards or (b) person whether or not authorized to sell pickle cards for a licensed organization, who is not a member of such organization, in exchange for an agreement or commitment by such agent, vendor, or person to sell pickle cards for the licensed organization, when the licensed organization has purchased the pickle card unit from such distributor.

(4) (3) No distributor, or employee or spouse of any distributor, shall participate in the conduct or operation of any lettery by the sale of pickle cards,

bingo, raffle, or lottery or any other kind of gambling which is authorized or regulated under Chapter 9 except to the exclusive extent of his or her statutory duties as a licensed distributor or as provided in section 36 of this act. Membership in an a licensed organization licensed pursuant to sections 9-141 to 9-143 shall not be deemed a violation of this section.

(5) A distributor shall purchase pickle card units only from a licensed manufacturer-

Sec. 36. That section 9-178, Revised Statutes Supplement, 1984, be amended to read as follows:

9-178- Any applicant for a distributor's license, including renewal thereof, shall file an application with the department on a form prescribed by the department. Each application shall be accompanied by a registration fee in the amount of twenty-five dollars, together with a license fee of one thousand five hundred dollars. At a minimum, the application shall include the name and address of the applicant, including all shareholders who own ten per cent or more of the outstanding stock if the applicant is a corporation; the location of its office or business; and a current list, if requested, of those organizations within the state to whom the applicant is selling bingo supplies and equipment, or pickle card units. All applications shall include a sworn statement by the applicant or the appropriate officer thereof that the applicant shall comply with all provisions of the Nebraska Bingo and Lottery Control Act and all rules and regulations adopted and promulgated under such act.

No person shall be issued a distributor's license if not doing business or authorized to do business in this state.

All distributors' licenses shall expire on September 30 of each year. Renewal of any license issued pursuant to this section shall be initiated no less than forty-five days prior to the expiration of the license.

Any person licensed as a distributor pursuant to section 96 of this act may act as a distributor pursuant to this section without filing an application or submitting any fees provided for in this section. Such person shall comply in every other respect with the Nebraska Bingo Act and the Nebraska Pickle Card Lottery Act.

Sec. 37. That section 9-166, Revised Statutes Supplement, 1984, be amended to read as follows:

9-166- Upon payment of an annual permit fee of ten dollars, the licensee a licensed organization



shall obtain a permit from the city or village clerk or finance department when bingo is to be conducted within the limits of any incorporated city or village and from the county clerk when bingo is to be conducted outside the limits of any incorporated city or village. Such annual permit fee of ten dollars shall be paid before bingo is played and shall be paid to the city or village clerk or finance director or county clerk at the time of obtaining the annual permit. When bingo is to be conducted jointly by two or more licensees licensed organizations, such licensees licensed organizations shall obtain a permit therefor by paying a fee of ten dollars. All permits and licenses issued pursuant to the Nebraska Bingo and Lottery Control Act shall expire on September 30 of each year. Such permit shall be displayed conspicuously at the place where bingo is conducted at all times during the conduct thereof.

Sec. 38. That section 9-164, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-164-~~ A copy of all information filed with the department pursuant to sections ~~9-142 and 9-143~~ 33 and 34 of this act shall also be filed with the county clerk of the county in which the bingo is to be conducted and if the bingo is conducted within the limits of an incorporated city or village, a copy shall also be filed with the city or village clerk. Such information shall be filed within five days after its filing with the department.

Sec. 39. That section 9-167, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~9-167-~~ The voters of any city or incorporated village shall have the right to vote on the question of prohibiting the conducting of bingo within such city or village. The question may be submitted at any general state, city, or village election whenever petitions calling for its submission, signed by at least twenty per cent of the number of persons voting in the latest preceding general state, city, or village election, are presented to the city or village clerk or election commissioner not less than thirty days prior to the date of such election, except that such question may not be submitted more often than once in four years. The question shall be placed on the ballot in substantially the following form:

SHALL THE CONDUCTING OF BINGO  
 BE PROHIBITED IN THE CITY (VILLAGE)  
 OF .....  
 FOR BINGO

## AGAINST BINGO

A majority of the voters voting on the issue shall determine such issue. Where bingo is conducted outside the limits of any city or incorporated village, the voters of a county shall have the right to vote on the question of prohibiting the conducting of bingo outside the limits of any incorporated city or village within such county in the same fashion as that ~~hereinbefore~~ provided for voting upon such question by voters within such city or village.

Sec. 40. That section 9-165, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-165-~~ (1) The department shall collect a state tax of six per cent on the gross receipts received from the conducting of bingo within the state. Such tax shall be paid to the department and credited to the ~~state General~~ Charitable Gaming Operations Fund. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with any other reports as may be required by the department.

(2) Any city or village is hereby directed to impose a tax of four per cent on the gross receipts received from the conducting of bingo within such city or village. Where bingo is conducted outside the limits of any incorporated city or village, the county in which such bingo is conducted shall impose a tax of four per cent on the gross receipts from the conducting of bingo outside the corporate limits of such city or village. Such tax shall be credited to the general fund of the county, city, or village which issued ~~the a~~ a permit for the conducting of bingo pursuant to section 37 of this act. Such tax shall be paid to the clerk of the political subdivision imposing the tax, and the clerk shall transmit the tax to the treasurer of such subdivision. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with such reports as may be required by the political subdivision imposing the tax. The proceeds from the tax shall be used to pay for the costs of regulation and enforcement of the Nebraska Bingo Act.

Sec. 41. That section 9-197, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-197-~~ All deficiencies of any the tax prescribed in the Nebraska Bingo and Lottery Control Act subsection (1) of section 40 of this act shall accrue interest and be subject to a penalty as provided for sales and use taxes in Chapter 77, article 27 the Nebraska Revenue Act of 1967.



Sec. 42. That section 9-160, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-160-~~ An A licensed organization shall file the following with the department before conducting a bingo occasion, and on an annual basis thereafter:

(1) U.S. Department of the Treasury, Internal Revenue Service, Return of Organization Exempt from Income Tax, Form 990, if the organization is required to file such form with the Department of the Treasury;

(2) U.S. Department of the Treasury, Internal Revenue Service, Exempt Organization Business Income Tax, Form 990-T, if the organization is required to file such form with the Department of the Treasury; and

(3) A report signed by an officer of the organization and notarized, which contains the following information:

(a) A roster of the membership of the organization, if required by the department;

(b) The address of the organization;

(c) The period of time the organization has been in existence;

(d) The purpose for which the organization is organized;

(e) Whether the group is authorized and existing under the laws of the state;

(f) The names and home addresses of all officers and the bingo chairperson of the organization;

(g) The location where the games are to be held, including the floor, the name of the owner of the property where the games are to be held, and a copy of the lease agreement, if any, and such lease agreement shall be subject to approval by the department;

(h) The days of the week bingo is to be played;

(i) The date of the first occasion and the date of the last occasion;

(j) The hours when the games will be played;

(k) The price to be charged per person for each card;

(l) The minimum number of players per game;

(m) The nature of the prizes, money, or merchandise;

(n) The name of the member who will have charge of distribution of the profits of the game;

(o) Whether any refreshments will be served or allowed to be consumed during the time the games are being conducted and, if so, whether there will be a charge for such refreshments; and

(p) The terms and conditions of all rental or

lease agreements entered into for facilities used for bingo or for bingo supplies and equipment.

The information required by this section shall be kept current. An organization shall notify the department within thirty days if any information in the report is no longer correct and shall supply the correct information including all information required pursuant to subdivision (p) of subsection (3) of this section, except that nothing in this section shall allow a licensed organization to hold a bingo game or conduct a bingo occasion on any day, at any time, or in any manner different from that described in its most recent filing with the department.

Sec. 43. That section 9-149, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-149-~~ A licensed organization may purchase or rent bingo supplies or equipment from any distributor. Such purchase or rental shall be for the fair market value of the supplies or equipment and shall not include any services rendered. If requested to do so by the department, an organization shall be required to show that the amount charged for the purchase or rental of such supplies or equipment is not in excess of fair market value.

Sec. 44. That section 9-145, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-145-~~ Any person conducting bingo, any designated supervising member, and any member designated responsible for the proper utilization of gross receipts shall be a member or officer of the licensed organization ~~holding the bingo license~~ and shall not receive any compensation greater than an amount equal to four dollars per hour for each hour such person actually conducted bingo during a bingo occasion or limited period bingo occasion or such designated members actually acted as such.

Sec. 45. That section 9-146, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-146-~~ (1) Not more than ten bingo occasions per month may be held by a licensed organization. Bingo occasions held as part of a limited period bingo shall not be counted in determining whether a licensed organization has exceeded the limitation provided in this subsection.

(2) Irrespective of the number of licensed organizations authorized to hold bingo occasions within a single structure or building, not more than two limited period bingos per year and, with the exception of a limited period bingo, not more than two bingo



occasions per week may be held within such structure or building. The governing board of the incorporated city or village in which such structure or building is situated or the governing board of the county in which such structure or building is situated, if it be is situated outside the limits of an incorporated city or village, may allow, following actual notice to all licensed organizations within the boundaries of the political subdivision and published notice to the public and public hearing on such allowance, more than two bingo occasions per week within such structure or building. Such allowance may be granted for a period not to exceed three years and only upon an affirmative showing that no building or structure suitable for the conduct of a bingo occasion is available for lease or rental within such political subdivision, except the structure or building for which the allowance is sought, and that no injury to the public welfare will result from such allowance.

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

Sec. 46. That section 9-147, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-147-~~ No bingo occasion, except a limited period bingo, shall last for longer than six consecutive hours.

Sec. 47. That section 9-144, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-144-~~ No bingo occasion other than a limited period bingo shall be conducted except in a structure owned by the licensed organization or in a structure leased or rented by the licensed organization pursuant to the requirements for such arrangements set forth in the Nebraska Bingo and ~~Lottery Control~~ Act. No licensed organization may conduct a bingo occasion outside of the county in which the licensed organization has its principal office.

Sec. 48. That section 9-156, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-156-~~ (1) No licensed organization shall lease any premises with rental payments based on a percentage of receipts or profits from bingo or on the number of persons participating in any bingo occasion. Rent shall be at a fixed monthly rate not subject to

change during the term of the lease and not in excess of fair market value. All bingo occasions shall be conducted only by the ~~licensee~~ who licensed organization which holds such lease.

(2) All lease agreements shall be subject to approval by the department. If requested to do so by the department, an organization shall show that the amount of rent charged does not exceed fair market value.

(3) No lease of any premises shall contain any right to use bingo supplies, equipment, or any service.

Sec. 49. That section 9-151, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~9-151-~~ Any licensed organization conducting a bingo occasion within a building or other enclosed area shall provide designated smoking and nonsmoking areas, except that such provision shall not apply when all participants in such occasion are either smokers or nonsmokers.

Sec. 50. That section 9-152, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~9-152-~~ No alcoholic beverages shall be sold or served to the public during a bingo occasion unless it is a limited period bingo occasion. Nonalcoholic beverages, as well as food, may be served and sold during any bingo occasion with all profits from such beverages and food being paid to the licensed organization conducting the bingo occasion. No expenses shall be incurred in the preparation, serving, or sale of such beverages and food except those reasonably expended for supplies, containers, utensils, preparation, storage, equipment, and utilities.

Sec. 51. That section 9-150, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-150-~~ No person under eighteen years of age shall play any bingo game, ~~or participate in any way in any lottery or raffle conducted pursuant to sections 9-199, 28-1115, and 28-1116 or lottery by the sale of pickie cards-~~ No such person shall be present at a bingo occasion unless such person's parent or legal guardian is present and approves such person's presence during the bingo occasion, except that any licensed organization may prohibit the presence of any person at its bingo occasion.

Sec. 52. That section 9-155, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:



9-155- Except for limited period bingo, the location of a bingo occasion, the time it is to be or has been conducted, and the prizes awarded or to be awarded shall not be advertised, except as follows:

(1) Two signs not exceeding six square feet in area, may be displayed on the premises where the bingo occasion is to be conducted;

(2) An A licensed organization may make an advance announcement of the bingo occasion in its regular bulletin or publication; and

(3) An A licensed organization may distribute flyers not exceeding eight and one half inches by eleven inches in size to announce ~~their~~ its future bingo occasions.

Sec. 53. That section 9-190, Revised Statutes Supplement, 1984, be amended to read as follows:

9-190- The city or village governing board or, if bingo is conducted outside any incorporated city or village, the county governing board may require notification by any ~~licensee~~ licensed organization conducting limited period bingo of the date, place, and time of such limited period bingo.

Sec. 54. That section 9-163, Revised Statutes Supplement, 1984, be amended to read as follows:

9-163- Bingo games shall be conducted only in the following manner:

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

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

(3) Each person admitted to a bingo occasion, other than limited period bingo, shall be furnished with a regular bingo card enabling him or her to play in all regular bingo games conducted at such bingo occasion;

(4) The licensed organization shall keep an accurate, separate count of the number of regular bingo cards and special bingo cards which are sold, rented, or used. Such information shall be available for inspection at the close of the bingo occasion;

(5) Method of play:

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

(b) For any means of selection permitted by

subdivision (1) or (2) of section 9-162 56 of this act, the designators to be drawn shall be essentially the same in size, color, shape, weight, balance, and all other characteristics, so that at all times during the conduct of bingo, each designator possesses the capacity for equal agitation with any other object within the receptacle;

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

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

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

(f) Once removed, no designator shall be returned to the receptacle until after the verification of the winner of the game in which any means of selection permitted by subdivision (1) or (2) of section 9-162 56 of this act are used; and

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

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

(7) Verification of winner:

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

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

(8) When more than one player is found to be the winner on the call of the same number, letter, or other designator in the same bingo game, a cash prize shall be divided equally, to the nearest nickel, among



the winners. When equal division of a merchandise prize is not possible, identical substitute merchandise prizes whose aggregate retail value is approximately equal to that of the designated prize shall be awarded, and if not immediately available, the licensed organization shall deliver the prizes to the winners; and

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

Sec. 55. That section 9-161, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-161-~~ (1) Any number of cards may be purchased by a licensed organization and sold or rented to players at any bingo occasion. Each card in use by the organization at any bingo occasion shall differ from all others in use with respect to the distribution of playing numbers.

(2) The playing spaces on a regular bingo card shall be contained within an area not less than four inches square. The playing spaces on a special bingo card shall be contained within an area not less than three inches square.

Sec. 56. That section 9-162, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~9-162-~~ Only the following means of random selection of the numbers, letters, or other designators from which winners are determined shall be used in the conduct of any bingo game:

(1) An electrically operated blower machine containing balls which the operator may take from the air one at a time while the blower is in operation, or which provides a trap or other mechanical means for automatically catching not more than one ball at a time while the blower is in operation;

(2) A mechanically or manually operated cage which provides a trap or other mechanical means for automatically catching not more than one ball at a time while the cage is in operation; or

(3) A computer or other electronic selection process which allows random selection on the condition that in every game, each designator shall be subject to selection.

Sec. 57. That section 9-154, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-154-~~ Each bingo winner shall be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted. Any

conditional prize may be offered during any bingo occasion if the conditions relating to such prize are clearly posted and the bingo occasion is within the provisions of section 9-148 58 of this act.

Sec. 58. That section 9-148, Revised Statutes Supplement, 1985, be amended to read as follows:

9-148- (1) Irrespective of whether a bingo game or a bingo occasion is conducted jointly by two or more licensed organizations, no prize in a single bingo game shall exceed one thousand dollars and the aggregate value of bingo prizes at any bingo occasion shall not exceed four thousand dollars.

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

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

Sec. 59. That section 9-158, Revised Statutes Supplement, 1984, be amended to read as follows:

9-158- Bingo gross profits shall be segregated from other revenue of an a licensed organization and placed in a separate checking account. Separate books of its bingo operations shall be maintained by an a licensed organization. The current price of merchandise prizes donated to a licensed organization shall not be reported as an expense in its records or financial statement of bingo operations. Records, reports, lists, and all postings required by the Nebraska Bingo and Lottery Control Act shall be preserved for three years. Any law enforcement agency, or other agency of government, shall have the authority to investigate the bingo records of an organization at any time. Organizations shall, upon proper written request, deliver their bingo records to the department, law enforcement agency, or other agency of government its duly appointed agents for investigation.

Sec. 60. That section 9-159, Revised Statutes Supplement, 1984, be amended to read as follows:

9-159- An A licensed organization shall report annually to its membership its gross receipts from bingo, the amount spent on prizes, the value of donated prizes, its profits from bingo, and the itemized distribution of those profits. A copy of the organization's annual report, including a breakdown of receipts and expenses, shall be sent to the department.

Sec. 61. That section 9-157, Revised Statutes



Supplement, 1984, be amended to read as follows:

9-157- Any licensed organization conducting bingo shall clearly post the percentage of the gross receipts for the last preceding quarter that has been paid out in prizes and the percentage of the gross receipts, if any, that has been paid to charitable organizations. Such reports shall be posted on the premises within thirty days after the close of the quarter.

Sec. 62. That section 9-153, Revised Statutes Supplement, 1985, be amended to read as follows:

9-153- No expense shall be incurred or amounts paid in connection with the conduct of bingo by an a licensed organization, except those reasonably expended for prizes, utilities used during the bingo occasion, security services used during the bingo occasion, bingo license fees, taxes related to bingo, the rental or lease of any structure, compensation of any person conducting bingo, any designated supervising member, and any member designated responsible for the proper utilization of gross receipts, and bingo equipment and supplies or such equipment and supplies rented or leased pursuant to the Nebraska Bingo and ~~Lottery Control~~ Act.

Sec. 63. That section 9-170, Revised Statutes Supplement, 1985, be amended to read as follows:

9-170- (1) Except when another penalty is specifically provided, any person, ~~licensee,~~ distributor, ~~manufacturer,~~ qualified licensed organization, ~~other licensee,~~ or employee or agent of any person or licensee, distributor, manufacturer, or qualified organization who shall ~~violate~~ violates any provision of the Nebraska Bingo and ~~Lottery Control~~ Act shall be guilty of a Class ~~II~~ I misdemeanor. Any licensed organization guilty of violating any provision of the Nebraska Bingo and ~~Lottery Control~~ Act more than once in a twelve-month period shall have its license canceled or revoked.

(2) In all proceedings initiated in any court or otherwise under the Nebraska Bingo and ~~Lottery Control~~ Act, it shall be the duty of the Attorney General and appropriate county attorney to prosecute and defend all such proceedings.

(3) The failure to do any act required by or under the Nebraska Bingo and ~~Lottery Control~~ 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.

(4) In the enforcement and investigation of any offense committed under the Nebraska Bingo and ~~Lottery Control~~ Act, the department may call to its aid any sheriff, deputy sheriff, or other peace officer in the state.

Sec. 64. That section 9-172, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-172-~~ Any person in this state, including any law enforcement official, who has cause to believe that (1) any licensed organization, (2) any lessor of facilities or bingo equipment and supplies used for a bingo occasion, (3) any person conducting any game of bingo, (4) any employee or agent of such licensed organization, lessor, or person, or (5) any person acting in concert with such licensed organization, lessor, or person, ~~or~~ (6) any person in connection with a lottery or raffle conducted pursuant to sections 9-199, 28-1115, and 28-1116 ~~or lottery by the sale of pickle cards~~ has engaged in or is engaging in any conduct in violation of the Nebraska Bingo and ~~Lottery Control~~ Act or has aided or is aiding another in any conduct in violation of the Nebraska Bingo and ~~Lottery Control~~ Act such act may commence a civil action in any district court of this state.

Sec. 65. That section 9-174, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-174-~~ In any civil action commenced pursuant to section 9-172 64 of this act a court may allow:

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

(2) A declaration that the conduct by a licensed organization or employee or agent of a licensed organization, which is a party to the action, constitutes a violation of the Nebraska Bingo and ~~Lottery Control~~ Act and a determination of the number and times of violations for certification to the department for appropriate license revocation purposes;

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

(4) An accounting of the profits, earnings, or gains resulting directly and indirectly from such violations, with a distribution of such profits, earnings, or gains to all licensed organizations existing at the time of such violations which apply to



the court and show that they suffered monetary losses by reason of such violations and with distribution of any remaining profits, earnings, or gains to the state; and  
 (5) Reasonable attorneys' fees and court costs.

Sec. 66. That section 9-175, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-175- Proceedings under sections 9-172 and 9-174 to 9-176 section 64 of this act shall be subject to and governed by the district court civil procedure statutes. Issues properly raised shall be tried and determined as in other civil actions in equity. All orders, judgments, and decrees may be reviewed as other orders, judgments, and decrees.

Sec. 67. Sections 67 to 121 of this act shall be known and may be cited as the Nebraska Pickle Card Lottery Act.

Sec. 68. (1) The purpose of the Nebraska Pickle Card Lottery Act is to protect the health and welfare of the public, to protect the economic welfare and interest in pickle card sales and winnings, to insure that the profits derived from the operation of lottery by the sale of pickle cards are accurately reported in order that their revenue-raising potential be fully exposed, to insure that the profits are used for legitimate purposes, and to prevent the purposes for which the profits of lottery by the sale of pickle cards are to be used from being subverted by improper elements. Lottery by the sale of pickle cards shall be played and conducted only by those methods permitted in the Nebraska Pickle Card Lottery Act. No other form, means of selection, or method of play shall be authorized or permitted.

(2) The purpose of the Nebraska Pickle Card Lottery Act is also to completely and fairly regulate each level of the traditional marketing scheme of pickle cards to insure fairness, quality, and compliance with the Constitution of the State of Nebraska. To accomplish such purpose, the regulation and licensure of manufacturers of pickle cards, nonprofit organizations, sales agents or sellers of pickle cards, distributors, operators or conductors of a lottery by the sale of pickle cards, and any other person involved in the marketing scheme are necessary.

Sec. 69. For purposes of the Nebraska Pickle Card Lottery Act, unless the context otherwise requires, the definitions found in sections 70 to 87 of this act shall be used.

Sec. 70. Allowable expenses shall mean: (a) All costs associated with the purchasing, printing, or manufacturing of any items to be used or distributed to participants; (b) all office expenses; (c) all promotional expenses; (d) all salaries of persons employed to operate the lottery by the sale of pickle cards; (e) any rental or lease expense; and (f) any fee paid to any person associated with the operation of any lottery by the sale of pickle cards. Allowable expenses shall not include the tax on gross proceeds prescribed in section 110 of this act.

Sec. 71. Cancel shall mean to discontinue all rights and privileges to hold a license for up to three years.

Sec. 72. Department shall mean the Department of Revenue.

Sec. 73. Distributor shall mean any person licensed pursuant to section 96 of this act, who purchases pickle card units from manufacturers and sells or distributes pickle card units in this state to licensed organizations.

Sec. 74. That section 9-140.03, Revised Statutes Supplement, 1984, be amended to read as follows:

9-140.03- (1) The gross Gross proceeds of a pickle card unit shall mean the total possible receipts received from the sale of all pickle cards in any pickle card unit.

(2) The gross proceeds of a lottery or raffle conducted pursuant to sections 9-199, 28-1115, and 28-1116 shall mean the total receipts received from the conduct of the lottery or raffle without any reduction for commissions, discounts, or other expenses. Gross proceeds shall include the value of any free tickets or free plays used.

Sec. 75. (1) Lawful purpose shall mean charitable or community betterment purposes, including, but not limited to, one or more of the following:

(a) Benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

(b) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; and



(c) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people.

(2) Lawful purpose shall not include any activity consisting of an attempt to influence legislation or participate in any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

(3) Nothing in this section shall prohibit any veterans' organization which is nationally chartered by the Congress of the United States, or any auxiliary thereof, or any nonprofit organization holding a certificate of exemption under subsection (c), subdivision 3, 5, 7, 8, 10, or 19, of section 501 of the Internal Revenue Code from using its proceeds or profits derived from activities under the Nebraska Pickle Card Lottery Act in any activity which benefits and is conducted by the organization, including any charitable, benevolent, humane, religious, philanthropic, recreational, social, educational, civic, or fraternal activity conducted by the organization for the benefit of its members.

Sec. 76. License shall mean any license to conduct a lottery by the sale of pickle cards as provided in section 92 of this act, any license for a designated member responsible for supervising the conduct of the lottery by the sale of pickle cards and for the proper utilization of gross proceeds as provided in section 93 of this act, any sales agent's license or pickle card operator's license as provided in section 95 of this act, any distributor's license as provided in section 96 of this act, or any manufacturer's license as provided in section 98 of this act.

Sec. 77. Licensed organization shall mean an organization or volunteer fire company licensed to conduct a lottery by the sale of pickle cards under the Nebraska Pickle Card Lottery Act.

Sec. 78. Lottery by the sale of pickle cards shall mean any gambling scheme in which participants pay or agree to pay something of value for a pickle card. Any lottery by the sale of pickle cards shall be conducted pursuant to and in accordance with the Nebraska Pickle Card Lottery Act.

Lottery by the sale of pickle cards shall not mean or include any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the Nebraska County and City Lottery Act, section 184 of



this act, or Chapter 2, article 12, nor shall lottery by the sale of pickle cards mean or include any activity prohibited under Chapter 28, article 11.

Sec. 79. That section 9-140.15, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-140-15-~~ Manufacturer shall mean any person who assembles from raw materials or subparts a completed piece or pieces of pickle cards and pickle card units.

Sec. 80. Member shall mean a person who is recognized and acknowledged by a licensed organization as a member for purposes other than conducting activities under the Nebraska Pickle Card Lottery Act. Member shall not include social or honorary members.

Sec. 81. Pickle card shall mean any disposable card, board, or ticket which accords a person an opportunity to win something of value by opening, pulling, detaching, or otherwise removing one or more tabs from the card, board, or ticket to reveal a set of numbers, letters, symbols, or configurations, or any combination thereof, and shall include, but not be limited to, any card known as a pickle ticket, pickle, break-open, pull-tab, pull-tab board, punch board, pull card, or any other similar card, board, or ticket which is included under this section, whether referred to by any other name.

Pickle card shall not mean or include any: (1) Card used in connection with bingo conducted pursuant to the Nebraska Bingo Act; (2) racing ticket or wager in connection with any horserace conducted pursuant to Chapter 2, article 12; (3) scrape-off or rub-off ticket; (4) any card, ticket, or other device used in connection with any kind of gambling, lottery, raffle, or gift enterprise authorized or regulated under the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the Nebraska County and City Lottery Act, or section 184 of this act; or (5) any card, ticket, or other device prohibited under Chapter 28, article 11.

Sec. 82. That section 9-140.14, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-140-14-~~ Pickle card operator shall mean any person or business who sells individual pickle cards as opportunities for participation in a lottery by the sale of pickle cards, but shall not include any member of the licensed organization who, in a voluntary capacity without compensation, sells individual pickle cards on behalf of the licensed organization.

Sec. 83. That section 9-140.05, Revised



Statutes Supplement, 1984, be amended to read as follows:

9-140-05- Unit Pickle card unit shall mean a series or complete set of pickle cards, which consists of all winning and losing cards in a particular unit, set, series, deal, or scheme for a lottery by the sale of pickle cards, in the receptacle or box in and with which the unit of pickle cards is sold by a distributor.

Sec. 84. Profit shall mean the total receipts collected from any lottery by the sale of pickle cards less reasonable sums necessarily and actually expended for prizes, taxes, and allowable expenses.

Sec. 85. Revoke shall mean to permanently void and recall all rights and privileges of an organization or a person to obtain a license.

Sec. 86. That section 9-140.13, Revised Statutes Supplement, 1985, be amended to read as follows:

9-140-13- Sales agent shall mean any person who markets or sells any pickle card unit owned by an on behalf of a licensed organization licensed pursuant to sections 9-141 to 9-143 to conduct a lottery by the sale of pickle cards to any licensed pickle card operator.

Sec. 87. Suspend shall mean to cause a temporary interruption of all rights and privileges of a license or the renewal thereof.

Sec. 88. The department shall have the following powers, functions, and duties:

(1) To issue licenses;

(2) To deny any license application or renewal application for nonpayment of taxes and additions to taxes including penalties and interest or for noncompliance with any other provision of the Nebraska Pickle Card Lottery Act or any rule or regulation adopted and promulgated pursuant to the act;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation or cancellation shall include any noncompliance with any provision of the Nebraska Pickle Card Lottery Act or a violation of any rule or regulation adopted and promulgated pursuant to the act;

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

(5) 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 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;

(6) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid as taxes pursuant to section 110 of this act in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

(7) To inspect pickle cards and pickle card units as provided in section 105 of this act;

(8) To confiscate and seize pickle cards or pickle card units pursuant to section 116 of this act;

(9) 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

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

Sec. 89. (1) The Tax Commissioner may suspend any license issued pursuant to the Nebraska Pickle Card Lottery Act, except that no order to suspend any license shall be issued except upon a finding by the department that the licensee is not operating in accordance with the purposes of the act.

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

(3) The order of suspension shall 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), (2), and (3) of this section when an action for cancellation or revocation is pending.

(5) The hearing for cancellation or revocation of the license shall be held within twenty days of 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 the conclusion of the hearing. The suspension shall continue in effect until the decision is issued. If the decision is that an order of 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 revocation or cancellation of the license, the suspension shall continue pending an application for rehearing or an appeal of the decision of the department.

(7) 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 a rehearing or appeal shall be counted as a part of the period of cancellation.

Sec. 90. Before the adoption, amendment, or repeal of any rule or regulation or the revocation or cancellation of any license pursuant to section 88 of this act, the department shall set the matter for hearing. Such revocation or cancellation proceedings shall be contested cases pursuant to section 84-913.

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

Sec. 91. (1) A copy of the order or decision of the department in any proceeding before it, certified under the seal of the department, shall be served upon each party of record to the proceeding before the department. Service upon any attorney of record for any such party shall be deemed to be service upon such

party. Each party appearing before the department shall enter his or her appearance and indicate to the department his or her address for the service of a copy of any order, decision, or notice. The mailing of any copy of any order or decision or of any notice in the proceeding, to such party at such address, shall be deemed to be service upon such party.

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

(3) Within twenty days after the service of any order or decision of the department upon any party to the proceeding, such party may apply for a rehearing in respect to any matters determined by the department. The department shall consider such application for a rehearing within twenty days from the date of receipt of the rehearing application. If such application is granted, the department shall promptly consider the matters presented by such application. No appeal shall be allowed from any decision of the department, except as is provided for in subsection (5) of this section. Only one rehearing shall be granted by the department on application of any one party.

(4) Any decision of the department to revoke, cancel, or suspend or to refuse to revoke, cancel, or suspend a license may be reversed, vacated, or modified by the district court as provided in section 84-917.

Sec. 92. (1) Any nonprofit organization holding a certificate of exemption under section 501 of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, may apply for a license to conduct a lottery by sale of pickle cards.

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

(a) Be incorporated in this state as a not-for-profit corporation or organized in this state as a religious or not-for-profit organization;

(b) Have at least ten members in good standing;

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

(d) Be authorized by its constitution.



articles, charter, or bylaws to further in this state a lawful purpose; and

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

Sec. 93. (1) Each applicant for a license to conduct a lottery by sale of pickle cards shall file with the department an application on a form prescribed by the department.

(2) Each application shall include:

(a) The name and address of the applicant;

(b) Sufficient facts relating to the incorporation or organization of the applicant to enable the department to determine if the applicant is eligible for a license under section 92 of this act;

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

(d) The name, address, date of birth, and years of membership of a bona fide and active member of the applicant organization who shall be responsible for supervising the conduct of the lottery by the sale of pickle cards and for the proper utilization of the gross proceeds derived from the conduct of lottery by sale of pickle cards;

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

(f) Other information which the department deems necessary.

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

Sec. 94. All licenses to conduct a lottery by sale of pickle cards and licenses issued to designated members responsible for supervising the conduct of the lottery by the sale of pickle cards and the proper utilization of gross proceeds shall expire on September 30 of each year and may be renewed annually. Each annual application for a license shall be accompanied by:

(1) A sworn statement of the designated member responsible for the proper utilization of gross proceeds that all gross proceeds will be used in accordance with section 113 of this act and that he or she will be responsible for compliance with the Nebraska Pickle Card Lottery Act and all rules and regulations adopted and promulgated pursuant to such act; and

(2) A fifteen dollar license fee for the organization and five dollars for a license for each designated member responsible for the proper utilization of gross proceeds.

Sec. 95. That section 9-143.01, Revised Statutes Supplement, 1985, be amended to read as follows:

9-143-01- (1) No sales agent shall market or sell any pickle card unit to any pickle card operator without first obtaining a license, and no pickle card operator shall sell any individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards without first obtaining a license.

(2) Any person wishing to operate as a sales agent or pickle card operator in this state shall make application to the department for a license. Each application for a license shall include the: (a) Name and address of the person applying for the license; (b) name and license number of the licensed organization owning for which any pickle card units or individual pickle cards being sold as opportunities to participate in a lottery are to be marketed or sold by the applicant; and (c) name, address, and license number of a person licensed pursuant to section 9-143 93 of this act as a member responsible for the proper utilization of gross proceeds for the licensed organization owning for which the applicant will market or sell the pickle card units or individual pickle cards being sold as opportunities to participate in a lottery.

A statement signed by the person licensed as a member responsible for the proper utilization of gross proceeds signifying that such licensed organization approves the applicant to act as a sales agent or pickle card operator on behalf of such organization shall accompany each application. No person licensed as a member responsible for the proper utilization of gross proceeds shall be licensed as a sales agent or pickle card operator.

A fee of five fifty dollars shall be charged for each license issued pursuant to this section. The proceeds from such fee shall be deposited in the Charitable Gaming Operations Fund. Such and such licenses shall expire on September 30 of each year and shall be renewed annually.

(3) One license issued to any person or business entity under this section as a pickle card operator shall cover the person or business entity and the employees of the licensed pickle card operator.

(4) No sales agent or pickle card operator



licensed under the Nebraska Pickle Card Lottery Act shall be connected, interested, or otherwise connected, directly or indirectly, with any person, partnership, firm, corporation, or other party licensed as a distributor or manufacturer under sections 96 and 98 of this act.

(5) The department may issue a temporary license pending receipt of additional information or further inquiry.

Sec. 96. Any applicant for a distributor's license, including renewal thereof, shall file an application with the department on a form prescribed by the department. Each application shall be accompanied by an application fee in the amount of twenty-five dollars, together with a license fee of one thousand five hundred dollars. At a minimum, the application shall include the name and address of the applicant, including all shareholders who own ten per cent or more of the outstanding stock if the applicant is a corporation, the location of its office or business, and a current list, if requested, of those organizations within the state to whom the applicant is selling pickle card units. All applications shall include a sworn statement by the applicant or the appropriate officer thereof that the applicant will comply with all provisions of the Nebraska Pickle Card Lottery Act and all rules and regulations adopted and promulgated under such act.

No person shall be issued a distributor's license if such person is not doing business or authorized to do business in this state.

All distributors' licenses shall expire on September 30 of each year. Renewal of any license issued pursuant to this section shall be initiated not less than forty-five days prior to the expiration of the license.

Sec. 97. (1) No person, except a distributor operating pursuant to the Nebraska Pickle Card Lottery Act, shall sell or distribute any pickle card units to any licensed organization.

(2) No distributor shall hold a license to conduct a lottery by the sale of pickle cards or any other kind of gambling activity which is authorized or regulated under Chapter 9 or a license to act as a sales agent, pickle card operator, or manufacturer of pickle cards or pickle card units, except as provided in section 36 of this act.

(3) If a distributor delivers any pickle card unit, he or she shall deliver such unit only to a

licensed designated member of the licensed organization responsible for the proper utilization of gross proceeds or a sales agent and shall not deliver any pickle card unit to any other person, whether or not such person is a pickle card operator.

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

(5) No distributor, or employee or spouse of any distributor, shall participate in the conduct or operation of any lottery by the sale of pickle cards or any other kind of gambling activity which is authorized or regulated under Chapter 9, except to the exclusive extent of his or her statutory duties as a licensed distributor and as provided in section 36 of this act. Membership in any organization shall not be deemed a violation of this section.

(6) A distributor shall purchase pickle card units only from a licensed manufacturer.

Sec. 98. That section 9-143.02, Revised Statutes Supplement, 1985, be amended to read as follows:

9-143-02- A manufacturer shall obtain a license from the department prior to manufacturing, or selling, or supplying to any persons for use within this state any pickle cards or pickle card units or engaging in any interstate activities relating to such pickle cards or pickle card units. The applicant shall include, with the application form supplied by the department, a license fee of one thousand five hundred twenty-five dollars and the following information:

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

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



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

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

(5) If the applicant is a foreign manufacturer, the full name, business address, and home address of the agent who is a resident of this state designated pursuant to section ~~9-143-06~~ 100 of this act;

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

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

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

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

Sec. 99. That section 9-143.05, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-143-05-~~ Each manufacturer shall, no later than thirty days after each quarter, report to the department, on a form supplied by the department, the following information: (1) The total number of pickle card units sold to each distributor; and (2) the type of each pickle card unit sold.

Sec. 100. That section 9-143.06, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-143-06-~~ Each manufacturer selling pickle cards and pickle card units in this state that is not a resident or corporation shall designate a natural person who is a resident of and living in this state and is eighteen years of age or older as a resident agent for the purpose of receipt and acceptance of service of process and other communications on behalf of the manufacturer. The name, business address where service of process and delivery of mail can be made, and home address of such agent shall be filed with the

department.

Sec. 101. That section 9-143.03, Revised Statutes Supplement, 1985, be amended to read as follows:

9-143-03- No manufacturer or manufacturer's representative shall be licensed to conduct any other activity under the Nebraska ~~Bingo~~ and Pickle Card Lottery Control Act.

Sec. 102. That section 9-186.03, Revised Statutes Supplement, 1985, be amended to read as follows:

9-186-03- Each manufacturer of pickle cards or pickle card units shall assign a series number to each series of pickle cards he or she manufactures and place such number on each flare card supplied by such manufacturer and on each pickle card in the series. A manufacturer may, in addition, assign a color trim to the series, and if assigned, each pickle card in the series shall also reflect the color trim. No manufacturer or manufacturer's representative shall sell or furnish to any person a series of pickle cards with the same series number and color code combination as a series which such person has previously purchased or obtained but upon which play has not been completed.

Sec. 103. That section 9-186.01, Revised Statutes Supplement, 1985, be amended to read as follows:

9-186-01- (1) Pickle cards shall be constructed so that it is impossible to determine the covered or concealed number, letter, symbol, configuration, or set of symbols combination thereof on the pickle card until it has been dispensed to and opened by the player, by any method or device, including, but not limited to, the use of a marking, variance in size, variance in paper fiber, or light.

(2) All pickle cards shall be constructed to ensure that, when offered for sale to the public, the pickle card is virtually opaque and free of security defects so that winning pickle cards cannot be determined prior to being opened through the use of high-intensity lights or any other method.

(3) All pickle cards shall be constructed to conform in all other respects to the provisions and specifications imposed by the Nebraska Pickle Card Lottery Act or by rule or regulation as to the manufacture, assembly, or packaging of pickle cards or pickle card units.

Sec. 104. That section 9-186.02, Revised Statutes Supplement, 1985, be amended to read as



follows:

9-186-02- (1) No manufacturer or representative thereof, with knowledge or in circumstances under which he or she reasonably should have known, shall manufacture, possess, display, sell, or otherwise furnish to any person any pickle card or pickle card unit:

(a) In which the winning tab or tabs have not been completely and randomly distributed and mixed among all other tabs in a series;

(b) In which the location or approximate location of any of the winning tab or tabs can be determined in advance of opening the tab or tabs in any manner or by any device, including, but not limited to, any pattern in the manufacture, assembly, or packaging of the tabs or pickle cards by the manufacturer, by any markings on the tabs or container, or by the use of a light; ~~or~~

(c) Which offers both a chance for an instant prize and a possible chance to participate in a subsequent lottery activity; or

(d) Which does not conform in all other respects to the requirements of the Nebraska Bingo and Pickle Card Lottery Control Act and any other specifications imposed by the department by rule and regulation as to the manufacture, assembly, or packaging of pickle cards.

Any such cards or units shall be contraband goods for purposes of section 116 of this act.

(2) No manufacturer or representative thereof shall use as a sales promotion any statement, demonstration, or implication that any certain portion of a series of pickle cards contains more winners than other portions of the series or that any series of pickle cards or pickle card units may be sold by the organization or its designated sales agent or pickle card operator in a particular manner that would give the operator seller any advantage in selling more of the pickle cards before having to pay out winners.

Sec. 105. That section 9-186.04, Revised Statutes Supplement, 1985, be amended to read as follows:

9-186-04- In addition to any other authority of the department and its authorized agents to conduct inspections, the department and its agents shall have the authority to select any pickle card or pickle card unit held by a distributor, licensed organization, sales agent, pickle card operator, or manufacturer and to examine the quality and integrity of such card or unit

in any manner, including pulling all chances remaining thereon. If the pickle card or pickle card unit so inspected is thereby altered in any manner and no defect, alteration, deceptive condition, or other violation is discovered, the owner shall be reimbursed by the department for the cost of the pickle card or pickle card unit and the pickle card or pickle card unit shall become property of the department.

Sec. 106. That section 9-186, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-186-~~ (1) No manufacturer shall sell any pickle card units to any person in Nebraska except a licensed distributor. No distributor licensed in Nebraska shall purchase such units except from manufacturers licensed in Nebraska.

(2) No distributor shall sell any pickle card units except to an organization qualified licensed to conduct a lottery by the sale of pickle cards pursuant to the Nebraska Bingo and Pickle Card Lottery Control Act. No pickle cards shall be sold by a distributor except in the form of pickle card units. No distributor shall sell any pickle card unit for use in this state unless and until a stamp obtained from the department containing an identifying number has been permanently and conspicuously affixed upon the flare card supplied by the manufacturer for identification purposes. Once placed, such stamp shall not be removed or tampered with by any person. The state identification stamp shall be placed on each punch board such that the complete number, together with the symbol appearing thereon, is plainly visible. State identification stamps shall be obtained only from the department and only by a licensed distributor for ten cents each. Such stamps shall be placed by the licensed distributor only on items sold or furnished to licensed organizations in this state. Such stamps shall not be transferred or furnished to any other person unless already placed upon a punch board or pickle card unit. No pickle card unit shall be sold by a distributor without the information required in section 112 of this act. ~~9-140-01 printed on each pickle card in the unit. Each unit shall bear a unique number. Each pickle card in a unit shall bear the number of that particular unit.~~

Sec. 107. That section 9-143.04, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-143-04-~~ Every licensed manufacturer shall keep and maintain a complete set of records which shall



include all details of all activities of the licensee related to the conduct of the licensed activity as may be required by the department, including the total number of pickle card units sold to any Nebraska-licensed distributor. Such records shall be available for inspection by the department. The records shall be maintained for a period of not less than three years from the date of the end of the licensee's fiscal year.

Sec. 108. That section 9-177, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-177-~~ (1) Any organization licensed to conduct a lottery by sale of pickle cards may purchase units for such purposes from a distributor and use the proceeds from the sale of the pickle cards for a lawful purpose.

(2) When any organization licensed to conduct a lottery by the sale of pickle cards purchases units from a distributor, such organization shall provide the distributor with a copy of the organization's license or other adequate identification indicating that such organization has a valid license issued pursuant to ~~sections 9-141 to 9-143~~ section 93 of this act.

(3) ~~No Any person paid authorized~~ by any licensed organization ~~licensed to conduct a lottery by the sale of pickle cards pursuant to sections 9-141 to 9-143 and no any person, whether or not authorized to sell pickle cards for the licensed organization, who is not a member of the organization shall as its designated sales agent may purchase any pickle card unit from a distributor for such licensed organization. No pickle card operator shall purchase any pickle card or pickle card unit from a distributor.~~

Sec. 109. That section 9-183, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-183-~~ A distributor shall maintain records of total ~~unit~~ sales of pickle card units and, within thirty days after the end of the calendar quarter, report to the department, on a form prescribed by the department, the total number of units sold by such distributor for each quarter, the state identification number assigned to each unit, the aggregate price for which such cards will be sold by the purchasing organization, and any other information the department deems necessary.

Sec. 110. That section 9-184, Revised Statutes Supplement, 1985, be amended to read as

follows:

9-184- Accompanying the quarterly reports required in section 9-183 109 of this act, the distributor shall pay to the department the following taxes: (1) Two dollars per unit on each unit sold by the distributor; and (2) an amount a tax equal to two per cent of the pickle card gross proceeds of each pickle card unit sold by the distributor, and beginning July 1, 1986, an amount equal to three per cent of such gross proceeds, computed by using the price for which all pickle cards in the unit will be sold by the purchasing organizations. Such tax shall be credited to the General Charitable Gaming Operations Fund of the state. The distributor shall include the tax due under this section in the selling price of units and shall separately state such tax on the invoice. All deficiencies of the tax prescribed in this section shall accrue interest and be subject to a penalty as provided for sales and use taxes in the Nebraska Revenue Act of 1967.

Sec. 111. No person under eighteen years of age shall play or participate in any way in any lottery by the sale of pickle cards.

Sec. 112. That section 9-140.01, Revised Statutes Supplement, 1985, be amended to read as follows:

9-140-01- (1) Lottery by the sale of pickle cards shall mean any gambling scheme in which participants pay or agree to pay something of value for a pickle card. Any lottery by the sale of pickle cards shall be conducted pursuant to and in accordance with the Nebraska Bingo and Lottery Control Act-

(2) Pickle card shall mean any (a) disposable card, board, or ticket which accords a person an opportunity to win something of value by opening, pulling, detaching, or otherwise removing tabs from the card, board, or ticket to reveal a set of numbers, letters, symbols, or configurations, or any combination thereof; and (b) card known as a pickle ticket, pickle-break-open, pull-tab, pull-tab board, punch board, pull card, or any other similar card, board, or ticket which is included under this section, whether referred to by any other name-

(3) Pickle card shall not mean or include any- (a) Regular bingo card as defined in section 9-137; (b) special bingo card as defined in section 9-139; (c) racing ticket or wager in connection with any horserace conducted pursuant to Chapter 2, article 12; (d) scrape-off or rub-off ticket; or (e) any other kind of



gambling, lottery, raffle, or gift enterprise ticket or scheme authorized pursuant to Chapter 287, article 11-

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

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

(5) (3) Any person possessing a winning pickle card shall receive the appropriate prize or value previously determined and specified for that winning combination.

(6) (4) All pickle cards shall legibly bear on the outside of each pickle card the name of the nonprofit organization conducting the lottery by the sale of pickle cards, such organization's identification number, 7 and a unit number.

Sec. 113. (1) The gross proceeds of any lottery by the sale of pickle cards shall be used solely for lawful purposes, awarding of prizes, remission of taxes imposed under section 110 of this act, and allowable expenses.

(2) Not less than sixty-five per cent of the gross proceeds of any lottery by the sale of pickle cards shall be used for the awarding of prizes, and not more than ten per cent of the gross proceeds shall be used to pay the allowable expenses of operating such lottery.

Sec. 114. That section 9-181, Revised Statutes Supplement, 1984, be amended to read as follows:

9-181- The gross proceeds of any lottery or raffle conducted pursuant to section 9-199 or lottery by

the sale of pickle cards shall be segregated from other revenue of any licensed organization conducting the lottery ~~or raffle~~ and placed in a separate account. Separate records shall be maintained by any licensed organization conducting a ~~lottery or raffle conducted pursuant to section 9-199 or lottery~~ by the sale of pickle cards. Each nonprofit organization conducting a ~~lottery conducted pursuant to section 9-199, raffle, or lottery~~ by the sale of pickle cards shall keep a record of all locations or persons who are paid to sell ~~tickets or pickle cards~~. Records and lists required by the Nebraska Bingo and Pickle Card Lottery Control 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 or raffles conducted pursuant to sections 9-199, 28-1115, and 28-1116 or lotteries~~ by the sale of pickle cards and profits therefrom 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. 115. That section 9-182, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-182-~~ An A licensed organization conducting a lottery by the sale of pickle cards shall report annually to its membership its gross proceeds, its profits from pickle card sales, and the itemized distribution of such profits resulting from conducting any lottery by the sale of pickle cards pursuant to the Nebraska Bingo and Pickle Card Lottery Control Act by such organization. A copy of the annual report, including a breakdown of receipts and expenses, shall be sent to the department. Such report shall also include a detailed analysis of all commissions or salaries paid to the pickle card operators and sales agents in the conduct of the lottery by the sale of pickle cards.

Sec. 116. That section 9-187.02, Revised Statutes Supplement, 1985, be amended to read as follows:

~~9-187-02-~~ (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) All Any pickle cards and pickle card units declared to be contraband goods in section 104 of this act; (b) any pickle cards that are not properly printed as required in section ~~9-140-01~~ 112



of this act 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; or (b) (d) any pickle cards or pickle card units lottery or raffle tickets that are being sold without all of the proper licenses; or (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.

(2) The Tax Commissioner may, upon satisfactory proof, direct return of any confiscated pickle cards or ~~lottery or raffle tickets~~ 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 Bingo and Pickle Card Lottery Control Act.

(3) The Tax Commissioner may, upon finding that an owner of contraband goods ~~described in subsection (1) of this section~~ has willfully or intentionally evaded any tax or failed to comply with the Nebraska Bingo and Lottery Control Act, confiscate such goods. Any pickle cards or pickle card units confiscated under this subsection may be offered at public sale to any licensed distributor and the proceeds shall be credited to the General Fund. Any pickle cards that are only a part of a unit and any lottery or raffle tickets confiscated under this subsection shall be destroyed.

(4) The seizure and sale destruction of the pickle cards or ~~lottery or raffle tickets~~ under this section pickle card units shall not relieve any person from a fine, imprisonment, or other penalty for violation of the Nebraska Bingo and Lottery Control Act.

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

Sec. 117. That section 9-179, Revised Statutes Supplement, 1985, be amended to read as follows:

9-179- (1) No person or organization other than those qualifying under section 9-177 92 of this act

and licensed pursuant to section 93 of this act shall be permitted to conduct a lottery by the sale of pickle cards in this state.

(2) No person other than a licensed distributor or manufacturer shall possess pickle cards that are not properly printed with the information required in section ~~9-140-01~~ 112 of this act.

(3) Any person ~~violating~~ who violates this section shall be guilty of a Class ~~II~~ I misdemeanor.

Sec. 118. (1) Except when another penalty is specifically provided, any person, licensed organization, distributor, manufacturer, sales agent, or 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. 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) 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.

(3) 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.

(4) 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. 119. Any person in this state, including any law enforcement official, who has cause to believe that (1) any licensed organization, (2) any employee or agent of such licensed organization, (3) any person acting in concert with such licensed organization, or (4) any person in connection with a lottery by the sale of pickle cards has engaged in or is engaging in any conduct in violation of the Nebraska Pickle Card Lottery Act or has aided or is aiding another in any conduct in violation of the act may commence a civil action in any district court of this state.

Sec. 120. In any civil action commenced pursuant to section 119 of this act, a court may allow:



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

(2) A declaration that the conduct by a licensed organization or employee or agent of a licensed organization, which is a party to the action, constitutes a violation of the Nebraska Pickle Card Lottery Act and a determination of the number and times of violations for certification to the department for appropriate license revocation purposes;

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

(4) An accounting of the profits, earnings, or gains resulting directly and indirectly from such violations, with a distribution of such profits, earnings, or gains to all licensed organizations existing at the time of such violations which apply to the court and show that they suffered monetary losses by reason of such violations and with distribution of any remaining profits, earnings, or gains to the state; and

(5) Reasonable attorneys' fees and court costs.

Sec. 121. Proceedings under section 119 of this act shall be subject to and governed by the district court civil procedure statutes. Issues properly raised shall be tried and determined as in other civil actions in equity. All orders, judgments, and decrees rendered may be reviewed as other orders, judgments, and decrees.

Sec. 122. Sections 122 to 158 of this act shall be known and may be cited as the Nebraska Lottery and Raffle Act.

Sec. 123. (1) The purpose of the Nebraska Lottery and Raffle Act is to protect the health and welfare of the public, to protect the economic welfare and interest in certain lotteries with gross proceeds greater than one thousand dollars and certain raffles with gross proceeds greater than five thousand dollars, to insure that the profits derived from the operation of any such lottery or raffle are accurately reported in order that their revenue-raising potential be fully exposed, to insure that the profits are used for legitimate purposes, and to prevent the purposes for which the profits of any such lottery or raffle are to be used from being subverted by improper elements.

(2) The purpose of the Nebraska Lottery and

Raffle Act is also to completely and fairly regulate each level of the traditional marketing scheme of tickets or stubs for such lotteries and raffles to insure fairness, quality, and compliance with the Constitution of the State of Nebraska. To accomplish such purpose, the regulation and licensure of nonprofit organizations and any other person involved in the marketing scheme are necessary.

(3) The Nebraska Lottery and Raffle Act shall apply to all lotteries with gross proceeds in excess of one thousand dollars, except for lotteries by the sale of pickle cards conducted in accordance with the Nebraska Pickle Card Lottery Act and lotteries conducted by a county, city, or village in accordance with the Nebraska County and City Lottery Act, and to all raffles with gross proceeds in excess of five thousand dollars. All such lotteries and raffles shall be played and conducted only by the methods permitted in the act. No other form, means of selection, or method of play shall be allowed.

Sec. 124. For purposes of the Nebraska Lottery and Raffle Act, unless the context otherwise requires, the definitions found in sections 125 to 138 of this act shall be used.

Sec. 125. Allowable expenses shall mean (a) all costs associated with the purchasing, printing, or manufacturing of any items to be used or distributed to participants such as tickets; (b) all office expenses; (c) all promotional expenses; (d) the tax on gross proceeds prescribed in section 150 of this act; and (e) any fee paid to any person associated with the operation of any lottery or raffle.

Sec. 126. Cancel shall mean to discontinue all rights and privileges to hold a license or permit for up to three years.

Sec. 127. Department shall mean the Department of Revenue.

Sec. 128. Gross proceeds shall mean the total receipts received from the conduct of the lottery or raffle without any reduction for prizes, taxes, or allowable expenses. Gross proceeds shall include the value of any free tickets or stubs or free plays used.

Sec. 129. (1) Lawful purpose shall mean charitable or community betterment purposes, including, but not limited to, one or more of the following:

(a) Benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being,



by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

(b) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; and

(c) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people.

(2) Lawful purpose shall not include any activity consisting of an attempt to influence legislation or participate in any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

(3) Nothing in this section shall prohibit any veterans' organization which is nationally chartered by the Congress of the United States, or any auxiliary thereof, or any nonprofit organization holding a certificate of exemption under subsection (c), subdivision 3, 5, 7, 8, 10, or 19, of section 501 of the Internal Revenue Code from using its proceeds or profits derived from activities under the Nebraska Lottery and Raffle Act in any activity which benefits and is conducted by the organization, including any charitable, benevolent, humane, religious, philanthropic, recreational, social, educational, civic, or fraternal activity conducted by the organization for the benefit of its members.

Sec. 130. License shall mean any license to conduct a lottery or raffle as provided in section 145 of this act or any license for a designated member responsible for the proper utilization of gross proceeds as provided in section 146 of this act and responsible for supervising the conduct of the lottery or raffle.

Sec. 131. Licensed organization shall mean a nonprofit organization or a volunteer fire company licensed to conduct a lottery or raffle under the Nebraska Lottery and Raffle Act.

Sec. 132. Lottery shall mean a gambling scheme in which (1) participants pay or agree to pay something of value for an opportunity to win, (2) winning opportunities are represented by tickets differentiated by sequential enumeration, and (3) winners are determined by a random drawing of the tickets.

Lottery shall not include (a) any raffle as defined in section 136 of this act, (b) any gambling

scheme which uses any mechanical, computer, electronic, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value, (c) any activity which is authorized or regulated under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the Nebraska County and City Lottery Act, section 184 of this act, or Chapter 2, article 12, or (d) any activity which is prohibited under Chapter 28, article 11.

Sec. 133. Member shall mean a person who is recognized and acknowledged by a licensed organization as a member for purposes other than conducting activities under the Nebraska Lottery and Raffle Act. Member shall not include social or honorary members.

Sec. 134. Permit shall mean a special permit to conduct one raffle and one lottery as provided in section 147 of this act.

Sec. 135. Profit shall mean the gross proceeds less reasonable sums necessarily and actually expended for prizes, taxes, and allowable expenses.

Sec. 136. Raffle shall mean a gambling scheme in which (1) participants pay or agree to pay something of value for an opportunity to win, (2) winning opportunities are represented by tickets differentiated by sequential enumeration, (3) winners are determined by a random drawing of the tickets, and (4) at least eighty per cent of all of the prizes to be awarded are merchandise prizes which are not directly or indirectly redeemable for cash by the licensed organization conducting the raffle or any agent of the organization.

Raffle shall not include (a) any gambling scheme which uses any mechanical, computer, electronic, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value, (b) any activity which is authorized or regulated under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the Nebraska County and City Lottery Act, section 184 of this act, or Chapter 2, article 12, or (c) activity which is prohibited under Chapter 28, article 11.

Sec. 137. Revoke shall mean to permanently void and recall all rights and privileges to obtain a license or permit.

Sec. 138. Suspend shall mean to cause a temporary interruption of all rights and privileges of a



license or permit or the renewal thereof.

Sec. 139. The department shall have the following powers, functions, and duties:

(1) To issue licenses and permits;

(2) To deny any license application or renewal application for nonpayment of taxes and additions to taxes including penalties and interest or for noncompliance with any other provision of the Nebraska Lottery and Raffle Act or any rule or regulation adopted and promulgated pursuant to the act;

(3) To revoke, cancel, or suspend for cause any license or permit. Cause for revocation or cancellation shall include any noncompliance with any provision of the Nebraska Lottery and Raffle Act or a violation of any rule or regulation adopted and promulgated pursuant to such act;

(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 of any licensed organization, 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) 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;

(6) To confiscate and seize lottery or raffle tickets or stubs pursuant to section 153 of this act; and

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

Sec. 140. (1) The Tax Commissioner may

suspend any license or permit, except that no order to suspend any license or permit shall be issued except upon a finding by the department that the licensee or permittee is not operating in accordance with the purposes of the Nebraska Lottery and Raffle Act.

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

(3) The order of suspension shall 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), (2), and (3) of this section when an action for cancellation or revocation is pending.

(5) The hearing for cancellation or revocation of the license or permit shall be held within twenty days of 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 the conclusion of the hearing. The suspension shall continue in effect until the decision is issued. If the decision is that an order of 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 revocation or cancellation of the license or permit, the suspension shall continue pending an application for rehearing or an appeal of the decision of the department.

(7) 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 a rehearing or appeal shall be counted as a part of the period of cancellation.

Sec. 141. Before the adoption, amendment, or repeal of any rule or regulation or the revocation or cancellation of any license or permit pursuant to section 140 of this act, the department shall set the matter for hearing. Such revocation or cancellation



proceedings shall be considered contested cases pursuant to section 84-913.

At least ten days before the hearing, the department shall (1) in the case of revocation or cancellation, serve notice by certified mail, return receipt requested, upon the licensee or permittee 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. 142. (1) A copy of the order or decision of the department in any proceeding before it, certified under the seal of the department, shall be served upon each party of record to the proceeding before the department. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the department shall enter his or her appearance and indicate to the department his or her address for the service of a copy of any order, decision, or notice. The mailing of any copy of any order or decision or of any notice in the proceeding, to such party at such address, shall be deemed to be service upon such party.

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

(3) Within twenty days after the service of any order or decision of the department upon any party to the proceeding, such party may apply for a rehearing in respect to any matters determined by the department. The department shall consider such application for a rehearing within twenty days from the date of receipt of the rehearing application. If such application is granted, the department shall promptly consider the matters presented by such application. No appeal shall be allowed from any decision of the department, except as is provided for in subsection (5) of this section. Only one rehearing shall be granted by the department on the application of any one party.

(4) Any decision of the department to revoke, cancel, or suspend or to refuse to revoke, cancel, or suspend a license or permit may be reversed, vacated, or modified by the district court as provided in section 84-917.

Sec. 143. That section 9-199, Revised Statutes Supplement, 1984, be amended to read as follows:

9-199. No person, except a licensee licensed organization operating pursuant to the Nebraska Bingo and Lottery and Raffle Control Act, shall conduct any lottery with gross proceeds in excess of one thousand dollars or any raffle with gross proceeds in excess of five thousand dollars. Any lottery or raffle conducted in violation of this section is hereby declared to be a public nuisance. Any person violating the provisions of who violates this section shall be guilty of a Class IV III misdemeanor. Nothing in this section shall be construed to apply to any lottery established or conducted pursuant to section 28-1116 in accordance with the Nebraska County and City Lottery Act or any lottery by the sale of pickle cards conducted in accordance with the Nebraska Pickle Card Lottery Act.

Sec. 144. (1) Any nonprofit organization holding a certificate of exemption under section 501 of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, may apply for a license to conduct a lottery or raffle.

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

(a) Be incorporated in this state as a not-for-profit corporation or organized in this state as a religious or not-for-profit organization;

(b) Have at least ten members in good standing;

(c) Conduct activities within this state in addition to the conduct of lotteries or raffles.

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

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

Sec. 145. Each applicant for a license to conduct a lottery or raffle shall file with the department an application on a form prescribed by the department.

(1) Each application shall include:

(a) The name and address of the applicant;

(b) Sufficient facts relating to the incorporation or organization of the applicant to enable the department to determine if the applicant is eligible



for a license under section 144 of this act:

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

(d) The name, address, date of birth, and years of membership of a bona fide and active member of the applicant organization who shall be responsible for the proper utilization of the gross proceeds derived from the conduct of the lottery or raffle and for supervising the conduct of the lottery or raffle for the organization;

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

(f) Other information which the department deems necessary.

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

Sec. 146. All licenses to conduct a lottery or raffle and licenses issued to designated members responsible for the proper utilization of gross proceeds shall expire on September 30 of each year and may be renewed annually. The department may issue a temporary license prior to receiving all necessary information from the applicant. Each annual application for a license shall be accompanied by:

(1) A sworn statement of the designated member responsible for the proper utilization of gross proceeds and responsible for supervising the conduct of the lottery or raffle for the organization that all gross proceeds will be used in accordance with section 149 of this act; and

(2) A fifteen dollar license fee for the organization and five dollars for a license for each designated member responsible for the proper utilization of gross proceeds.

Sec. 147. That section 9-199.01, Revised Statutes Supplement, 1985, be amended to read as follows:

9-199-01- (1) An A licensed organization licensed to conduct a raffle or lottery pursuant to section 9-199 may obtain from the department a special permit to conduct one raffle and one lottery. The cost of the special permit shall be ten dollars. The special permit shall exempt the licensed organization from section 9-150 and subsections (2) and (3) and (4) of section 9-185 148 of this act and from section 151 of this act. The organization shall comply with all other

requirements of the Nebraska Lottery and Raffle Act.

(2) The special permit shall be valid for three calendar months and shall be issued by the department upon the proper application by the licensed organization. The special permit shall become invalid upon termination, revocation, or cancellation of the organization's license to conduct a lottery or raffle. The application shall be in such form and contain such information as the department may prescribe. No licensed organization may obtain more than one special permit for each calendar year.

(3) No licensed organization conducting a raffle or lottery pursuant to a special permit shall pay persons selling tickets or stubs for the raffle or lottery, except that nothing in this subsection shall prohibit the awarding of prizes to such persons based on ticket or stub sales.

Sec. 148. That section 9-185, Revised Statutes Supplement, 1985, be amended to read as follows:

9-185- (1) The gross proceeds of any lottery or raffle ~~conducted pursuant to section 9-199 or lottery by the sale of pickie cards~~ shall be used solely for lawful purposes, awarding of prizes, remission of taxes imposed under section 9-196 150 of this act, and allowable expenses.

(2) ~~Not less than sixty-five per cent of the gross proceeds of any lottery by the sale of pickie cards shall be used for the awarding of prizes and not more than ten per cent of the gross proceeds shall be used to pay the allowable expenses of operating such lottery.~~

(3) ~~When the gross proceeds of any lottery conducted pursuant to section 9-199 are greater than one thousand dollars, not Not less than sixty-five per cent of such the gross proceeds of any lottery shall be used for the awarding of prizes, and not more than ten per cent of the gross proceeds shall be used to pay the allowable expenses of operating such scheme. This subsection shall not apply to raffles or lotteries conducted pursuant to section 9-199-01.~~

(4) ~~When the gross proceeds of any raffle conducted pursuant to section 9-199 are greater than five thousand dollars, not (3) Not less than sixty-five per cent of such the gross proceeds of any raffle shall be used for the awarding of prizes, and not more than ten per cent of the gross proceeds shall be used to pay the allowable expenses of operating such scheme, except that if prizes are donated to the licensee licensed~~



organization to be awarded in connection with such raffle, the prizes awarded shall have a fair market value equal to at least sixty-five per cent of the gross proceeds and the ~~licensee~~ licensed organization shall use the proceeds for the remission of taxes imposed under section 9-196 150 of this act, allowable expenses, optional additional prizes, and a lawful purpose, pursuant to the Nebraska Bingo and Lottery Control Act. This subsection shall not apply to raffles or lotteries conducted pursuant to section 9-199-01.

(5) For the purpose of this section, allowable expenses shall include: (a) All costs associated with the purchasing, printing, or manufacturing of any items to be used or distributed to participants such as tickets or other paraphernalia; (b) all office expenses; (c) all promotional expenses; (d) all salaries of persons employed to operate the lottery by the sale of pickle cards; (e) any rental or lease expense; and (f) any fee paid to any person associated with the operation of any lottery or raffle conducted pursuant to section 9-199 or lottery by the sale of pickle cards. Allowable expenses shall not include the tax on gross proceeds prescribed in section 9-184.

Sec. 149. The gross proceeds of any lottery or raffle shall be segregated from other revenue of any licensed organization conducting the lottery or raffle and placed in a separate account. Separate records shall be maintained by any licensed organization conducting a lottery or raffle. Each licensed organization conducting a lottery or raffle shall keep a record of all persons who are paid to sell tickets or stubs. Records required by the Nebraska Lottery and Raffle 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 or raffles and gross proceeds from such lottery or raffle at any time. Organizations shall, upon proper written request, deliver all such records to the department or other law enforcement agency for investigation.

Sec. 150. That section 9-196, Revised Statutes Supplement, 1984, be amended to read as follows:

9-196- (1) Any county, city, or village which conducts lotteries pursuant to section 28-1116 shall pay to the department a tax of two per cent of the gross proceeds of the lotteries. Such tax shall be remitted quarterly, within thirty days of the end of the quarter, and shall be credited to the General Fund of the state.

(2) Any licensed organization licensed to conduct a lottery or raffle pursuant to the Nebraska Bingo and Lottery Control Act shall pay to the department a tax of two per cent of the gross proceeds of each lottery having gross proceeds of more than one thousand dollars or raffle having gross proceeds of more than five thousand dollars. Such tax shall be remitted quarterly, within thirty days of the end of the quarter, on forms approved and provided by the department and shall be credited to the General Charitable Gaming Operations Fund of the state. All deficiencies of the tax imposed by this section shall accrue interest and be subject to a penalty as provided for sales and use taxes in the Nebraska Revenue Act of 1967.

Sec. 151. No person under eighteen years of age shall participate in any way in any lottery or raffle, except that a person under eighteen years of age may participate in a lottery or raffle conducted by a licensed organization pursuant to a permit issued under section 148 of this act.

Sec. 152. That section 9-198, Revised Statutes Supplement, 1984, be amended to read as follows:

9-198- Each nonprofit licensed organization conducting a lottery or raffle conducted pursuant to the Nebraska Lottery and Raffle Act section 9-199 or the Nebraska Bingo and Lottery Control Act shall have its name and identification number clearly printed on each lottery or raffle ticket or stub used in such lottery or raffle. No such ticket or stub shall be sold unless such name and identification number is so printed thereon. In addition, all lottery or raffle tickets or stubs shall bear a number, which numbers shall be in sequence and clearly printed on the ticket or stub.

Each ticket or stub shall have an equal chance of being chosen in the drawing. Each ticket or stub shall be constructed of the same material, shall have the same surface, and shall be substantially the same shape, size, form and weight.

Each nonprofit licensed organization conducting a lottery or raffle shall keep a record of all locations where its tickets or stubs are sold.

Sec. 153. (1) The Tax Commissioner or his or her agents or employees, at the direction of the Tax Commissioner, or any peace officer of this state may seize, without a warrant, the following contraband goods found any place in this state: (a) Any lottery or raffle tickets or stubs that are being sold which are not properly printed as required in section 152 of this



act or which do not meet the other requirements of such section; (b) any lottery or raffle tickets or stubs that are being sold without the proper license or permit; or (c) any lottery or raffle tickets or stubs that have been sold in violation of the Nebraska Lottery and Raffle Act or any rule or regulation adopted and promulgated pursuant to the act.

(2) The Tax Commissioner may, upon satisfactory proof, direct return of any confiscated lottery or raffle tickets or stubs when he or she has reason to believe that the owner has not willfully or intentionally failed to comply with the Nebraska Lottery and Raffle Act.

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

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

(5) The Tax Commissioner or his or her agents or employees, when directed to do so by the Tax Commissioner, or any peace officer of this state shall not be responsible for negligence in any court for the seizure or confiscation of any lottery or raffle ticket or stub pursuant to this section; or (c) any lottery or raffle tickets or stubs that have been sold in violation of the Nebraska Lottery and Raffle Act or any rule or regulation adopted and promulgated pursuant to such act.

Sec. 154. That section 9-195, Revised Statutes Supplement, 1984, be amended to read as follows:

~~9-195-~~ (1) Except as provided in subsection (2) ~~or (3)~~ of this section, any county or incorporated municipality may, by resolution or ordinance, tax, regulate, control, or prohibit any lottery or raffle within the boundaries of such county or the corporate limits of such incorporated municipality. No county may impose a tax or otherwise regulate, control, or prohibit any lottery within the corporate limits of an incorporated municipality. Any tax imposed pursuant to this subsection shall be remitted to the general fund of the county or incorporated municipality imposing such tax.

(2) No city, county, or nonprofit licensed organization holding a certificate of exemption under the Internal Revenue Code, section 501, or whose major

activities are conducted for charitable or community betterment purposes may conduct a lottery or raffle and no person may engage in lottery or raffle activity within the boundaries of any Class 6 or Class 7 county as classified under section 23-1114.01 or within the corporate limits of any city of the metropolitan or primary class until specific authorization has been granted by ordinance or resolution of the city or county to conduct a lottery, raffle, or related activity. Any ordinance or resolution that provides specific authorization for a lottery, raffle, or related activity may tax, regulate, or otherwise control such lottery, raffle, or related activity.

(3) Nothing in this section shall be construed to apply to (a) bingo as defined in section 9-127, (b) gift enterprise as defined in subdivision (9) of section 28-1101, (c) raffle with gross proceeds of not more than five thousand dollars or lottery with gross proceeds of not more than one thousand dollars as defined in section 28-1101, or (d) lottery by sale of pickle card as defined in section 9-140-01.

(4) Nothing in this section shall be construed to authorize any lottery or raffle not otherwise authorized under sections 28-1114 to 28-1116-01 Nebraska law.

Sec. 155. (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. 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) 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.

(3) 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.

(4) 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. 156. Any person in this state, including any law enforcement official, who has cause to believe that (1) any licensed organization, (2) any employee or agent of such licensed organization, (3) any person acting in concert with such licensed organization, or (4) any person in connection with a lottery or raffle has engaged in or is engaging in any conduct in violation of the Nebraska Lottery and Raffle Act or has aided or is aiding another in any conduct in violation of such act may commence a civil action in any district court of this state.

Sec. 157. In any civil action commenced pursuant to section 156 of this act, a court may allow:

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

(2) A declaration that the conduct by a licensed organization or employee or agent of a licensed organization, which is a party to the action, constitutes a violation of the Nebraska Lottery and Raffle Act and a determination of the number and times of violations for certification to the department for appropriate license or permit revocation purposes;

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

(4) An accounting of the profits, earnings, or gains resulting directly and indirectly from such violations, with a distribution of such profits, earnings, or gains to all licensed organizations existing at the time of such violations which apply to the court and show that they suffered monetary losses by reason of such violations and with distribution of any remaining profits, earnings, or gains to the state; and

(5) Reasonable attorneys' fees and court costs.

Sec. 158. Proceedings under section 156 of this act shall be subject to and governed by the district court civil procedure statutes. Issues properly raised shall be tried and determined as in other civil actions in equity. All orders, judgments, and decrees rendered may be reviewed as other orders, judgments, and decrees.

Sec. 159. Sections 159 to 171 of this act shall be known and may be cited as the Nebraska Small Lottery and Raffle Act.

Sec. 160. The purpose of the Nebraska Small

Lottery and Raffle Act is to allow qualifying nonprofit organizations to conduct lotteries with gross proceeds not greater than one thousand dollars or raffles with gross proceeds not greater than five thousand dollars subject to minimal regulation. The Nebraska Small Lottery and Raffle Act shall apply to all lotteries with gross proceeds not greater than one thousand dollars, except for lotteries by the sale of pickle cards conducted in accordance with the Nebraska Pickle Card Lottery Act and lotteries conducted by a county, city, or village in accordance with the Nebraska County and City Lottery Act, and to all raffles with gross proceeds not greater than five thousand dollars. All such lotteries and raffles shall be played and conducted only by the methods permitted in the act. No other form or method shall be authorized or permitted.

Sec. 161. For purposes of the Nebraska Small Lottery and Raffle Act, unless the context otherwise requires, the definitions found in sections 162 to 167 of this act shall be used.

Sec. 162. (1) Charitable or community betterment purposes shall mean (a) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded, (b) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures, and (c) lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people.

(2) Charitable or community betterment purposes shall not include any activity consisting of an attempt to influence legislation or participate in any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

(3) Nothing in this section shall prohibit any qualifying nonprofit organization from using its proceeds or profits derived from activities under the Nebraska Small Lottery and Raffle Act in any activity which benefits and is conducted by the qualifying nonprofit organization, including any charitable, benevolent, humane, religious, philanthropic, recreational, social, educational, civic, or fraternal activity conducted by the organization for the benefit



of its members.

Sec. 163. Expenses shall mean (1) all costs associated with the purchasing, printing, or manufacturing of any items to be used or distributed in the lottery or raffle, (2) all office or clerical expenses in connection with the lottery or raffle, (3) all promotional expenses, (4) all salaries of persons employed to operate, conduct, or supervise any lottery or raffle, (5) any rental or lease expense, and (6) any fee or commission paid to any person associated with the lottery or raffle.

Sec. 164. Gross proceeds shall mean the total aggregate receipts received from the conduct of any lottery or raffle conducted by any qualifying nonprofit organization without any reduction for prizes, discounts, or expenses and shall include receipts from admission costs, any consideration necessary for participation, and the value of any free tickets, games, or plays used.

Sec. 165. (1) Lottery shall mean a gambling scheme in which (a) participants pay or agree to pay something of value for an opportunity to win, (b) winning opportunities are represented by tickets differentiated by sequential enumeration, (c) the winners are to be determined by a random drawing of the tickets, and (d) the holders of the winning tickets are to receive something of value.

(2) Lottery shall not include (a) any raffle, (b) any gambling scheme which uses any mechanical, computer, electronic, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value, (c) any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska County and City Lottery Act, section 184 of this act, or Chapter 2, article 12, or (d) any activity prohibited under Chapter 28, article 11.

Sec. 166. Qualifying nonprofit organization shall mean any nonprofit organization holding a certificate of exemption under section 501 of the Internal Revenue Code or whose major activities, exclusive of conducting any lottery or raffle, are conducted for charitable and community betterment purposes.

Sec. 167. (1) Raffle shall mean a gambling scheme in which (a) participants pay or agree to pay something of value for an opportunity to win, (b)

winning opportunities are represented by tickets differentiated by sequential enumeration, (c) winners are to be determined by a random drawing of tickets, and (d) at least eighty per cent of all of the prizes to be awarded are merchandise prizes which are not directly or indirectly redeemable for cash by the licensed organization conducting the raffle or any agent of the organization.

(2) Raffle shall not include any gambling scheme which uses any mechanical, computer, electronic, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value, (b) any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska County and City Lottery Act, section 184 of this act, or Chapter 2, article 12, or (c) any activity prohibited under Chapter 28, article 11.

Sec. 168. That section 28-1115, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1115. Any qualifying nonprofit organization holding a certificate of exemption under the Internal Revenue Code, section 501; or whose major activities, exclusive of conducting lotteries, raffles, or gift enterprises, are conducted for charitable and community betterment purposes may conduct lotteries, raffles, and gift enterprises that have, in the case of lotteries and gift enterprises, a lottery that has gross proceeds not greater than one thousand dollars, and, in the case of raffles, gross proceeds not greater than five thousand dollars or that are conducted pursuant to the Nebraska Bingo and Lottery Control Act. Each chance in such lottery shall have an equal likelihood of being a winning chance. The gross proceeds of such activities may the lottery shall be used solely for charitable or community betterment purposes, awarding of prizes, and expenses, to participants, and operating such lottery, raffle, or gift enterprise. No more than one lottery shall be conducted by any qualifying organization within any calendar month.

Sec. 169. Any qualifying nonprofit organization may conduct a raffle that has gross proceeds not greater than five thousand dollars. Each chance in such raffle shall have an equal likelihood of being a winning chance. The gross proceeds shall be used solely for charitable or community betterment purposes, awarding of prizes, and expenses. Any



qualifying nonprofit organization may conduct one or more raffles in a calendar month if the total gross proceeds from such raffles do not exceed five thousand dollars during such month.

Sec. 170. The Department of Revenue or any law enforcement agency may require any proper investigation or audit of any qualifying nonprofit organization which conducts any lottery or raffle under the Nebraska Small Lottery and Raffle Act, either for the specific purpose of determining whether the provisions of the Nebraska Small Lottery and Raffle Act are being complied with or for the specific purpose of ensuring that the provisions of the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska County and City Lottery Act are not being violated. No audit or investigation shall be conducted under this section except as is absolutely necessary for the department or the agency to fulfill its necessary and proper duties.

Sec. 171. Any person who violates any provision of the Nebraska Small Lottery and Raffle Act shall be guilty of a Class IV misdemeanor for the first offense and of a Class II misdemeanor for any second or subsequent offense.

Sec. 172. Sections 172 to 184 of this act shall be known and may be cited as the Nebraska County and City Lottery Act.

Sec. 173. The purpose of the Nebraska County and City Lottery Act is to allow any county, city, or village to conduct a lottery for community betterment purposes. Any lottery conducted by a county, city, or village shall be conducted only by those methods and under those circumstances prescribed in the act. No other form or method shall be authorized or allowed.

Sec. 174. For purposes of the Nebraska County and City Lottery Act, unless the context otherwise requires, the definitions found in sections 175 to 178 of this act shall be used.

Sec. 175. (1) Community betterment purposes shall mean (a) benefiting persons by enhancing their opportunity for educational advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, by providing them with opportunities to contribute to the betterment of the community, or by increasing their comprehension of and devotion to the principles upon which this nation was founded, (b) initiating, performing, or fostering worthy public works



or enabling or furthering the erection or maintenance of public structures, (c) lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people, and (d) by providing tax relief for the community.

(2) Community betterment purposes shall not include any activity consisting of an attempt to influence legislation or participate in any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

Sec. 176. Expenses shall mean (1) all costs associated with the purchasing, printing, or manufacturing of any items to be used or distributed in the lottery, (2) all office or clerical expenses in connection with the lottery, (3) all promotional expenses for the lottery, (4) all salaries of persons employed to operate, conduct, or supervise the lottery, (5) any rental or lease expense related to the lottery, and (6) any fee or commission paid to any person associated with the lottery. Expenses shall not include taxes paid pursuant to section 181 of this act or prizes awarded to participants.

Sec. 177. Gross proceeds shall mean the total aggregate receipts received from the conduct of any lottery conducted by any county, city, or village without any reduction for prizes, discounts, taxes, or expenses and shall include receipts from admission costs, any consideration necessary for participation, and the value of any free tickets, games, or plays used.

Sec. 178. (1) Lottery shall mean a gambling scheme in which (a) the players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium one or more of which chances are to be designated the winning ones, (b) the winning chances are to be determined by a drawing or by some other method based on an element of chance, and (c) the holders of the winning chances are to receive cash or prizes redeemable for cash.

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



Lottery and Raffle Act, section 184 of this act, or Chapter 2, article 12, or (c) any activity prohibited under Chapter 28, article 11.

Sec. 179. That section 28-1116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1116- Any county, city, or village may establish and conduct ~~letteries~~ when the proceeds of such ~~letteries~~ are used for community betterment purposes and the awarding of prizes to participants. Such ~~letteries~~ shall be subject to regulation by the Department of Revenue a lottery if an election is first held pursuant to this section. No county, city, or village shall establish and conduct ~~such~~ 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 the such purpose, of considering such action. 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 the effective date of this act by a majority of the registered voters of such county, city, or village casting ballots on the issue.

Sec. 180. That section 28-1116.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1116-01- The gross proceeds of any lottery authorized by section 28-1116 conducted by a county, city, or village shall be used solely for community betterment purposes, awarding of prizes, ~~to participants,~~ payment of taxes, and expenses, pursuant to section 9-196, and operating such lottery. Not less than sixty-five per cent of the gross proceeds shall be used for the awarding of prizes, and not more than ten per cent of the gross proceeds shall be used to pay the expenses of operating the lottery. ~~such scheme.~~ For the purpose of this section, the expenses of operating a lottery shall include (1) all costs associated with printing or manufacturing any items to be used or distributed to participants such as tickets or other paraphernalia; (2) all office expenses; (3) all promotional expenses; (4) all salaries of persons employed to operate the scheme; (5) any rental or lease expense; and (6) any fee paid to any person associated with the operation of the lottery, except that prizes awarded to participants shall not be included within the ten per cent limitation contained in this section; nor

the payment of any taxes pursuant to section 9-196- Each county, city, or village conducting a lottery shall have its name clearly printed on each lottery ticket used in such lottery. No such ticket shall be sold unless such name is so printed thereon. Each county, city, or village conducting a lottery shall keep a record of all locations where its lottery tickets are sold. All tickets shall bear a number, which numbers shall be in sequence.

Sec. 181. Any county, city, or village which conducts a lottery shall submit to the Department of Revenue on a quarterly basis a tax of two per cent of the gross proceeds. Such tax shall be submitted within thirty days of the end of each quarter. The tax shall be deposited in the General Fund.

Sec. 182. Each county, city, or village conducting a lottery shall have its name clearly printed on each ticket or stub used in the lottery. Each ticket or stub shall bear a number, which numbers shall be in sequence. No such ticket or stub shall be sold unless the name and number are printed thereon. Each county, city, or village conducting a lottery shall keep a record of all locations where its tickets or stubs are sold.

Sec. 183. The Department of Revenue shall regulate lotteries conducted by counties, cities, and villages to insure fairness, equity, and uniformity.

Sec. 184. That section 28-1114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~28-1114-~~ Any person engaged in a bona fide business, with an established place of business in this state or, in the case of a foreign corporation, with an established place of business in another state may, solely for the purpose of business promotion and not for profit to such person, conduct a gift enterprise.

For purposes of this section, gift enterprise shall mean a game in which prizes are offered and awarded to participants in such games when no payment is required for participation. Such games may require as a condition of participation the evidence of the purchase of a product or other property, except that the price charged for such product or other property shall be no greater than it would be if no game were involved.

Sec. 185. (1) The Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, and the Nebraska Small Lottery and Raffle Act shall be administered and enforced by the Charitable Gaming Division of the Department of Revenue,



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

(2) The Charitable Gaming Operations Fund is hereby created. Thirty per cent of the taxes collected on and after July 1, 1986, pursuant to sections 40, 110, and 150 of this act shall be available to the Charitable Gaming Division for administering and enforcing the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, and the Nebraska Small Lottery and Raffle Act. The remaining seventy per cent, along with any portion of the thirty per cent not used by the division in its administration and enforcement of such acts, shall be transferred to the General Fund.

Sec. 186. That section 14-102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~14-102-~~ In addition to the powers granted in section 14-101, ~~metropolitan cities, as therein defined,~~ of the metropolitan class shall have power by ordinance: Taxes, special assessments.

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

Corporate seal.

(2) To provide a corporate seal for the use of the city, and also any official seal for the use of any officer, board, or agent of the city, whose duties under this act or under any ordinance require an official seal to be used. Such corporate seal shall be used in the execution of municipal bonds, warrants, conveyances, and other instruments and proceedings, as this act or the ordinances of the city require;

Regulation of public health.

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

Appropriations for debts and expenses.

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

Protection of strangers and travelers.

(5) To adopt all such measures as they may deem necessary for the accommodation and protection of

strangers and the traveling public in person and property;

Concealed weapons, firearms, fireworks, explosives.

(6) To punish and prevent the carrying of concealed weapons, the discharge of firearms, fireworks, or explosives of any description within the city;

Weights and measures; sale of food stuffs.

(7) To regulate the weighing and measuring of hay, wood, and other articles exposed for sale, and of all coal sold or delivered within the city; to provide for, license, and regulate the inspection and sale of meats, flour, poultry, fish, milk, vegetables, and all other provisions or articles of food exposed or offered for sale in the city; to prescribe the weight and quality of bread exposed or offered for sale in the loaf; and to provide for the inspection of weights and measures or weighing apparatus;

Official bonds.

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

Official reports of city officers.

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

Cruelty to children and animals.

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

Dogs; taxes and restrictions.

(11) To regulate, license, or prohibit the running at large of dogs and other animals within the city as well as in areas within three miles of the corporate limits of the city, and guard against injuries or annoyance from such dogs and other animals, and to authorize the destruction of the same when running at large contrary to the provisions of any ordinance;

Cleaning sidewalks.

(12) To provide for keeping sidewalks clean and free from obstructions and accumulations; and they may provide for the assessment and collection of taxes on real estate, and for the sale and conveyance thereof, to pay the expenses of keeping the sidewalk adjacent to such real estate clean and free from obstructions and accumulations as herein provided;

Planting and trimming of trees;  
protection of birds.



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

Naming and numbering streets and houses.

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

Weeds.

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

Animals running at large.

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

Use of streets.

(17) To regulate the transportation of articles through the streets, to prevent injuries to the streets from overloaded vehicles, and to regulate the

width of wagon tires, and tires of other vehicles;

Playing on streets and sidewalks.

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

Combustibles and explosives.

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

Public sale of chattels on streets.

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

Signs and obstruction in streets.

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

Disorderly conduct.

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

Vagrants and tramps.

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

Disorderly houses, gambling, offenses against public morals.

(24) To prohibit, restrain, and suppress tippling shops, houses of prostitution, opium joints, or



gambling houses, prize fighting, dog fighting, cock fighting, and other disorderly houses and practices, all games and gambling and desecration of the Sabbath, commonly called Sunday, and all kinds of indecencies; to regulate and license or prohibit the keeping and use of billiard tables, ten pins or ball alleys, shooting galleries, and other similar places of amusement, and to prohibit and suppress, by ordinance, all lotteries and gift enterprises of all kinds under whatsoever name carried on, except that nothing in this subdivision shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, Nebraska Raffle and Lottery Act, or the Nebraska Small Lottery and Raffle Act;

Police regulation in general.

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

Fast driving on streets.

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

Libraries, art galleries, and museums.

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

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

(28) To erect, designate, establish, maintain, and regulate hospitals or workhouses, houses of correction, jails, station houses, fire engine houses, asphalt repair plant, and other necessary buildings; also plants for the removal and disposal of garbage, or to make contracts for the removal or disposal of garbage, or for both, except as hereinafter provided. Before ; ~~PROVIDED; that before~~ any contract for the removal and disposal of garbage, or both, shall be let, the city council shall make specifications therefor, bids shall be advertised for as now provided by law, and the contract shall be let to the lowest and best bidder, who shall furnish bond to the city conditioned upon his or her carrying out the terms of the contract, the bond to be approved by the city council. ~~Nothing ; and provided further; that nothing~~ in this act, and no contract or regulation made by the city council, shall be so construed as to prohibit any person, firm, or corporation engaged in any business in which garbage accumulates as a byproduct, from selling or otherwise disposing of his, her, or its garbage, or hauling the same through the streets and alleys under such uniform and reasonable regulations as the city council may by ordinance prescribe for the removal and hauling of garbage;

Market places.

(29) To erect and establish market houses and market places, and to provide for the erection of all other useful and necessary buildings for the use of the city, and for the protection and safety of all property owned by the city; and they may locate such market houses and market places, and buildings aforesaid, on any street, alley, or public ground, or on land purchased for such purpose;

Cemeteries, registers of births and deaths.

(30) To prohibit the establishment of additional cemeteries within the limits of the city, to regulate the registration of births and deaths, to direct the keeping and returning of bills of mortality, and to impose penalties on physicians, sextons, and others for any default in the premises;

Plumbing, etc., inspection.

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

Fire limits and fire protection.

(32) To prescribe fire limits and regulate the



erection of all buildings and other structures within the corporate limits; to provide for the removal of any buildings, or structures or additions thereto erected contrary to such regulations, to provide for the removal of dangerous buildings, and to provide that wooden buildings shall not be erected or placed or repaired in the fire limits; but such ordinance shall not be suspended or modified by resolution nor shall exceptions be made by ordinance or resolution in favor of any person, firm, or corporation, or concerning any particular lot or building; to direct that all and any building within such fire limits, when the same shall have been damaged by fire, decay, or otherwise, to the extent of fifty per cent of the value of a similar new building above the foundation, shall be torn down or removed; and to prescribe the manner of ascertaining such damages and to assess the cost of removal of any building erected or existing contrary to such regulations or provisions, against the lot or real estate upon which such building or structure is located or shall be erected, or to collect such costs from the owner of any such building or structure and enforce such collection by civil action in any court of competent jurisdiction;

Building regulations.

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

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

Warehouses and street railways.

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

Lighting railroad property.

(35) To require the lighting of any railway within the city, the cars of which are propelled by steam, and to fix and determine the number, size, and style of lamp posts, burners, lamps, and all other fixtures and apparatus necessary for such lighting, and the points of location for such lamp posts; and in case any company owning or operating such railways shall fail to comply with such requirements, the council may cause the same to be done and may assess the expense thereof against such company, and the same shall constitute a lien upon any real estate belonging to such company and lying within such city, and may be collected in the same manner as taxes for general purposes;

City publicity.

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

Off-street parking.

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



## Public Passenger Transportation Systems.

(38) To acquire, by the exercise of the power of eminent domain or otherwise, lease, purchase, construct, own, maintain and operate, or contract for the operation of, public passenger transportation systems, excluding taxicabs and railroad systems, including all property and facilities required therefor, within and without the limits of the city, to redeem such property from prior encumbrance in order to protect or preserve the interest of the city therein, to exercise all powers granted by the Constitution and laws of the State of Nebraska or exercised by or pursuant to a home rule charter adopted pursuant thereto, including but not limited to receiving and accepting from the government of the United States or any agency thereof, from the State of Nebraska or any subdivision thereof, and from any person or corporation, donations, devises, gifts, bequests, loans, or grants for or in aid of the acquisition, operation, and maintenance of such public passenger transportation systems, and to administer, hold, use, and apply the same for the purposes for which such donations, devises, gifts, bequests, loans, or grants may have been made, to negotiate with employees and enter into contracts of employment, to employ by contract or otherwise individuals singularly or collectively, to enter into agreements authorized under the Interlocal Cooperation Act, to contract with an operating and management company for the purpose of operating, servicing, and maintaining any public passenger transportation systems any city of the metropolitan class shall acquire under the provisions of this act, and to exercise such other and further powers as may be necessary, incident, or appropriate to the powers of such city.

Sec. 187. That section 15-258, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-258. A primary city of the primary class may restrain, prohibit, and suppress unlicensed tippling shops, billiard tables, bowling alleys, houses of prostitution, opium joints, dens, and other disorderly houses and practices, games, gambling houses, desecration of the Sabbath day, commonly called Sunday, and may prohibit all public amusements, shows, exhibitions, or ordinary business pursuits upon said such day, all lotteries, all and fraudulent devices and practices for the purposes of obtaining money or property, all shooting galleries, and all kinds of public indecencies, except that nothing in this section

shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Small Lottery and Raffle Act.

Sec. 188. That section 16-226, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-226. A city of the first class by ordinance may regulate, prohibit, and suppress unlicensed tipping shops, billiard tables, and bowling alleys, may ; restrain houses of prostitution, opium joints, dens, and other disorderly houses and practices, games, and gambling houses, and desecration of the Sabbath day, commonly called Sunday, ; and may prohibit all public amusements, shows, exhibitions, or ordinary business pursuits upon ~~said~~ such day, all lotteries, all ~~of~~ fraudulent devices and practices for the purpose of obtaining money or property, all shooting galleries; and all kinds of public indecencies, except that nothing in this section shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Small Lottery and Raffle Act.

Sec. 189. That section 17-120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-120. A ~~second-class~~ city of the second class shall have power to restrain, prohibit, and suppress houses of prostitution and unlicensed tipping shops, gambling and gambling houses, and other disorderly houses and practices, and all kinds of public indecencies, and all lotteries or fraudulent devices and practices for the purpose of obtaining money or property, except that nothing in this section shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Small Lottery and Raffle Act. It may license, regulate, or prohibit billiard halls and billiard tables, pool halls and pool tables, and bowling alleys.

Sec. 190. That section 17-207, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-207. The board of trustees shall have



power to pass ordinances to prevent and remove nuisances; to prevent, restrain, and suppress bawdy houses, gambling houses, and other disorderly houses; and to license, regulate, or prohibit billiard halls, pool halls, or bowling alleys within the limits of such village; to restrain and prohibit gambling; to provide for licensing and regulating theatrical and other amusements within such village; to establish night watches; to provide pest houses; to prevent the introduction and spread of contagious diseases; to establish and regulate markets; to erect and repair bridges; to erect, repair, and regulate wharves and the rates of wharfage; to regulate the landing of steamboats, rafts, and other watercraft; to provide for the inspection of lumber, building materials, and provisions to be used or offered for sale in such village, or to be exported therefrom; to require and regulate the planting and protection of shade trees in the streets, the building of stairways, railways, doorways, awnings, hitching posts and rails, lamp posts, awning posts, and all other structures projecting upon or over and adjoining, and all excavations through and under the sidewalks of such village; and in addition to the special powers herein conferred and granted, to maintain the peace, good government, and welfare of the town or village, and its trade, commerce, and manufactories, and to enforce all ordinances by inflicting penalties upon inhabitants or other persons, for the violation thereof, not exceeding one hundred dollars for any one offense, recoverable with costs, together with judgment of imprisonment until the amount of said the judgment and costs shall be paid. Nothing in this section shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Small Lottery and Raffle Act.

Sec. 191. (1) Municipalities may issue notes up to seventy per cent of the unexpended balance of total anticipated receipts for the current year and the following year. Total anticipated receipts for the current year and the following year shall mean a sum equal to the anticipated receipts from the current existing total levy multiplied by two.

Municipalities may execute and deliver in evidence thereof their promissory notes, which they are hereby authorized and empowered to make and negotiate, bearing a rate of interest set by the city council or

village board and maturing not more than two years from the date thereof. Such notes, before they are negotiated, shall be presented to the treasurer of the municipality and registered by him or her and shall be payable out of the funds collected by such municipality in the order of their registration after the payment of prior registered warrants, but prior to the payment of any warrant subsequently registered, except that if both warrants and notes are registered, the total of such registered notes and warrants shall not exceed one hundred per cent of the unexpended balance of the total anticipated receipts of such municipality for the current year and the following year. For the purpose of making such calculation, such total anticipated receipts shall not include any anticipated receipts against which the municipality has issued notes pursuant to this section in either the current or the immediately preceding year.

(2) In addition to the provisions of subsection (1) of this section, municipalities may accept interest-free or low-interest loans from the federal government and may execute and deliver in evidence thereof their promissory notes maturing not more than twenty years from the date of execution.

Sec. 192. That section 28-1101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) A person advances gambling activity if, acting other than as a player, he or she engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes, but shall not be limited to, conduct directed toward (a) the creation or establishment of the particular game, contest, scheme, device, or activity involved or (b) the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor;

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

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

(4) A person engages in gambling if he or she



bets something of value upon the outcome of a future event, which outcome is determined by an element of chance, or upon the outcome of a game, contest, or election, or conducts or participates in any bingo, lottery by the sale of pickle cards, lottery, raffle, gift enterprise, or other scheme not authorized or conducted pursuant to sections 28-1114 to 28-1116-01 or section 28-1116-02, or conducts or participates in any bingo or lottery by the sale of pickle cards not authorized or conducted pursuant to in accordance with the Nebraska Bingo and Lottery Control Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the Nebraska County and City Lottery Act, or section 184 of this act, but a person does not engage in gambling by:

(a) Entering into a lawful business transaction;

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

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

(d) Conducting or participating in a contest any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise conducted in accordance with the provisions of sections 28-1113 to 28-1116-01 or section 28-1116-02, or

(e) Participating in or conducting bingo, a lottery, a raffle, or a lottery by the sale of pickle cards pursuant to the Nebraska Bingo and Lottery Control Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the Nebraska County and City Lottery Act, or section 184 of this act;

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

something of value, except as authorized in the furtherance of parimutuel wagering. Bingo supplies and equipment as defined in section 9-129; pickle cards as defined in section 9-140-01; pickle card units as defined in section 9-140-05 in the possession of a distributor licensed under section 9-178; and tickets, cards, and other items used in the playing phases of schemes defined in sections 28-1113 to 28-1116-01 or section 28-1116-02 Supplies, equipment, cards, tickets, stubs, and other items used in any bingo, lottery by the sale of pickle cards, other lottery, raffle, or gift enterprise conducted in accordance with the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the Nebraska County and City Lottery Act, or section 184 of this act are not gambling devices within this definition;

(6) Lottery shall mean a gambling scheme in which (a) the players pay or agree to pay something of value for chances; represented and differentiated by numbers or by combinations of numbers or by some other medium; one or more of which chances are to be designated the winning ones; (b) the winning chances are to be determined by a drawing or by some other method based on an element of chance; and (c) the holders of the winning chances are to receive cash or prizes redeemable for cash. Lottery shall not include any gambling scheme which uses any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has the capability of awarding monetary prizes, free games redeemable for monetary prizes, or tickets or stubs redeemable for monetary prizes. Nothing in this subdivision shall be construed to include any bingo as defined in section 9-127, any raffle as defined in this section, or any scheme using pickle cards pursuant to the Nebraska Bingo and Lottery Control Act;

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

(8) (7) Prize contest shall mean any competition in which one or more competitors are awarded something of value as a consequence of winning or achieving a certain result in the competition and (a) the value of such awards made to competitors



participating in the contest does not depend upon the number of participants in the contest or upon the amount of consideration, if any, paid for the opportunity to participate in the contest or upon chance and (b) the value or identity of such awards to be made to competitors is published before the competition begins.

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(9) Gift enterprise shall mean a game in which prizes are offered and awarded to participants in such games when no payment is required for participation therein. For business promotion purposes only, such games may require as a condition of participation the evidence of the purchase of a product or other property, except that the price charged for such product or other property shall be no greater than it would be if no game were involved; and

(10) Raffle shall mean any gambling scheme in which: (a) Participants pay or agree to pay something of value for an opportunity to win something of value; (b) winning opportunities are represented by tickets or cards differentiated by numbers sequentially enumerated; and (c) winners are determined by a random drawing of the tickets or cards. At least eighty per cent of all prizes awarded shall be merchandise that is not redeemable or convertible into cash directly or indirectly by the licensed organization. Nothing in this subdivision shall be construed to include any bingo as defined in section 9-127 nor any lottery by the sale of pickle cards as defined in section 9-140-01.

Sec. 193. That section 28-1105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

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

(b) Of a kind commonly used in the operation, promotion, or playing of a lottery or mutual scheme or enterprise or other scheme not conducted pursuant to sections 28-1114 to 28-1116-01 and the Nebraska Bingo and Lottery Control Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the Nebraska

County and City Lottery Act, or section 184 of this act and such writing, paper, instrument, or article has been used for the purpose of recording, memorializing, or registering any bet, wager, or other gambling information not permitted by sections 28-1114 to 28-1116-01 and the Nebraska Bingo and Lottery Control Act such acts or section.

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

Sec. 194. That section 28-1110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1110. It shall be no defense to a prosecution under any provision of this article relating to a lottery gambling that the lottery itself gambling is ~~drawn or~~ conducted outside this state and is not in violation of the laws of the jurisdiction in which it is ~~drawn or~~ conducted.

Sec. 195. That section 28-1113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) Apply to or prohibit wagering on the results of horseraces by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horserace meetings; or

(2) Prohibit or punish the ~~playing of bingo~~ when conducted by any licensee operating pursuant to the Nebraska Bingo and Lottery Control Act or prohibit or punish conducting or participating in any bingo, lottery by the sale of pickle cards pursuant to lottery, raffle or gift enterprise when conducted in accordance with the Nebraska Bingo and Lottery Control Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the Nebraska County and City Lottery Act, or section 184 of this act.

Sec. 196. That section 57-702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-702. (1) Commencing on January 1, 1956, and for each subsequent year, taxes are hereby levied on oil and natural gas severed from the soil of this state, except such oil or gas as is used only in severing operations or for repressuring or recycling purposes. Such taxes shall: (a) Be paid by (i) the first purchaser, if such oil or natural gas is sold in the state, or (ii) the person severing such oil or gas if



such oil or natural gas is sold outside the state; and (b) become due and payable monthly, as provided by Chapter 57, article 7.

(2) The state shall have a prior and preferred lien, which shall arise when the tax levied in subsection (1) of this section, is delinquent as provided in section 57-704, for the amount of the taxes, penalties, and interest imposed pursuant to Chapter 57, article 7, on:

(a) The oil or gas to which the tax applies that is possessed by the producer, first purchaser, or subsequent purchaser;

(b) The leasehold interest, oil or gas rights, the value of oil or gas rights, and other interests, including oil or gas produced and oil or gas runs owned by a person liable for the tax;

(c) Equipment, tools, tanks, and other implements used on the leasehold from which the oil or gas is produced; and

(d) Any other property not exempt from forced sale owned by the person liable for the tax.

As soon as possible after such lien arises, the Tax Commissioner shall cause such lien to be filed in the office of the county clerk in the appropriate county filing officer.

Sec. 197. That section 57-710, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-710. The tax, provided by the provisions of sections 57-701 to 57-714, shall become delinquent after the last day of each month, as provided in section 57-704. Any such tax not paid within the time specified shall bear interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date of delinquency until paid, and such tax together with the interest shall be a lien upon the oil or gas against which the tax and interest is levied and assessed as provided in section 57-702. The Tax Commissioner shall charge and collect a penalty for the delinquency in the amount of one per cent of the delinquent taxes for each month, or part thereof, that the delinquency has continued but in no event shall the penalty be more than twenty-five per cent of the delinquent taxes. The Tax Commissioner may waive all or part of the penalty provided in this section but shall not waive the interest.

Sec. 198. That section 57-919, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

57-919. (1) All money collected by the Tax Commissioner or the commission or as civil penalties under ~~the provisions of~~ sections 57-901 to 57-921 shall be remitted to the State Treasurer for deposit in a special fund to be known as the Oil and Gas Conservation Fund. Expenses incident to the administration of sections 57-901 to 57-921 shall be paid out of the Oil and Gas Conservation Fund. Any money in the Oil and Gas Conservation Fund available for investment shall be invested by the state investment officer pursuant to ~~the provisions of~~ sections 72-1237 to ~~72-1259~~ 72-1269.

(2) There is hereby levied and assessed on the value at the well of all oil and gas produced, saved, and sold or transported from the premises in Nebraska where produced a charge not to exceed four mills on the dollar. The commission shall by order fix the amount of such charge in the first instance and may, from time to time, reduce or increase the amount thereof as, in its judgment, the expenses chargeable against the Oil and Gas Conservation Fund may require, except ; ~~PROVIDED~~; that the amounts fixed by the commission shall not exceed the limit ~~hereinabove~~ prescribed in this section. It shall be the duty of the Tax Commissioner to make collection of such assessments. The persons owning an interest, working interest, royalty interest, payments out of production, or any other interest, in the oil and gas, or in the proceeds thereof, subject to the charge ~~hereinabove~~ provided for in this section shall be liable to the producer for such charge in proportion to their ownership at the time of production. The producer shall, on or before the last day of the month next succeeding the month in which the charge was assessed, file a report or return in such form as prescribed by the commission and Tax Commissioner together with all charges due. In ; ~~PROVIDED~~; that in the event of a sale of oil or gas within this state the first purchaser shall file this report or return together with any charges then due. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the final filing date. Such reports or returns shall be considered filed on time if postmarked before midnight of the final filing date. Any such charge not paid within the time herein specified shall bear interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date of delinquency until paid, and such charge together with the interest shall be a lien ~~upon the oil or gas against~~



which the same is levied and assessed as provided in section 57-702. The Tax Commissioner shall charge and collect a penalty for the delinquency in the amount of one per cent of the charge for each month or part of the month that the charge has remained delinquent but in no event shall the penalty be more than twenty-five per cent of the charge. The Tax Commissioner may waive all or part of the penalty provided in this section but shall not waive the interest. The person remitting the charge as provided in this section is hereby authorized, empowered, and required to deduct from any amounts due the persons owning an interest in the oil and gas or in the proceeds thereof at the time of production the proportionate amount of such charge before making payment to such persons. This subsection shall apply to all lands in the State of Nebraska, anything in section 57-920 to the contrary notwithstanding, except ; ~~PROVIDED~~; that there shall be exempted from the charge ~~hereinabove~~ levied and assessed in this section the following: (a) The interest of the United States of America and the interest of the State of Nebraska and the political subdivisions thereof in any oil or gas or in the proceeds thereof; (b) the interest of any Indian or Indian tribe in any oil or gas or in the proceeds thereof; produced from land subject to the supervision of the United States; and (c) oil and gas used in producing operations or for repressuring or recycling purposes. All money so collected shall be remitted to the State Treasurer for credit to the Oil and Gas Conservation Fund and shall be used exclusively to pay the costs and expenses incurred in connection with the administration and enforcement ~~of the provisions~~ of sections 57-901 to 57-921.

Sec. 199. That section 66-448, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-448. All tax credit gasoline shall be placed, when delivered by distributor to purchaser, in a special storage container; ~~and each container must be labeled tax credit gasoline in large legible letters, except that an alternative method of labeling and containing the gasoline may be approved by the Tax Commissioner if the purchaser and claimant maintain an approved system of records to account for the tax credit gasoline.~~

Sec. 200. That section 76-214, Revised Statutes Supplement, 1985, be amended to read as follows:

76-214. Every grantee who has a deed to real

estate recorded, which deed was executed after July 21, 1965, shall at the time such deed is presented for recording file with the register of deeds a completed statement as prescribed by the Tax Commissioner. For all deeds executed and recorded after January 1, 1986, the statement shall contain the social security number of the grantee, if living, or the federal employer identification number of the grantee. This statement may require the recitation of any information contained in the deed, the total consideration paid, the amount of the total consideration attributable to factors other than the purchase of the real estate itself, and other factors which may influence the transaction. This statement shall be signed and filed by the grantee or his or her authorized agent. If the grantee fails to furnish such statement, the register of deeds shall not record the deed. The register of deeds shall indicate on the statement the book and page or computer system reference where the deed is recorded and shall immediately forward the statement to the county assessor. The county assessor shall process the statement according to the instructions of the Tax Commissioner and shall, when directed, forward the statement to the Tax Commissioner. This statement and the information contained therein shall be confidential and available to tax officials only.

Sec. 201. That section 77-631.02, Revised Statutes Supplement, 1984, be amended to read as follows:

77-631.02. If any such taxes and interest and penalties due thereon shall not have been paid on July 1, following the levy thereof, the total amount shall be a lien in favor of the State of Nebraska upon all money and credits belonging to such companies, firms, or individuals, until the liability therefor is satisfied or otherwise released or discharged, and it shall be lawful for the Tax Commissioner or his or her designated agent to collect such total amount by issuing a distress warrant and making levy upon all money and credits, belonging to such companies, firms, or individuals. Such lien shall be filed and enforced pursuant to the Uniform State Tax Lien Registration and Enforcement Act.

Sec. 202. That section 77-1250, Revised Statutes Supplement, 1984, be amended to read as follows:

77-1250. The tax levied pursuant to section 77-1249 shall be due and payable to the Tax Commissioner on December 31 next following the date of levy of such tax and shall be a first lien from that date on the



personal property, both tangible and intangible, of the person assessed until paid the liability is satisfied or otherwise released or discharged. Such lien shall be filed and enforced pursuant to the Uniform State Tax Lien Registration and Enforcement Act. The Tax Commissioner shall remit the tax paid to the State Treasurer, and the tax collected, less a three per cent collection fee, shall be distributed to the counties to the credit of the county general fund proportionate to the amount the total property taxes levied in the county bears to the total property taxes levied in the state as a whole, as determined pursuant to section 77-628. The collection fee shall be credited by the State Treasurer to the Tax Commissioner Revolving Fund.

Sec. 203. That section 77-2702, Revised Statutes Supplement, 1985, be amended to read as follows:

77-2702. For the purpose of sections 77-2702 to 77-2713, unless the context otherwise requires:

(1) Business shall mean any activity engaged in by any person or caused to be engaged in by him or her with the object of gain, benefit, or advantage, either direct or indirect;

(2) Tax Commissioner shall mean the Tax Commissioner of the State of Nebraska;

(3) Contractor or repairperson shall mean any person who performs any repair services or any improvement upon real estate, including leased property, and who, as a necessary and incidental part of performing such services, incorporates tangible personal property belonging to him or her into the property being so repaired or improved. Contractor or repairperson shall be considered to be the consumer of such tangible personal property furnished by him or her and incorporated into the property being so repaired or improved for all the purposes of the Nebraska Revenue Act of 1967;

(4)(a) Gross receipts shall mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of the retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(i) The cost of tangible personal property sold. In accordance with such rules and regulations as the Tax Commissioner may prescribe, a deduction may be taken if the retailer has purchased tangible personal property for some purpose other than resale, has reimbursed his or her vendor for tax which the vendor is required to pay to the state or has paid the use tax

with respect to the tangible personal property, and has resold the property prior to making any use of the tangible personal property other than retention, demonstration, or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his or her vendor with respect to the sale of the tangible personal property;

(ii) The cost of the materials used, labor or service costs, interest paid, losses, or any other expense;

(iii) The cost of transportation of the tangible personal property prior to its sale to the purchaser;

(iv) The amount of any excise or property tax levied against the tangible personal property, except as otherwise provided in the Nebraska Revenue Act of 1967; or

(v) The amount charged for warranties, guarantees, or maintenance agreements;

(b) Gross receipts of every person engaged as a public utility or as a community antenna television service operator or any person involved in the connecting and installing of services defined in subdivision (4)(b) of this section shall mean:

(i) In the furnishing of telephone communication service, the gross income received from furnishing local exchange telephone service and intrastate message toll telephone service;

(ii) In the furnishing of telegraph service, the gross income received from the furnishing of intrastate telegraph services;

(iii) In the furnishing of gas, electricity, sewer, and water service except water used for irrigation of agricultural lands, manufacturing purposes, and the care of animal life, the products of which ordinarily constitute food for human consumption, the gross income received from the furnishing of such services upon billings or statements rendered to consumers for such utility services; and

(iv) In the furnishing of community antenna television service, the gross income received from the furnishing of such community antenna television service as regulated under sections 18-2201 to 18-2205.

Gross receipts shall also not mean gross income received from the provision, installation, construction, servicing, or removal of tangible personal property used in connection conjunction with the furnishing, installing, or connecting of any such public



utility services or community antenna television service. Gross receipts shall not mean gross income received or from telephone directory advertising;

(c) Gross receipts of every person engaged in selling, leasing, or otherwise providing intellectual or entertainment property shall mean:

(i) In the furnishing of computer software, the gross income received, including the charges for coding, punching, or otherwise producing computer software and the charges for the tapes, disks, punched cards, or other properties furnished by the seller. Gross receipts shall not include the amount charged for training customers in the use of computer software, if such amount is separately stated and such separate statement is not used as a means of avoiding imposition of the tax upon the actual sales price of the computer software; and

(ii) In the furnishing of videotapes and movie film, the gross income received from the license, franchise, or other method establishing the charge, except the gross income received from videotape and film rentals when the admission tax is charged under the Nebraska Revenue Act of 1967; and

(d) Gross receipts does not include any of the following:

(i) Cash discounts allowed and taken on sales;  
 (ii) Sales price of tangible personal property returned by customers when the full sales price is refunded either in cash or credit;

(iii) Except as provided in subdivision (4)(b) of this section, the The amount charged for labor or services rendered in installing or applying the tangible personal property sold if such amount is separately stated and such separate statement is not used as a means of avoiding imposition of the tax upon the actual sales price of the tangible personal property;

(iv) The amount charged for finance charges, carrying charges, service charges, or interest from credit extended on sales of tangible personal property under contracts providing for deferred payments of the purchase price if such charges are not used as a means of avoiding imposition of the tax upon the actual sales price of the tangible personal property;

(v) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature;

(vi) The value of a motor vehicle taken by any person in trade as all or a part of the consideration

for a sale of another motor vehicle;

(vii) For purposes of the sales or use tax, if the retailer establishes to the satisfaction of the Tax Commissioner, and has been given prior approval by the Tax Commissioner, that the sales or use tax has been added to the total amount of the sale price and has not been absorbed by him or her, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed; or

(viii) Receipts from conditional sale contracts, installment sale contracts, rentals, and leases executed in writing prior to June 1, 1967, and with delivery of the tangible personal property prior to June 1, 1967, are not subject to the tax imposed by the Nebraska Revenue Act of 1967 if such conditional sale contracts, installment sale contracts, rentals, or leases are for a fixed price and are not subject to negotiation or alteration;

(5) In this state or within the state shall mean within the exterior limits of the State of Nebraska, and includes all the territory within these limits owned by or ceded to the United States of America;

(6) Occasional sale shall mean:

(a) A sale of tangible personal property which is the subject of any intercompany sale involving any parent, subsidiary, or brother-sister company relationship under subsection (5) of section 77-2704 and which was either originally acquired prior to June 1, 1967, or, if acquired thereafter, the seller directly or indirectly has previously paid a sales or use tax thereon, including:

(i) From one corporation to another corporation pursuant to a reorganization. As used in this subdivision, reorganization shall mean a statutory merger or consolidation or the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation or of its parent or subsidiary corporation;

(ii) In connection with the winding up, dissolution, or liquidation of a corporation only when there is a distribution of the property of such corporation to the shareholders in kind if the portion of the property so distributed to the shareholder is substantially in proportion to the share of stock or securities held by the shareholder;

(iii) To a corporation for the purpose of organization of such corporation when the former owners



of the property transferred are immediately after the transfer in control of the corporation and the stock or securities received by each is substantially in proportion to his or her interest in the property prior to the transfer;

(iv) To a partnership in the organization of such partnership if the former owners of the property transferred are immediately after the transfer members of such partnership and the interest in the partnership, received by each, is substantially in proportion to his or her interest in the property prior to the transfer; or

(v) From a partnership to the members thereof when made in kind in the dissolution of such partnership if the portion of the property so distributed to the members of the partnership is substantially in proportion to the interest in the partnership held by the members; and

(b) A sale of tangible personal property consisting of household goods and personal effects if each of the following conditions is met and if any one condition is not met then the entire gross receipts shall be subject to the tax imposed by the provisions of section 77-2703:

(i) Such sales are by an individual at his or her residence or if more than one individual's property is involved such sales are by one of the individuals involved at the residence of one of the individuals;

(ii) Such sales do not occur at any residence for more than three days during a calendar year;

(iii) Such individual or individuals or any member of any of their households do not conduct or engage in a trade or business in which similar items are sold;

(iv) Such property sold was originally acquired for and used for personal use; and

(v) Such property is not otherwise excepted from the definition of occasional sale;

(c) Any sale of business or farm machinery and equipment if each of the following conditions is met and if any one condition is not met the entire gross receipts shall be subject to the tax imposed by section 77-2703:

(i) Such machinery and equipment was transferred without the aid or supervision of any third party. For the purposes of this section, third party shall include anyone other than the owner and the buyer. The release of a lien held by a third party shall not constitute aid;

(ii) Such machinery or equipment was used by the seller as a depreciable capital asset in connection with the farm or business for a period of at least one year;

(iii) Such property was originally acquired prior to June 1, 1967, or if acquired thereafter, the seller directly or indirectly has previously paid a sales or use tax thereon; and

(iv) Such property is not otherwise excepted from the definition of occasional sale;

(d) A sale of tangible personal property by an organization created exclusively for religious purposes or an agent of the organization for such sale if each of the following conditions is met and if any one condition is not met then the entire gross receipts shall be subject to the tax imposed by section 77-2703:

(i) All sales occur during an activity conducted by such organization or, if more than one organization is involved, by one of the organizations owning property being sold;

(ii) The organization only sells property it owns during one such activity in a calendar year; and

(iii) The activity does not last longer than three consecutive days; and

(e) Occasional sale shall not include any sale of tangible personal property directly by or any sale which is supervised or aided by an auctioneer or an agent or employee of an auctioneer;

(7) Person shall mean and include any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit, but shall also include the United States or any agency thereof, this state or any agency hereof, or any city, county, district, or other political subdivision of this state, or agency thereof;

(8) Purchase shall mean any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration, including, but not limited to, a transfer of the possession of tangible personal property in which the seller retains the title as security for the payment of the price and a transfer, for a consideration, of tangible personal property which has been produced, fabricated, or printed to the special order of the customer;



(9) Rental price or lease price shall mean the total amount for which tangible personal property is rented or leased, with rent or lease payments set at a fair market value, valued in money, whether paid in money or otherwise, without any deduction on account of (a) the cost of the tangible personal property rented or leased, (b) the cost of material used, labor or service cost, interest charged, losses, or any other expenses, or (c) the cost of transportation of tangible personal property at any time. The total amount for which tangible personal property is rented or leased includes any services which are a part of the lease or rental and any amount for which credit is given to the lessee by the lessor or renter;

(10) Retail sale or sale at retail shall mean:

(a) A sale for any purpose other than for resale in the regular course of business of tangible personal property;

(b) A sale of tangible personal property to an advertising agency which purchases the tangible personal property as an agent for a disclosed or undisclosed principal. The advertising agency is and remains liable for the sales and use tax on the purchase the same as if the principal had made the purchase directly;

(c) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor or agent of such owner, former owner, or factor, if the delivery is to a customer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery in such cases shall include the delivery person's selling price of the tangible personal property in his or her gross receipts; and

(d) The sale of admissions which shall mean the right or privilege to have access to or use a place or location. When an admission to an activity is combined with the solicitation of a contribution, the portion or the amount charged representing the fair market price of the admission shall be considered a retail sale subject to the tax imposed by section 77-2703. The organization conducting the activity shall determine the amount properly attributable to the purchase of the privilege, benefit, or other consideration in advance and such amount shall be clearly indicated on any ticket, receipt, or other evidence issued in connection with the payment. Admissions shall not include fees charged by (i) elementary or secondary schools, public or private, or

(ii) school districts, student organizations, or parent-teacher associations pursuant to an agreement with the proper school authorities, in an elementary or secondary school, public or private, during the regular school day or at an approved function of any such school;

(11) Retail sale or sale at retail shall not include the sale of:

(a) Tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed, or fabricated for ultimate sale at retail;

(b)(i) Any form of animal life of a kind the products of which ordinarily constitute food for human consumption. Animal life shall be defined in part, but not limited to, live poultry or livestock on the hoof when sales are made by the grower, producer, feeder, or by any person engaged in the business of bartering, buying, or selling live poultry or livestock on the hoof;

(ii) Feed for any form of animal life or water which is supplied for consumption by animal life or which is otherwise used in caring for animal life of a kind the products of which ordinarily constitute food for human consumption or of a kind the pelts of which ordinarily are used for human apparel; feed shall mean and include, but is not limited to, all grains, minerals, salts, proteins, fats, fibers, vitamins, grit, and antibiotics commonly used as feed or feed supplements;

(iii) Seeds and annual plants, the products of which ordinarily constitute food for human consumption and which seeds and annual plants are sold to commercial producers of such products, and seed legumes, seed grasses, and seed grains when sold to be used exclusively for agricultural purposes; or

(iv) Agricultural chemicals to be applied to land or crops the products of which are to be used as food for human consumption or sold in the regular course of business;

(c) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by the Nebraska Revenue Act of 1967; and returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling. The



term returnable containers means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are nonreturnable containers;

(d) Tangible personal property the transfer of which to the consumer constitutes an occasional sale or the transfer of which to the consumer is made by way of an occasional sale;

(e) Tangible personal property the sale, purchase, or use of which has been taxed to that taxpayer in another state, territory, or possession of the United States of America when such other state, territory, or possession grants a reciprocal exclusion or an exemption to similar transactions in this state;

(f) The purchase in this state or the purchase without this state, with title passing in this state, of materials and replacement parts, when used as or when used directly in the repair and maintenance or manufacture of railroad rolling stock, whether owned by a railroad or by any person, whether a common or contract carrier or otherwise, motor vehicles, watercraft, or aircraft engaged as common or contract carriers of persons or property or the purchase in such manner of motor vehicles, watercraft, or aircraft to be used as common or contract carriers of persons or property. All purchasers seeking to take advantage of the exemption shall apply to the Tax Commissioner for a common or contract carrier exemption. The All common or contract carrier exemption certificate shall remain valid for a period of three years from the date of issuance certificates shall expire on October 31, 1986, and on October 31 every three years thereafter. All persons seeking to continue to take advantage of the common or contract carrier exemption shall apply for a new certificate at the expiration of the prior certificate. ~~All common or contract carrier exemption certificates in effect prior to October 31, 1986, shall remain valid until October 31, 1986.~~ The Tax Commissioner shall notify such exemption certificate holders at least sixty days prior to the expiration date that their certificate will expire and be null and void as of October 31, 1986; or

(g) Railroad rolling stock whether purchased by a railroad or by any other person;

(12) Retailer shall mean:

(a)(i) Every seller engaged in the business of making sales of tangible personal property for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by

the person or others for storage, use, or other consumption;

(ii) Every person who leases or rents to another tangible personal property for storage, use, or other consumption, except film rentals when an admission tax is charged under the Nebraska Revenue Act of 1967 and railroad rolling stock interchanged pursuant to the provisions of the Interstate Commerce Act;

(iii) Every person engaged in the business of renting or furnishing for periods of less than thirty days any room or rooms, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, or any other place, except a facility licensed under the provisions of Chapter 71, article 20, in which rooms, lodgings, or accommodations are regularly furnished for a consideration or a facility operated by an educational institution established under Chapter 79 or 85 in which rooms are regularly used to house students for a consideration for periods in excess of thirty days, shall be and constitute a retail merchant in respect thereto and the gross income received therefrom shall constitute gross income of a retail merchant received from transactions constituting selling at retail;

(iv) Every person engaged as a public utility in furnishing telephone, telegraph, gas, electricity, sewer, and water service, and every person engaged in furnishing community antenna television service as defined in subdivision (4)(b) of this section; and

(v) Every person renting or otherwise furnishing tangible personal property under an agreement requiring the periodic cleaning or laundering of such tangible personal property; and

(b) When the Tax Commissioner determines that it is necessary for the efficient administration of the Nebraska Revenue Act of 1967 to regard any salespersons, representatives, peddlers, canvassers, or auctioneers and persons conducting auction sales as the agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, auctioneers, or employers, the Tax Commissioner may, at his or her discretion, treat such agent as the vendor jointly responsible with his or her principal, distributor, supervisor, or employer for the purposes of the Nebraska Revenue Act of 1967;

(13) Sale shall mean and include any transfer of title or possession or segregation in contemplation



of transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. Sale shall include:

(a) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting;

(b) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others;

(c) The furnishing, preparing, or serving for a consideration of food, meals, or drinks;

(d) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price;

(e) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer; and

(f) The renting or furnishing for periods of less than thirty days of any room or rooms, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, or any other place, except a facility licensed under the provisions of Chapter 71, article 20, in which rooms, lodgings, or accommodations are regularly furnished for a consideration or a facility operated by an educational institution established under Chapter 79 or 85 in which rooms are regularly used to house students for a consideration for periods in excess of thirty days;

(14) Sale for resale shall mean a sale of tangible personal property to any purchaser who is purchasing such tangible personal property for the purpose of reselling it in the normal course of his or her business, either in the form or condition in which it is purchased or as an attachment to or integral part of other tangible personal property. A sale for resale shall include a sale of tangible personal property to a purchaser for the sole purpose of that purchaser's renting or leasing such tangible personal property to another person, with rent or lease payments set at a fair market value, or film rentals for use in a place where an admission is charged that is subject to taxation under the Nebraska Revenue Act of 1967, but not if incidental to the renting or leasing of real estate;

(15)(a) Sales price shall mean the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of:

(i) The cost of the tangible personal property sold;

(ii) The cost of material used, labor or service cost, interest paid, losses, or any other expenses;

(iii) The cost of transportation of the tangible personal property. The total amount for which tangible personal property is sold includes any services which are a part of the sale and any amount for which credit is given to the purchaser by the seller;

(iv) The cost of computer software contained on the tangible personal property; or

(v) The cost of any license, franchise, or lease for the use of computer software or entertainment properties such as videotapes or movie films; and

(b) Sales price does not include any of the following:

(i) Cash discounts allowed and taken on sales;

(ii) The amount charged for tangible personal property returned by customers when the entire amount charged therefor is refunded either in cash or credit;

(iii) The amount charged for labor or services rendered in installing and applying the property sold if such amount is separately stated and such separate statement is not used as a means of avoiding imposition of the tax upon the actual sales price of the tangible personal property;

(iv) The amount charged for finance charges, carrying charges, service charges, or interest from credit extended on sales of tangible personal property under contracts providing for deferred payments of the purchase price if such charges are not used as a means of avoiding imposition of the tax upon the actual sales price of the tangible personal property;

(v) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature; or

(vi) The value of a motor vehicle taken by any person in trade as all or part of the consideration for a sale of another motor vehicle;

(16) Seller shall include every person engaged in the business of selling, leasing, or renting tangible personal property of a kind the gross receipts from the retail sale, lease, or rental of which are required to



be included in the measure of the sales tax;

(17) Storage shall include any retention in this state for any purposes except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer, other than tangible personal property which will enter into or become an ingredient or component part of tangible personal property manufactured, processed, or fabricated for ultimate sale at retail. Neither Except for a transaction that is subject to sales tax under the Nebraska Revenue Act of 1967, neither storage nor use as defined in this subdivision shall include the keeping, retaining, or exercising of any right or power over tangible personal property for the purpose of subsequently transporting it outside the state or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside the state and thereafter used solely outside the state;

(18) Tangible personal property shall mean personal property which may be seen, weighed, measured, felt, or touched or which is in any other manner perceptible to the senses and includes tangible personal property which is used to convey computer software;

(19) Taxpayer shall mean any person subject to a tax imposed by sections 77-2702 to 77-2713;

(20) Use shall mean the exercise of any right or power over tangible personal property incident to the ownership or possession of that tangible personal property, except that it does not include the sale of that tangible personal property in the regular course of business or the exercise of any right or power over tangible personal property which will enter into or become an ingredient or component part of tangible personal property manufactured, processed, or fabricated for ultimate sale at retail. Use specifically includes the incorporation of tangible personal property into real estate or into improvements upon real estate without regard to the fact that such real estate and improvements may subsequently be sold as such; and

(21) Engaged in business in this state shall mean and include any of the following:

(a) Maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse, storage place, or other place of business in this state;

(b) Having any representative, agent, salesperson, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking orders for any tangible personal property; or

(c) Deriving rentals from a lease of tangible personal property in this state by any retailer.

Sec. 204. That section 77-2703, Revised Statutes Supplement, 1985, be amended to read as follows:

77-2703. (1) There is hereby imposed a tax of two per cent upon the gross receipts from all sales of tangible personal property sold at retail in this state, the gross receipts of every person engaged as a public utility, as a community antenna television service operator or any person involved in the connecting and installing of the services defined in subdivision (4)(b) of section 77-2702, or as a retailer of intellectual or entertainment properties referred to in subdivision (4)(c) of section 77-2702, and the gross receipts from the sale of admissions in this state, and the gross receipts from the sale of warranties, guarantees, service agreements, or maintenance agreements when the items covered are subject to tax under this section until January 1, 1970, and on and after such date the rate shall be that which is set as provided in section 77-2715.01. When there is a sale, as defined in subdivision (13) of section 77-2702, after March 26, 1974, the tax shall be imposed at the rate in effect at the time the gross receipts are realized under the accounting basis used by the retailer to maintain his or her books and records.

(a) The tax imposed by the provisions of this section shall be collected by the retailer from the consumer. It shall constitute a part of the purchase price and until collected shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts. The tax required to be collected by the retailer from the consumer constitutes a debt owed by the retailer to this state.

(b) It is unlawful for any retailer to advertise, hold out, or state to the public or to any customer, directly or indirectly, that the tax or part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling, renting, or leasing price of the property sold, rented, or leased, or that, if added, it or any part thereof will be refunded. The provisions of this subdivision shall not apply to a public utility.



(c) The tax required to be collected by the retailer from the purchaser, unless otherwise provided by statute or by rule and regulation of the Tax Commissioner, shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales, rentals, or leases.

(d) For the purpose of more efficiently securing the payment, collection, and accounting for the sales tax, and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to adopt and promulgate appropriate rules and regulations prescribing a schedule or schedules of the amounts to be collected from the consumer or user to effectuate the computation and collection of the tax imposed by the Nebraska Revenue Act of 1967. Such schedule or schedules shall provide that the tax shall be collected from the consumer or user uniformly on sales according to brackets based on sales prices of the item or items, except that the Tax Commissioner may authorize computation and collection of the tax uniformly on a straight percentage basis in lieu of brackets in situations involving machine or computer billing.

(e) The use of tokens or stamps for the purpose of collecting or enforcing the collection of the taxes imposed in the Nebraska Revenue Act of 1967 or for any other purpose in connection with such taxes is prohibited.

(f) For the purpose of the proper administration of the provisions of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail sales tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he or she takes, in good faith, from the purchaser a resale certificate to the effect that the property is purchased for the purpose of reselling, leasing, or renting it or takes, in good faith, an exemption certificate pursuant to subsection (7) of section 77-2705. Receipt of a resale certificate or exemption certificate, taken in good faith, shall be conclusive proof for the seller that the sale was made for resale or was exempt.

(g) Whenever any retailer shall make delivery of any tangible personal property in this state on or after June 1, 1967, it shall be conclusively presumed that such property was sold at retail on or after June

1, 1967, unless the delivery thereof is made pursuant to a contract executed in writing for a fixed price before June 1, 1967, with at least twenty-five per cent of the total price paid prior to June 1, 1967, and such delivery is made prior to August 31, 1967.

(h) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in section 60-301, for periods of thirty days or more, the lessor may elect not to collect and remit the sales tax on the gross receipts and instead pay a sales tax on the cost of such vehicle. If such election is made, it shall be made pursuant to the following conditions:

(i) Notice of the desire to make such election shall be filed with the Tax Commissioner and shall not become effective until the Tax Commissioner is satisfied that the taxpayer has complied with all conditions of this subsection and all rules and regulations of the Tax Commissioner;

(ii) Such election when made shall continue in force and effect for a period of not less than two years and thereafter until such time as the lessor elects to terminate the election;

(iii) When such election is made, it shall apply to all vehicles of the lessor rented or leased for periods of thirty days or more. If the lessor rents or leases other vehicles for periods of less than thirty days, such lessor shall maintain his or her books and records and his or her accounting procedure as the Tax Commissioner shall prescribe; and

(iv) The Tax Commissioner by rule and regulation shall prescribe the contents and form of the notice of election, a procedure for the determination of the tax base of vehicles which are under an existing lease at the time such election becomes effective, the method and manner for terminating such election, and such other rules and regulations as may be necessary for the proper administration of this subdivision.

(i) If a sales or use tax has been paid on the purchase, storage, use, or other consumption of tangible personal property used in the performance of a construction contract, which contract is with the project owner, is for a fixed price, and has been executed prior to June 1, 1967, and which tangible personal property is incorporated into the project and transferred to the owner of the structure constructed upon the completion of the contract, the person having paid such sales or use tax shall be entitled to a refund of the amount of taxes so paid. The Tax Commissioner



shall by rule and regulation provide the manner and means of applying for such refund and shall require the furnishing of such proof as may reasonably be required to establish the fact that such property was used in the completion of a contract as defined in this subdivision and that any sales or use tax has in fact been paid on such tangible personal property.

(j) The tax imposed by the provisions of this section on the sales of motor vehicles, trailers, and semitrailers as defined in section 60-301 shall be the liability of the purchaser and the tax shall be collected by the county treasurer at the time the purchaser makes application for the registration of the motor vehicle, trailer, or semitrailer for operation upon the highways of this state. At the time of the sale of any motor vehicle, trailer, or semitrailer, the seller shall (i) state on the sales invoice the dollar amount of the tax imposed hereunder and (ii) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner shall prescribe, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement or who willfully falsifies any such statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the seller fails to state on the sales invoice the dollar amount of the tax due, the purchaser shall have the right and authority to rescind any agreement for purchase and to declare the purchase null and void. If the purchaser retains such motor vehicle, trailer, or semitrailer in this state and does not register it for operation on the highways of this state within twenty days of the purchase thereof, the tax imposed by the provisions of this section shall immediately thereafter be paid by the purchaser to the county treasurer. The county treasurer shall report and remit the tax so collected to the Tax Commissioner at such times as the Tax Commissioner may require by rule and regulation. The county treasurer shall deduct and withhold for the use of the county general fund the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be

forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(k) The Tax Commissioner shall adopt and promulgate necessary rules and regulations for determining the amount subject to the taxes imposed by the provisions of this section so as to insure that the full amount of any applicable tax is paid in cases in which a sale is made of which a part is subject to the taxes imposed by the provisions of this section and a part of which is not so subject and a separate accounting is not practical or economical.

(2) A use tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased, leased, or rented from any retailer and on any transaction the gross receipts of which are subject to tax under subsection (1) of this section on or after June 1, 1967, for storage, use, or other consumption in this state at the rate set as provided in subsection (1) of this section on the sales price of the property or, in the case of leases or rentals, of the lease or rental prices.

(a) Every person storing, using, or otherwise consuming in this state tangible personal property purchased from a retailer or leased or rented from another person for such purpose is liable for the use tax at the rate in effect when his or her liability for the use tax becomes certain under the accounting basis used to maintain his or her books and records. His or her liability is not extinguished until the use tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the Tax Commissioner, under such rules and regulations as he or she may prescribe, to collect the sales tax and who is, for the purposes of the Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a retailer engaged in business in this state, given to the purchaser pursuant to subdivision (b) of this subsection is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state and selling, leasing, or renting tangible personal property for storage, use, or other consumption in this state shall, at the time of making any sale, collect any tax which may be due from the purchaser and shall give to the purchaser, upon request, a receipt therefor in the manner and form prescribed by the Tax Commissioner.

(c) The Tax Commissioner, in order to facilitate the proper administration of the use tax, may



designate such person or persons as he or she may deem necessary to be use tax collectors and delegate to such persons such authority as is necessary to collect any use tax which is due and payable to the State of Nebraska. The Tax Commissioner may require of all persons so designated a surety bond in favor of the State of Nebraska to insure against any misappropriation of state funds so collected. The Tax Commissioner may require any tax official, city, county, or state, to collect the use tax on behalf of the state. All persons designated to or required to collect the use tax shall account for such collections in the manner prescribed by the Tax Commissioner. Nothing in this subdivision shall be so construed as to prevent the Tax Commissioner or his or her employees from collecting any use taxes due and payable to the State of Nebraska.

(d) All persons designated to collect the use tax and all persons required to collect the use tax shall forward the total of such collections to the Tax Commissioner at such time and in such manner as the Tax Commissioner may prescribe. Such collectors of the use tax shall deduct and withhold from the amount of taxes collected three per cent of the first five thousand dollars remitted each month and one per cent of all amounts in excess of five thousand dollars remitted each month as reimbursement for the cost of collecting the tax, but such deduction shall be forfeited to the State of Nebraska if such collector violates any rule, regulation, or directive of the Tax Commissioner.

(e) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, it shall be presumed that tangible personal property sold, leased, or rented by any person for delivery in this state is sold, leased, or rented for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who purchases, leases, or rents the property.

(f) It shall be further presumed, in the absence of evidence to the contrary, that tangible personal property shipped or brought to this state by the purchaser after June 1, 1967, was purchased from a retailer on or after that date for storage, use, or other consumption in this state, except that if a person purchased tangible personal property, other than airplanes, in another state with the intent of using the property in the other state and such property is used in the other state for the purpose for which it was purchased, which use shall not include storage or the

preparation of the property for use, the presumption shall be that the tangible personal property was not purchased for use in the State of Nebraska as long as the property brought into this state is stored, used, or otherwise consumed by the person previously using it in the other state.

If a person purchases an airplane and such airplane is ultimately stored or used by such person in this state for the greater portion of a year, the presumption shall be that the airplane was intended for use in the State of Nebraska. Use tax shall be due the State of Nebraska if (i) the person did not pay sales tax at the time of purchase of the airplane and (ii) the airplane was purchased by the person within three hundred sixty-five days prior to the first date after which the airplane was stored or used in this state for the greater portion of a year. Such storage or use shall not include storage or use in the State of Nebraska for the purpose of maintenance, repair, or fabrication with subsequent removal from this state upon completion of such maintenance, repair, or fabrication.

Sec. 205. That section 77-2704, Revised Statutes Supplement, 1985, be amended to read as follows:

77-2704. (1) There are exempted from the computation of the amount of sales and use taxes imposed by the Nebraska Revenue Act of 1967 the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of the following:

(a) Tangible personal property, the gross receipts from the sale, lease, or rental of which or the storage, use, or other consumption of which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state;

(b)(i) Aircraft fuel as defined under Chapter 3, article 1;

(ii) Minerals, oil, and gas as defined under Chapter 57; and

(iii) Motor vehicle fuels as defined, taxed, or exempted under Chapter 66, article 4, special fuels as defined, taxed, or exempted for use on the highways under Chapter 66, article 6, and special fuels used to provide motive power for railroad rolling stock;

(c) Tangible personal property used for the performance of a written contract entered into prior to June 1, 1967, except as provided in subdivision (1)(g) of section 77-2703;

(d) Any newspaper regularly issued at average



intervals not exceeding one week if such newspaper contains matters of general interest and reports of current events;

(e) Leased tangible personal property sold to a lessee of that tangible personal property under an agreement whereby certain rental payments are credited against the purchase price of that tangible personal property, except that this exemption shall not exceed the amount for which the lessor has collected and paid tax on such rental payments;

(f) Prescription medicines when prescribed and dispensed for human use by a person licensed under the provisions of Chapter 71, article 1, insulin, prosthetic devices, and oxygen sold under a doctor's prescription for aid in human respiration;

(g)(i) Meals and food products, including soft drinks and candy, for human consumption served by public or private schools, school districts, student organizations, or parent-teacher associations pursuant to an agreement with the proper school authorities, in an elementary or secondary school or at any institution of higher education, public or private, during the regular school day or at an approved function of any such school or institution, but such exemption shall not apply to sales at any facility or function which is open to the general public, except that concession sales by elementary and secondary schools, public or private, shall be exempt;

(ii) Meals and food products, including soft drinks and candy, for human consumption when sold by a church at a function of such church; and

(iii) Meals and food products, including soft drinks and candy, for human consumption when served to patients and inmates of hospitals and other institutions licensed by the state for the care of human beings;

(h) Tangible personal property which is shipped to a point outside this state, pursuant to the contract of sale, by delivery by the retailer to such point by means of facilities operated by the retailer, delivery by the retailer to a carrier for shipment to a consignee at such point, delivery by the retailer to the United States post office for delivery outside this state, or delivery by the retailer to a customs broker or forwarding agent for shipment outside this state. This shall include the gross receipts from sales of tangible personal property to a common or contract carrier shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect,

to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common or contract carrier;

(i) Purchases by any organization created exclusively for religious purposes, any nonprofit organization providing services exclusively to the blind, any private educational institution established under Chapter 79, article 17, any private college or university established under Chapter 85, article 11, any hospital, health clinic when two or more hospitals or the parent corporations of the hospitals own or control the health clinic for the purpose of reducing the cost of health services or when the health clinic receives funds under the Urban Health Initiative Program or the rural Health Initiative Program of the United States Public Health Service, skilled nursing facility, or intermediate care facility licensed under sections 71-2017 to 71-2029 and organized not for profit, any nonprofit organization providing services primarily for home health care purposes, any licensed child caring agency, or any licensed child placement agency. The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of tangible personal property which is physically incorporated into the structure and becomes the property of the owner of the organization or institution. The appointment of purchasing agents must be in writing and occur prior to purchasing any tangible personal property incorporated into the construction, improvement, or repair. Any person purchasing, storing, using, or otherwise consuming tangible personal property in the performance of any construction, improvement, or repair by or for any institution enumerated in this subdivision which is licensed upon completion although not licensed at the time of construction or improvement, which tangible personal property is incorporated into a structure and becomes the property of the owner of the institution, shall pay any applicable sales or use tax thereon. Upon becoming licensed, the institution organized not for profit shall be entitled to a refund of the amount of taxes so paid in the performance of such construction, improvement, or repair and shall submit whatever evidence is required by the Tax Commissioner sufficient to establish the total sales and use tax paid upon the tangible personal property physically incorporated into the construction, improvement, or repair;

(j) Sales and purchases of electricity, coal,



gas, fuel oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, and butane when more than fifty per cent of the amount purchased is for use directly in processing, manufacturing, or refining of tangible personal property, in irrigation, or farming, or the generation of electricity, or by any hospital;

(k) The use of coin-operated machines used for laundering and cleaning;

(l) Purchases by the state, including public educational institutions recognized or established under the provisions of Chapter 85, or by any county, township, city, village, or rural or suburban fire protection district, for use in a governmental capacity, or by any irrigation or reclamation district, the irrigation division of any public power and irrigation district, or public schools established under Chapter 79. The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of tangible personal property which is physically incorporated into the structure and becomes the property of the state or the governmental unit. The appointment of purchasing agents must be in writing and occur prior to purchasing any tangible personal property incorporated into the construction, improvement, or repair;

(m) The entire purchase price of a motor vehicle purchased when at least eighty per cent of the funds are the maximum amount allowed by law is contributed by the Veterans' Administration of the United States or the Department of Social Services for a disabled person. If the amount contributed is less than eighty per cent the maximum amount, the exemption shall be based on the portion of the purchase price contributed;

(n) The sale and purchase, by subscription, of any magazine or journal that is issued at average intervals not exceeding once each month;

(o) Sales and purchases of semen for use in ranching, farming, commercial, or industrial uses;

(p) Any organization listed in subdivision (i) of this subsection or any governmental unit listed in subdivision (l) of this subsection, except the state, which enters into a contract of construction, improvement, or repair upon real estate without first issuing a purchasing agent authorization to a contractor or repairperson prior to purchasing tangible personal property to be incorporated into the project may apply to the Tax Commissioner for a refund of any sales and

use tax paid by the contractor or repairperson on the tangible personal property physically incorporated into the construction, improvement, or repair; and

(q) Food or food products for human consumption which are eligible for purchase with food coupons issued by the United States Department of Agriculture pursuant to regulations in effect on October 1, 1983, regardless of whether the retailer from which the foods are purchased is participating in the food stamp program. As used in this subdivision, food does not include meals prepared for immediate consumption on or off the premises of the retailer and does not include foods sold through vending machines; and

(r) Tangible personal property, except meals for human consumption, sold by parent-booster clubs, parent-teacher associations, parent-teacher student associations, or school-operated stores approved by an elementary or secondary school, public or private, if the proceeds from such sale are used to support school activities or the school itself.

(2) The storage, use, or other consumption in this state of tangible personal property, the gross receipts from the sale, lease, or rental of which are required to be included in the measure of the sales tax and on which the sales tax has been paid, is exempted from the use tax.

(3) The use tax imposed in the Nebraska Revenue Act of 1967 shall not apply to:

(a) The use in this state of materials and replacement parts which are acquired outside this state and which are moved into this state for use directly in the repair and maintenance or manufacture of motor vehicles, watercraft, railroad rolling stock, whether owned by a railroad or by any person, whether a common or contract carrier or otherwise, or aircraft engaged as common or contract carriers of persons or property; and

(b) The storage, use, or consumption of tangible personal property which is acquired outside this state, the sale, lease, or rental or the storage, use, or consumption of which property would be exempt from the sales or use tax were it purchased within this state.

(4) If any person who causes tangible personal property to be brought into this state has already paid a tax in another state in respect to the sale or use of such property in an amount less than the tax imposed by section 77-2703, the provision of this section shall apply, but at a rate measured by the difference only between the rate imposed by section 77-2703 and the rate



by which the previous tax on the sale or use was computed. If such tax imposed and paid in such other state is equal to or more than the tax imposed by section 77-2703, then no use tax shall be due in this state on such personal property if such other state, territory, or possession grants a reciprocal exclusion or exemption to similar transactions in this state.

(5) A lease of tangible personal property from a subsidiary to the parent company, from a parent company to a subsidiary, from one subsidiary to another subsidiary of the same parent company, or between brother-sister companies shall not be subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967. Such lessor company shall have the same sales and use tax liability on the purchase of property to be leased to the lessee company as the lessee company would have paid if the lessee company had purchased the property directly.

(6) There is exempted from the computation of the amount of sales and use taxes imposed by the Nebraska Revenue Act of 1967 the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of railroad rolling stock whether owned by a railroad or by any other person.

(7) When a written contract exists for a construction, alteration, or improvement project outside the United States or its territories or possessions, a contractor may apply for a refund of the sales and use tax paid to the State of Nebraska on tangible personal property actually incorporated into the project outside of the United States or its territories or possessions.

~~(7)~~ (8) When a written contract exists for a fixed price for a construction, reconstruction, alteration, or improvement project and the sales tax rate is increased during the term of that fixed price contract, the contractor may apply to the Department of Revenue for a refund of the increased sales tax amount if such refund amount exceeds ten dollars. The contractor shall be refunded such increased amount if the contractor certifies that the contract was entered into prior to the increase in the tax and that the increased tax for which the refund is requested was paid on the materials incorporated into the project. The contractor shall agree to submit a copy of the contract or other evidence necessary to prove the validity of the application to the satisfaction of the Tax Commissioner. In the event that the sales tax rate is decreased during the term of that fixed price contract, the contractor shall pay to the Department of Revenue the decreased

sales tax amount if the amount of such payment exceeds ten dollars.

Sec. 206. That section 77-2704.01, Revised Statutes Supplement, 1984, be amended to read as follows:

77-2704.01. Failure by a contractor to pay the decreased sales tax amount as provided in subsection {7} (8) of section 77-2704 shall be a Class I misdemeanor, if the amount is three hundred dollars or more, and a Class IIIA misdemeanor in all other cases.

Sec. 207. That section 77-2715, Revised Statutes Supplement, 1985, be amended to read as follows:

77-2715. (1) A tax is hereby imposed for each taxable year on the entire income of every resident individual of this state and on the income of every nonresident individual of this state which is derived from sources within this state. The tax shall be a flat percentage of, for each resident individual, the taxpayer's adjusted federal income tax liability for the taxable year and, for each nonresident individual, the taxpayer's adjusted federal income tax liability for the taxable year which is attributable to income derived from sources within this state.

The taxpayer's adjusted federal income tax liability shall be the amount of federal income tax, as determined under Subtitle A, Chapter I, subchapter A, Parts I, V, and VI, and subchapter D, Part I of the Internal Revenue Code, for which the taxpayer would have been liable if such taxpayer had paid federal income tax based on federal taxable income as adjusted by the modifications provided in section 77-2716 without any allowance for credits against such tax permitted under the Internal Revenue Code.

The adjusted federal income tax liability of each nonresident individual taxpayer which is attributable to income derived from sources within this state shall be determined by multiplying his or her adjusted federal income tax liability by a fraction, the numerator of which is his or her taxable income derived from sources within this state as determined by section 77-2733 and the denominator of which is his or her total federal taxable income, after first subtracting from each the amounts provided in subsection (1) of section 77-2716. If this determination attributes more or less federal income tax than is reasonably attributable to income derived from sources within this state, the taxpayer may petition for or the Tax Commissioner may require the employment of any other method to attribute



an amount of federal income tax which is reasonable and equitable in the circumstances.

(2)(a) A resident of this state shall mean an individual who is domiciled in Nebraska or who maintains a permanent place of abode in this state and spends in the aggregate more than six months of the taxable year in this state; and

(b) A nonresident shall mean an individual who is not a resident of this state.

(3) There shall be allowed to qualified resident individuals as a credit against the tax imposed by sections 77-2714 to 77-27,135 a credit equal to fifty per cent of the federal credit allowed under section 3722 of the Internal Revenue Code.

(4) There shall be allowed to individuals as a credit against the tax imposed by sections 77-2714 to 77-27,135 a credit for renewable energy source systems as provided under section 66-1047. The provisions of this subsection shall terminate on January 1, 1986.

(5) There shall be allowed to individuals carrying on business as a sole proprietorship or as a partnership or having an election in effect under subchapter S of the Internal Revenue Code as a credit against the tax imposed by sections 77-2714 to 77-27,135 a credit for contributions to certified community betterment programs as provided in the Community Development Assistance Act. Each partner of a reporting business partnership or shareholder of a business firm with an election in effect under subchapter S of the Internal Revenue Code shall report the credit in the same manner and proportion as the partner reports the partnership income or the shareholder reports the subchapter S corporation income.

Sec. 208. That section 77-2753, Revised Statutes Supplement, 1984, be amended to read as follows:

77-2753. (1) Every employer and payor maintaining an office or transacting business within this state and making payment of any wages or other payments as defined in subsection (4) of this section which are taxable under the provisions of the Nebraska Revenue Act of 1967 to a resident or nonresident individual shall deduct and withhold from such wages for each payroll period and from such payments a tax computed in such manner as to result, so far as practicable, in withholding from the employee's wages and payments to the payee during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee or payee under the

provisions of such act with respect to the amount of such wages and payments included in his or her taxable income during the calendar year. The method of determining the amount to be withheld shall be prescribed by regulations of the Tax Commissioner.

(2) For purposes of this section, an employee or payee shall be entitled to the same number of withholding exemptions as the number of withholding exemptions to which he or she is entitled for federal income tax withholding purposes. An employer or payor may rely upon the number of federal withholding exemptions claimed by the employee.

(3) The Tax Commissioner may enter into agreements with the tax departments of other states, which require income tax to be withheld from the payment of wages, salaries, and such other payments, so as to govern the amounts to be withheld from the wages and salaries of and other payments to residents of such states. Such agreements may provide for recognition of anticipated tax credits in determining the amounts to be withheld and, under regulations prescribed by the Tax Commissioner, may relieve employers and payors in this state from withholding income tax on wages, salaries, and such other payments paid to nonresident employees and payees. The agreements authorized by this subsection ~~are~~ shall be subject to the condition that the tax department of such other states grant similar treatment to residents of this state.

(4) Wages and other payments subject to withholding shall mean payments that are subject to withholding under the Internal Revenue Code of 1954, as amended, and are (a) payments made by employers to employees, except such payments subject to 26 U.S.C. section 3405 or 3406, ~~or~~ (b) payments of gambling winnings, ~~or~~ (c) pension or annuity payments when the recipient has requested the payor to withhold from such payments.

Sec. 209. That section 77-27,107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,107. When notice and demand for the payment of income tax is given to a nonresident and it appears to the Tax Commissioner that it is not practicable to locate property of the taxpayer sufficient in amount to cover the amount of tax due, he ~~or she~~ shall send a copy of the notice provided for in ~~sections 77-27,104 and 77-27,105~~ the Uniform State Tax Lien Registration and Enforcement Act to the taxpayer at his ~~or her~~ last-known address together with a notice



that such notice has been filed with the register of deeds appropriate filing officer. Thereafter, the Tax Commissioner may authorize the institution of any action or proceeding to collect or enforce such claim in any place and by any procedure that a civil judgment of a court of record of this state could be collected or enforced. The Tax Commissioner may also in his or her discretion, designate agents or retain counsel outside this state for the purpose of collecting outside this state any income taxes due under the Nebraska Revenue Act of 1967 from taxpayers who are not residents of this state, and he or she may fix the compensation of such agents and counsel to be paid out of money appropriated or otherwise lawfully available for payment thereof and he or she may require of them bonds or other security for the faithful performance of their duties. The Tax Commissioner is authorized to may enter into agreements with the tax departments of other states and the District of Columbia for the collection of income taxes from persons found in those jurisdictions who are delinquent in the payment of income taxes imposed under the provisions of such act.

Sec. 210. That section 77-27,147, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,147. All relevant provisions of the Nebraska Revenue Act of 1967, as amended from time to time, and not inconsistent with the provisions of sections 77-27,142 to 77-27,148 Local Option Revenue Act, shall govern transactions, proceedings, and activities pursuant to any tax imposed under the provisions of sections 77-27,142 to 77-27,148 Local Option Revenue Act.

For the purposes of the Local Option Revenue Act, all retail sales, rentals, and leases, except sales of utility services, as defined in section 77-2702, are consummated: at the place of business of the retailer unless the tangible personal property sold, leased, or rented is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event the retailer has no permanent place of business in the state, the place or places at which the retail sales, leases, or rentals are consummated for the purposes of the tax imposed by sections 77-27,142 to 77-27,148 shall be determined under rules and regulations prescribed by the Tax Commissioner. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be

consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing-

(1) At the place where title, possession, or segregation takes place, with the exception of sales of motor vehicles, trailers, and semitrailers, if a purchaser takes possession of tangible personal property within a municipality which has enacted a tax under the Local Option Revenue Act, regardless of the business location of the Nebraska retailer;

(2) At the point of delivery of utility services and community antenna television services or where such services are provided, with the exception that Nebraska intrastate message toll telephone and telegraph services shall be consummated in the municipality where the customer is normally billed for such service; and

(3) At the physical location of individual vending machines.

Sec. 211. The Department of Revenue may charge persons and state agencies for the following publications of the Department of Revenue: Department of Revenue Annual Report, Package XN, Department of Revenue Tax Expenditure Report, and the Department of Revenue State Funds Booklet. The Tax Commissioner shall set the price of such publications which shall be the cost of production.

Sec. 212. All funds received pursuant to section 211 of this act shall be deposited in the Department of Revenue Miscellaneous Receipts Fund which is hereby created. All money in the fund shall be administered by the Department of Revenue and shall be used to defray the cost of production of the publications listed in section 211 of this act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 213. If a federal tax amnesty law is enacted, the Tax Commissioner shall have the authority to duplicate the federal amnesty program in implementing a Nebraska tax amnesty program for all taxpayers owing any tax imposed by reason of or pursuant to authorization by any law of the State of Nebraska and collected by the Department of Revenue. The Tax Commissioner shall have the authority to waive any and all penalties and any and all interest on all delinquent taxes due and owing from any taxpayer.



Sec. 214. Sections 214 to 221 of this act shall be known and may be cited as the Uniform State Tax Lien Registration and Enforcement Act.

Sec. 215. For purposes of the Uniform State Tax Lien Registration and Enforcement Act:

(1) Appropriate filing officer shall mean the clerk of any county in which personal property belonging to the taxpayer is situated or the register of deeds of any county in which real property belonging to the taxpayer is situated; and

(2) Any reference to tax, taxes, fee, or tax program shall be construed to include any tax or fee which is imposed by the laws of this state and administered or collected and enforced by the Tax Commissioner, unless a tax lien is otherwise provided for by law.

Sec. 216. (1) When a notice of a lien provided for in the Uniform State Tax Lien Registration and Enforcement Act is filed, the appropriate filing officer shall enter the notice in the alphabetical state tax lien index, showing on one line the name and residence of the person liable named in such notice, the social security number or the federal tax identification number of such person, the Tax Commissioner's serial number of such notice, the date and hour of filing, and the amount due. All such notices of lien shall be retained in numerical order in a file designated state tax lien notices, except that in offices filing by the roll form of microfilm pursuant to section 23-1517.01, the original notices need not be retained. The appropriate filing officer, upon the day of receipt of a lien filed pursuant to the Uniform State Tax Lien Registration and Enforcement Act, shall transmit to the Secretary of State the information required by subsection (2) of section 9-414 of the Uniform Commercial Code.

(2) The fee for filing, releasing, continuing, or terminating such liens shall be as prescribed in section 9-403 of the Uniform Commercial Code. The retention and distribution of such fees shall be as provided in subsection (9) of section 9-403 of the Uniform Commercial Code.

(3) The appropriate filing officer shall bill the Tax Commissioner on a monthly basis for fees for documents filed with such officer. No payment of any fee shall be required at the time of filing any such lien document.

Sec. 217. (1) If any person liable to pay any tax or fee under any tax program administered by the



Tax Commissioner neglects or refuses to pay such tax or fee after demand, the amount of such tax or fee, including any interest, penalty, and additions to such tax and such additional costs that may accrue, shall be a lien in favor of the State of Nebraska upon all property and rights to property, whether real or personal, belonging to such person. Unless another date is specifically provided by law, such lien shall arise at the time of the assessment and shall remain in effect (a) for five years from the time of filing for record with the appropriate filing officer or (b) until such amounts have been paid or a judgment against such person arising out of such liability has been satisfied or has become unenforceable by reason of lapse of time, unless a continuation statement is filed prior to the lapse.

(2) If any tax, including any interest, penalty, or addition to such tax, imposed under any tax program administered by the Tax Commissioner is not paid when due, the Tax Commissioner may, within three years after the tax is due, file for record with the appropriate filing officer a notice of lien specifying the year the tax was due, the tax program, and the amount of the tax and any interest, penalty, or addition to such tax that are due. Such notice shall contain the name and last-known address of the taxpayer, the taxpayer's social security number or federal identification number, the Tax Commissioner's serial number, and a statement to the effect that the Tax Commissioner has complied with all provisions of the law for the particular tax program which he or she administers in the determination of the amount of the tax and any interest, penalty, and addition to such tax required to be paid. From the time of filing for record, the amount set forth in such notice shall constitute a lien upon all real or personal property and the rights to real or personal property then owned by the taxpayer and upon all real or personal property and the rights to real or personal property acquired by him or her thereafter and before the lien expires.

(3) A lien imposed pursuant to the Uniform State Tax Lien Registration and Enforcement Act shall be valid against any subsequent creditor when notice of such lien and the amount due has been filed by the Tax Commissioner with the appropriate filing officer. In the case of any prior mortgage on real property or secured transaction covering personal property so written as to secure a present debt and future advances, the lien provided in the act, when notice thereof has been filed with the appropriate filing officer, shall be



subject to such prior lien unless the Tax Commissioner has notified the lienholder in writing of the recording of such tax lien, in which case the lien of any indebtedness thereafter created under such mortgage or secured transaction shall be junior to the lien provided for in the act.

(4) The lien may, within five years from the date of filing for record of the notice of lien with the appropriate filing officer, be extended by filing for record a continuation statement. Upon timely filing of the continuation statement, the effectiveness of the original notice shall be continued for five years after the last date to which the filing was effective. After such period the notice shall lapse in the manner prescribed in subsection (1) of this section unless another continuation statement is filed prior to such lapse.

(5) When a termination statement of any tax lien issued by the Tax Commissioner is filed in the office where the notice of lien is filed, the appropriate filing officer shall enter such statement with the date of filing in the state tax lien index where notice of the lien so terminated is entered and shall file the termination statement with the notice of the lien.

(6) The Tax Commissioner may at any time, upon request of any party involved, release from a lien all or any portion of the property subject to any lien provided for in the Uniform State Tax Lien Registration and Enforcement Act or subordinate a lien to other liens and encumbrances if he or she determines that (a) the tax amount and any interest, penalties, and additions to such tax have been paid or secured sufficiently by a lien on other property, (b) the lien has become legally unenforceable, (c) a surety bond or other satisfactory security has been posted, deposited, or pledged with the Tax Commissioner in an amount sufficient to secure the payment of such taxes and any interest, penalties, and additions to such taxes, or (d) the release, partial release, or subordination of the lien will not jeopardize the collection of such taxes and any interest, penalties, and additions to such tax.

(7) A certificate by the Tax Commissioner stating that any property has been released from the lien or the lien has been subordinated to other liens and encumbrances shall be conclusive evidence that the property has in fact been released or the lien has been subordinated pursuant to the certificate.

Sec. 218. (1) At any time within three years



after any amount of tax to be collected under any tax program administered by the Tax Commissioner becomes due and payable or within five years after the last filing for record as set forth in the Uniform State Tax Lien Registration and Enforcement Act, the Tax Commissioner may bring an action in the courts of this state, any other state, or the United States in the name of the people of the State of Nebraska to collect the delinquent amount together with penalties, any additions to such tax, costs, and interest.

(2) The Attorney General shall prosecute the action, and the rules of civil procedure relating to service of summons, pleadings, proofs, trials, and appeals shall be applicable to the proceedings.

(3) In the action, a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment shall be required.

(4) In the action, a certificate by the Tax Commissioner showing the delinquency shall be prima facie evidence of the determination of such tax or the amount of such tax, the delinquency of the amounts set forth, and of the compliance by the Tax Commissioner with all provisions of the applicable tax program which he or she administers in relation to the computation and determination of the amounts set forth.

(5) The tax amounts required to be paid by any person under any tax program administered by the Tax Commissioner together with any interest, penalties, and additions to such tax shall be satisfied first in any of the following cases: When the person is insolvent; when the person makes a voluntary assignment of his or her assets; when the estate of the person in the hands of executors, personal representatives, administrators, or heirs is insufficient to pay all the debts due from the deceased; or when the estate and effects of an absconding, concealed, or absent person required to pay any amount under any tax program administered by the Tax Commissioner are levied upon by process of law.

(6) Any tax which by law must be deducted and withheld by an employer or payor or is collected by a retailer or any other designated person as agent for the State of Nebraska on any transaction governed by a tax program administered by the Tax Commissioner shall constitute a trust fund in the hands of the employer, payor, or retailer or such other designated person and shall be owned by the state as of the time the tax is deducted and withheld or is owing to the employer, payor, or retailer or such other designated person.

Sec. 219. (1) In addition to all other



remedies or actions provided by law under any tax program administered by the Tax Commissioner, it shall be lawful for the Tax Commissioner, after making demand for payment, to collect any delinquent taxes, together with any interest, penalties, and additions to such tax by distraint and sale of the real and personal property of the taxpayer. If the Tax Commissioner finds that the collection of any tax is in jeopardy pursuant to section 77-2710 or 77-27.111, notice and demand for immediate payment of such tax may be made by the Tax Commissioner and, upon failure or refusal to pay such tax, collection by levy shall be lawful.

(2) In case of failure to pay taxes or deficiencies, the Tax Commissioner or his or her authorized employee may levy or, by warrant issued under his or her own hand, authorize a sheriff or duly authorized employee of the Department of Revenue to levy upon, seize, and sell such real and personal property belonging to the taxpayer as is necessary to satisfy the liability, except exempt property, for the payment of the amount due. As used in this section, exempt property shall mean such property as is exempt from execution under the laws of this state.

(3) When a warrant is issued or a levy is made by the Tax Commissioner or his or her duly authorized employee for the collection of any tax and any interest, penalty, or addition to such tax imposed by law under any tax program administered by the Tax Commissioner or for the enforcement of any tax lien authorized by the Uniform State Tax Lien Registration and Enforcement Act, such warrant or levy shall have the same force and effect of a levy and sale pursuant to a writ of execution. Such warrant or levy may be issued and sale made pursuant to it in the same manner and with the same force and effect of a levy and sale pursuant to a writ of execution. The Tax Commissioner shall pay the levying sheriff the same fees, commissions, and expenses pursuant to such warrant as are provided by law for similar services pursuant to a writ of execution, except that fees for publications in a newspaper shall be subject to approval by the Tax Commissioner. Such fees, commissions, and expenses shall be an obligation of the taxpayer and may be collected from the taxpayer by virtue of the warrant. Any such warrant shall show the name and last-known address of the taxpayer, the identity of the tax program, the year for which such tax and any interest, penalty, or addition to such tax is due and the amount thereof, the fact that the Tax Commissioner has complied with all provisions of the law



for the applicable tax program which he or she administers in the determination of the amount required to be paid, and that the tax and any interest, penalty, or addition to such tax is due and payable according to law.

(4) Notice of the sale and the time and place of the sale shall be given, to the delinquent taxpayer and to any other person with an interest in the property who has filed for record with the appropriate filing officer on such property, in writing at least twenty days prior to the date of such sale in the following manner: The notice shall be sent by certified mail, return receipt requested, to the taxpayer and to any other person with such interest at his or her last-known residence or place of business in this state. The notice shall also be published for ten days prior to the date of the sale in the newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county twenty days prior to the date of the sale. The notice shall contain a description of the property to be sold, a statement of the type of tax due and of the amount due, including interest, penalties, additions to tax, and costs, the name of the delinquent taxpayer, and the further statement that unless the amount due, including interest, penalties, additions to tax, and costs, is paid on or before the time fixed in the notice for the sale or such security as may be determined by the Tax Commissioner is placed with the Tax Commissioner or his or her duly authorized representative on or before such time, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice.

(5) At the sale the Tax Commissioner or his or her duly authorized representative shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the property. The bill of sale shall vest the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized shall remain in the custody and control of the Tax Commissioner or his or her duly authorized representative until offered for sale again in accordance with this section or redeemed by the taxpayer.

(6) Whenever any property which is seized and sold under this section is not sufficient to satisfy the



claim of the state for which distraint or seizure is made, the sheriff or duly authorized employee of the Department of Revenue may thereafter, and as often as the same may be necessary, proceed to seize and sell in like manner any other property liable to seizure of the taxpayer against whom such claim exists until the amount due from such taxpayer, together with all expenses, is fully paid.

(7) If after the sale the money received exceeds the total of all amounts due the state, including any interest, penalties, additions to tax, and costs, and if there is no other interest in or lien upon such money received, the Tax Commissioner shall return the excess to the person liable for the amounts and obtain a receipt. If any person having an interest or lien upon the property files with the Tax Commissioner prior to the sale notice of his or her interest or lien, the Tax Commissioner shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the person liable for the amount is not available, the Tax Commissioner shall deposit the excess money with the State Treasurer, as trustee for the owner, subject to the order of the person liable for the amount or his or her heirs, successors, or assigns. No interest earned, if any, shall become the property of the person liable for the amount.

(8) All persons and officers of companies or corporations shall, on demand of a sheriff or duly authorized employee of the Department of Revenue about to distraint or having distrained any property or right to property, exhibit all books containing evidence or statements relating to the property or rights of property liable to distraint for the tax due.

Sec. 220. (1) To enforce collection of any tax not paid when due, the Tax Commissioner may make demand upon any security which is provided for by law and which has been submitted to the Tax Commissioner on behalf of the person liable for the tax, together with any interest, penalties, additions to tax, and costs thereon. The security may, if necessary, be sold by the Tax Commissioner in the manner provided by section 77-27.131.

(2) The Tax Commissioner may abate the unpaid portion of the assessment of any tax, or other liability in respect thereof, if he or she determines that the administration and collection costs involved would not warrant collection of the amount due.

Sec. 221. (1) No injunction or writ of mandamus or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state to enjoin the collection of any tax, fee, or any amount of tax required to be collected under any tax program administered by the Tax Commissioner.

(2) The methods of enforcement and collection provided in the Uniform State Tax Lien Registration and Enforcement Act, including distraint and sale, shall be fully independent so that pursuit of any one method shall not be conditioned upon pursuit of any other, nor shall pursuit of any one method in any way affect or limit the right of the Tax Commissioner to subsequently pursue any of the other methods of enforcement or collection.

Sec. 222. That section 81-1559, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1559. (1) To aid in defraying the cost of administration of sections 81-1534 to 81-1566, ~~81-1548-01 to 81-1548-04, and 81-1560-01 to 81-1560-03,~~ there shall be collected an annual litter fee equal to one hundred fifty dollars for each one million dollars of gross proceeds of products manufactured and the sales of which are consummated within this state, including byproducts, in the case of manufacturers; and equal to one hundred fifty dollars for each one million dollars of the gross proceeds of the sales consummated within this state in the case of wholesalers. The litter fee provided by this section shall not be applied to gross proceeds of the sales of any animal, bird, or insect; or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom; if the person performs only the growing or raising function of such animal, bird, or insect. Such fee shall be collected and administered by the Department of Revenue. The fee imposed by this section shall be due ~~on or before January 15, 1980, based upon the gross proceeds of products manufactured or sales consummated within the state for the period from October 1, 1979 to December 31, 1979, on or before August 1, 1980, for products manufactured or sales consummated for the period from January 1, 1980, to June 30, 1980, and on or before October 1, 1981, and on or before October 1, each year, thereafter,~~ based upon the gross proceeds for the immediately preceding July 1 to June 30 period. The pertinent provisions, specifically including penalty provisions, of sections ~~77-2705 to 77-2710~~ 77-2711, 77-2713, 77-2712, 77-27,125 to 77-27,131, and 77-27,133



to 77-27,135, ~~77-2711, and 77-2713~~, shall be applicable to the administration and collection of the fee imposed by this section.

(2) After October 1, 1979, no manufacturer or wholesaler in the state shall produce or sell any product which falls within the categories enumerated in this section and section 81-1560 without having first obtained a license issued in the same manner as permits issued pursuant to section 77-2705. Failure to obtain such license shall be a Class IV misdemeanor. Except as provided in section 81-1560.03, any manufacturer or wholesaler who fails to pay the fee imposed pursuant to subsection (1) of this section may have such license revoked in the same manner as permits are revoked pursuant to section 77-2705.

Sec. 223. The Revisor of Statutes shall assign sections 2 to 185 of this act to Chapter 9.

Sec. 224. Sections 199, 207, 208, and 227 of this act shall become operative for all taxable years commencing on or after January 1, 1986, or deemed to begin on or after January 1, 1986. Sections 196 to 198, 200 to 202, 209, 211 to 222, and 226 of this act shall become operative on July 1, 1986. Sections 203 to 206, 210, and 228 shall become operative on October 1, 1986. The remaining sections shall become operative on their effective date.

Sec. 225. That original sections 2-219, 9-127, 9-129, 9-135, 9-139, 9-140, 9-140.10, 9-151, 9-152, 9-155, 9-162, 9-167, 9-175, 14-102, 15-258, 16-226, 17-120, 17-207, 28-1101, 28-1105, 28-1110, and 28-1113 to 28-1116.01, Reissue Revised Statutes of Nebraska, 1943, sections 9-128, 9-132 to 9-134, 9-136 to 9-138, 9-140.03 to 9-140.06, 9-140.11, 9-140.12, 9-141 to 9-143, 9-144, 9-147, 9-149, 9-150, 9-154, 9-156 to 9-161, 9-163 to 9-166, 9-171, 9-172, 9-174, 9-177, 9-178, 9-181, 9-182, 9-190, and 9-195 to 9-199, Revised Statutes Supplement, 1984, and sections 9-124 to 9-126, 9-140.01, 9-140.07 to 9-140.09, 9-140.13 to 9-140.16, 9-143.01 to 9-143.06, 9-145, 9-146, 9-148, 9-153, 9-170, 9-173, 9-178.01, 9-179, 9-183 to 9-186.04, 9-187 to 9-189, and 9-199.01, Revised Statutes Supplement, 1985, and also sections 9-176 and 28-1116.02, Reissue Revised Statutes of Nebraska, 1943, and sections 9-140.02, 9-168, 9-169, 9-191, 9-192, 9-193, 9-193.01, and 9-194, Revised Statutes Supplement, 1984, are repealed.

Sec. 226. That original sections 57-702, 57-710, 57-919, 77-27,107, and 81-1559, Reissue Revised Statutes of Nebraska, 1943, sections 77-631.02 and 77-1250, Revised Statutes Supplement, 1984, and section

76-214, Revised Statutes Supplement, 1985, and also sections 66-416, 66-416.01, 66-628, 66-628.01, and 77-27,106, Reissue Revised Statutes of Nebraska, 1943, sections 77-2712 and 77-27,104, Revised Statutes Supplement, 1984, and sections 77-2701.03 and 77-27,105, Revised Statutes Supplement, 1985, are repealed.

Sec. 227. That original section 66-448, Reissue Revised Statutes of Nebraska, 1943, section 77-2753, Revised Statutes Supplement, 1984, and section 77-2715, Revised Statutes Supplement, 1985, are repealed.

Sec. 228. That original section 77-27,147, Reissue Revised Statutes of Nebraska, 1943, section 77-2704.01, Revised Statutes Supplement, 1984, and sections 77-2702 to 77-2704, Revised Statutes Supplement, 1985, are repealed.