

**Nebraska Horsemen's Benevolent
& Protective Association, Inc.**



Lynne Schuller, Executive Director

Bob Evnen

Nebraska Secretary of State

VIA ELECTRONIC MAIL

Secretary of State Evnen-

Regarding all documents related to the filing of the initiative petition sponsored by Keep the Money in Nebraska, all references to Barry Lake as President of the Nebraska Horsemen's Benevolent and Protective Association should be removed, as he is no longer President of the organization. Any further references to the Nebraska HBPA should include Robert Moser Jr., who is now the President. All correspondence related to the petition materials should also be addressed to Mr. Moser at the Nebraska HBPA address.

Thank you,

Lynne Schuller, Executive Vice President

SWORN STATEMENT

The undersigned, being first duly sworn, states under oath that the following are the names and street addresses of every person, corporation or association sponsoring the following initiative:

1. Statutory initiative to allow all games of chance to be conducted by authorized gaming operators within licensed racetrack enclosures and to establish a Nebraska Gaming Commission to regulate such gaming.

The full text and statement of the object of the initiative is attached and is also on file with the Nebraska Secretary of State.

List of Sponsors:

Keep The Money In Nebraska
301 S. 12th Street, Suite 140
Lincoln, NE 68508

Nebraska Horsemen's Benevolent &
Protective Association
Robert Moser, Jr., President
1821 South 11th Street
Nebraska City, NE 68410

Ho-Chunk, Inc.
Lance Morgan, Chief Executive Officer
1 Mission Road
Winnebago, NE 68071

Omaha Exposition & Racing, Inc.
Craig Wulf, President
6303 Q Street
Omaha, NE 68117

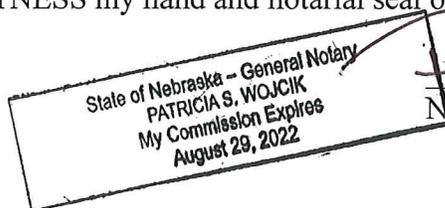


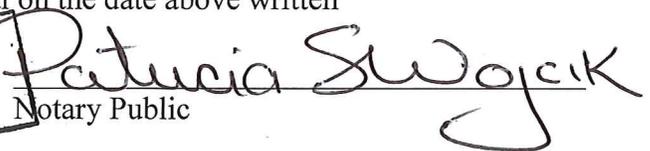
Lance Morgan
Keep The Money In Nebraska

STATE OF NEBRASKA)
) ss
COUNTY OF Dakota)

On this 1st day of July, 2019, before me, the undersigned, a Notary Public, personally came Lance Morgan, to me known to be the identical person whose name is affixed to the foregoing instrument and acknowledged the same to be his voluntary act and deed.

WITNESS my hand and notarial seal on the date above written





Notary Public

STATUTORY INITIATIVE _____

OBJECT STATEMENT

The object of this petition enacts a statute allowing all games of chance to be conducted by authorized gaming operators within licensed racetrack enclosures in Nebraska and establishes a Nebraska Gaming Commission to regulate such gaming in Nebraska.

BALLOT QUESTION

Shall a statute be enacted which: (1) allows all games of chance to be conducted by authorized gaming operators within licensed racetrack enclosures in Nebraska, (2) establishes a Nebraska Gaming Commission to regulate such gaming, and (3) amends and repeals existing sections of law to harmonize provisions consistent with the enactment of such statute?

TEXT OF STATUTORY INITIATIVE

A BILL

FOR AN ACT relating to gaming; to amend sections 28-1101, 28-1105, 28-1113, 77-2704.20, and 77-3001, Reissue Revised Statutes of Nebraska, and section 2-1203.01, Revised Statutes Cumulative Supplement, 2018; to adopt the Nebraska Racetrack Gaming Act; to authorize games of chance as prescribed; to create a commission; to provide for the regulation of games of chance; to define terms; to provide duties for the State Racing Commission; to exempt the Nebraska Racetrack Gaming Act from prohibitions and penalties on gambling; to exempt purchases by the Nebraska Gaming Commission from sales and use taxes; to harmonize provisions; to provide an operative date; and to repeal the original sections.

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

Section 1. Sections 1 to 6 of this act shall be known and may be cited as the Nebraska Racetrack Gaming Act.

Sec. 2. Notwithstanding any other provision of law, and to the full extent permitted by the Constitution of Nebraska, including amendments to the Constitution of Nebraska adopted contemporaneously with the enactment of the Nebraska Racetrack Gaming Act, the operation of games of chance is permitted only by authorized gaming operators within licensed racetrack enclosures as provided in the act.

Sec. 3. For purposes of the Nebraska Racetrack Gaming Act:

(1) Authorized gaming operator means a person or entity licensed pursuant to the act to operate games of chance within a licensed racetrack enclosure;

(2) Authorized gaming operator license means a license to operate games of chance as an authorized gaming operator at a licensed racetrack enclosure;

(3) Game of chance means any game which has the elements of chance, prize, and consideration, including any wager on a slot machine, table game, counter game, or card game. Game of chance does not include any game the operation of which is prohibited at a casino by federal law;

(4) Gaming device means an electronic, mechanical, or other device which plays a game of chance when activated by a player using currency, a token, or other item of value;

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

(6) Limited gaming device means an electronic gaming device which (a) offers games of chance, (b) does not dispense currency, tokens, or other items of value, and (c) does not have a cash winnings hopper, mechanical or simulated spinning reel, or side handle; and

(7) Racing license means a license issued by the State Racing Commission.

Sec. 4. (1) The operation of games of chance at a licensed racetrack enclosure may be conducted by an authorized gaming operator who holds an authorized gaming operator license.

(2) No more than one authorized gaming operator license shall be granted for each licensed racetrack enclosure within the state; provided that, it shall not be a requirement that the person or entity applying for or to be granted such authorized gaming operator license hold a racing license or be the same person or entity who operates the licensed racetrack enclosure at which such authorized gaming operator license shall be granted.

(3) Gaming devices, limited gaming devices, and all other games of chance may be operated by authorized gaming operators at a licensed racetrack enclosure.

(4) No person younger than twenty-one years of age shall play or participate in any way in any game of chance or use any gaming device or limited gaming device at a licensed racetrack enclosure.

(5) No authorized gaming operator shall permit an individual younger than twenty-one years of age to play or participate in any game of chance or use any gaming device or limited gaming device conducted or operated pursuant to the Nebraska Racetrack Gaming Act.

Sec. 5. (1) For purposes of providing the necessary licensing and regulation of the operation of games of chance by authorized gaming operators within licensed racetrack enclosures pursuant to the Nebraska Racetrack Gaming Act, the Nebraska Gaming Commission is created.

(2) The commission shall consist of seven members. Not more than four of the seven members shall be affiliated with the same political party. No member shall have any personal financial interest in any licensed racetrack enclosure or authorized gaming operator for the duration of his or her term. The members of the commission shall elect one of the members to be chairperson.

(3) The five members of the State Racing Commission shall be *ex officio* members of the Nebraska Gaming Commission, serving terms and receiving appointment in the same manner as provided in sections 2-1201 and 2-1202.

(4) The Governor shall appoint two additional members to serve with the members of the State Racing Commission as members of the Nebraska Gaming Commission. The members appointed pursuant to this subsection shall serve five-year terms. One of such members shall have experience in the Nebraska gaming industry, and one shall be a member of the organization representing the majority of licensed owners and trainers of horses at racetracks in Nebraska.

(5) The compensation of the members of the Nebraska Gaming Commission shall be one thousand dollars per month, which may be adjusted every two years in an amount not to exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the first year to June 30 of the year of adjustment.

Sec. 6. The Nebraska Gaming Commission shall:

(1) License and regulate authorized gaming operators for the operation of all games of chance authorized pursuant to the Nebraska Racetrack Gaming Act, including adopting, promulgating, and enforcing rules and regulations governing such authorized gaming operators consistent with the act;

(2) Regulate the operation of games of chance in order to prevent and eliminate corrupt practices and fraudulent behavior, and thereby promote integrity, security, and honest administration in, and accurate accounting of, the operation of games of chance which are subject to the act;

(3) Establish criteria to license applicants for authorized gaming operator licenses and all other types of gaming licenses for other positions and functions incident to the operation of games of chance, including adopting, promulgating, and enforcing rules, regulations, and eligibility standards for such authorized gaming operator licenses, gaming licenses, and positions and functions incident to the operation of games of chance;

(4) Charge fees for applications for licenses and for the issuance of authorized gaming operator licenses and all other types of gaming licenses to successful applicants which shall be payable to the Nebraska Gaming Commission;

(5) Charge fees to authorized gaming operators in an amount necessary to offset the cost of oversight and regulatory services to be provided which shall be payable to the Nebraska Gaming Commission;

(6) Impose a one-time authorized gaming operator license fee of one million dollars on each authorized gaming operator for each licensed racetrack enclosure payable to the Nebraska Gaming Commission;

(7) Grant, deny, revoke, and suspend authorized gaming operator licenses and all other types of gaming licenses based upon reasonable criteria and procedures established by the commission to facilitate the integrity, productivity, and lawful conduct of gaming within the state;

(8) Grant or deny for cause applications for authorized gaming operator licenses of not less than twenty years in duration with no more than one such authorized gaming operator license granted for any licensed racetrack enclosure within the state;

(9) Conduct background investigations of applicants for authorized gaming operator licenses and all other types of gaming licenses;

(10) Adopt and promulgate rules and regulations for the standards of manufacture of gaming equipment;

(11) Inspect the operation of any authorized gaming operator conducting games of chance for the purpose of certifying the revenue thereof and receiving complaints from the public;

(12) Issue subpoenas for the attendance of witnesses or the production of any

records, books, memoranda, documents, or other papers or things at or prior to any hearing as is necessary to enable the commission to effectively discharge its duties;

(13) Administer oaths or affirmations as necessary to carry out the act;

(14) Have the authority to impose, subject to judicial review, administrative fines not to exceed twenty-five thousand dollars for each violation of the act or any rules and regulations adopted and promulgated pursuant to the act;

(15) Collect and remit administrative fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska;

(16) Adopt and promulgate rules and regulations for any gaming taxes assessed to authorized gaming operators;

(17) Collect and account for any gaming taxes assessed to authorized gaming operators and remit such taxes to the State Treasurer or county treasurer as required by Nebraska law;

(18) Promote treatment of gaming-related behavioral disorders;

(19) Establish procedures for the governance of the commission;

(20) Acquire necessary offices, facilities, counsel, and staff;

(21) Establish procedures for an applicant for a staff position to disclose conflicts of interest as part of the application for employment; and

(22) Do all things necessary and proper to carry out its powers and duties under the act, including the adoption and promulgation of rules and regulations and such other actions as permitted by the Administrative Procedure Act.

Sec. 7. Section 2-1203.01, Revised Statutes Cumulative Supplement, 2018, is amended to read:

2-1203.01. The State Racing Commission shall:

(1) Enforce all state laws covering horseracing as required by sections 2-1201 to 2-1229 and enforce rules and regulations adopted and promulgated by the commission under the authority of section 2-1203;

(2) License racing industry participants, race officials, mutuel employees, concessionaires, and such other persons as deemed necessary by the commission if the license applicants meet eligibility standards established by the commission;

(3) Prescribe and enforce security provisions, including, but not limited to, the restricted access to areas within track enclosures and backstretch areas, and prohibitions against

misconduct or corrupt practices;

- (4) Determine or cause to be determined by chemical testing and analysis of body fluids whether or not any prohibited substance has been administered to the winning horse of each race and any other horse selected by the board of stewards;
- (5) Verify the certification of horses registered as being Nebraska-bred under section 2-1213; ~~and~~
- (6) Collect and verify the amount of revenue received by the commission under section 2-1208; and
- (7) Serve as *ex officio* members of the Nebraska Gaming Commission, and perform the duties set forth in the Nebraska Racetrack Gaming Act.

read: Sec. 8. Section 28-1101, Reissue Revised Statutes of Nebraska, is amended to

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, (b) the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor, or (c) engaging in the procurement, sale, or offering for sale within this state of any chance, share, or interest in a lottery of another state or government whether or not such chance, share, or interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest except as provided in the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701;

(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 in accordance with the Nebraska Bingo Act, the Nebraska County and City

Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701, 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 any bingo, lottery by the sale of pickle cards, lottery, raffle, game of chance, or gift enterprise conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701;

(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 something of value, free games redeemable for 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 something of value, except as authorized in the furtherance of parimutuel wagering. Supplies, equipment, cards, tickets, stubs, and other items used in any bingo, lottery by the sale of pickle cards, other lottery, raffle, game of chance, or gift enterprise conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701 are not gambling devices within this definition;

(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

(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.

Sec. 9. Section 28-1105, Reissue Revised Statutes of Nebraska, is amended to read:

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 mutuel scheme or enterprise or other scheme not conducted pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701 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 such acts or section.

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

Sec. 10. Section 28-1113, Reissue Revised Statutes of Nebraska, is amended to read:

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 conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or section 9-701; or

(3) Apply to or prohibit the operation of games of chance, whether using a gambling device or otherwise, by authorized gaming operators within licensed racetrack enclosures or the participation or playing of such games of chance, whether participated in or played using a gambling device or otherwise, by individuals twenty-one years of age or older within licensed racetrack enclosures as provided in the Nebraska Racetrack Gaming Act.

Sec. 11. Section 77-2704.20, Reissue Revised Statutes of Nebraska, is amended to read:

77-2704.20.

Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or

rental of and the storage, use, or other consumption in this state of purchases made by licensees of the State Racing Commission- or of purchases made by licensees of the Nebraska Gaming Commission.

Sec. 12. Section 77-3001, Reissue Revised Statutes of Nebraska, is amended to read:

77-3001.

For purposes of the Mechanical Amusement Device Tax Act, unless the context otherwise requires:

(1) Person means an individual, partnership, limited liability company, society, association, joint-stock company, corporation, estate, receiver, lessee, trustee, assignee, referee, or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals;

(2) Mechanical amusement device means any machine which, upon insertion of a coin, currency, credit card, or substitute into the machine, operates or may be operated or used for a game, contest, or amusement of any description, such as, by way of example, but not by way of limitation, pinball games, shuffleboard, bowling games, radio-ray rifle games, baseball, football, racing, boxing games, and coin-operated pool tables. Mechanical amusement device also includes game and draw lotteries and coin-operated automatic musical devices. The term does not mean vending machines which dispense tangible personal property, devices located in private homes for private use, pickle card dispensing devices which are required to be registered with the Department of Revenue pursuant to section 9-345.03, gaming devices or limited gaming devices as defined in and operated pursuant to the Nebraska Racetrack Gaming Act, or devices which are mechanically constructed in a manner that would render their operation illegal under the laws of the State of Nebraska;

(3) Operator means any person who operates a place of business in which a machine or device owned by him or her is physically located or any person who places and who either directly or indirectly controls or manages any machine or device;

(4) Distributor means any person who sells, leases, or delivers possession or custody of a machine or mechanical device to operators thereof for a consideration either directly or indirectly received;

(5) Whenever in the act, the words machine or device are used, they refer to mechanical amusement device; and

(6) Whenever in the act, the words machine, device, person, operator, or distributor are used, the words in the singular include the plural and in the plural include the singular.

Sec. 13. This act becomes operative on January 1, 2021.

Sec. 14. Original sections 28-1101, 28-1105, 28-1113, 77-2704.20, and 77-3001,

Reissue Revised Statutes of Nebraska, and section 2-1203.01, Revised Statutes Cumulative Supplement, 2018, are repealed.

Sec. 15. If any section or provision of this act is determined by a court of competent jurisdiction to be unconstitutional or otherwise void or invalid for any reason, such determination shall not affect the validity of the act as a whole or any part thereof, other than the part so determined to be unconstitutional or otherwise void or invalid.

INITIATIVE PETITION



For Secretary of State Use Only

The object of this petition is to: (See reverse side for actual text of measure)

Enact a statute allowing all games of chance to be conducted by authorized gaming operators within licensed racetrack enclosures in Nebraska and establishes a Nebraska Gaming Commission to regulate such gaming in Nebraska.

To the Honorable Robert Evnen, Secretary of State for the State of Nebraska:

We, the undersigned residents of the State of Nebraska and the county of _____, respectfully demand that the following proposed law shall be referred to the registered voters of the state for their approval or rejection at the general election to be held on the 3rd day of November 2020, and each for himself or herself says: I have personally signed this petition on the date opposite my name; I am a registered voter of the State of Nebraska and county of _____ and am qualified to sign this petition or I will be so registered and qualified on or before the date on which this petition is required to be filed with the Secretary of State; and My printed name, date of birth, street and number or voting precinct, and city, village, or post office address are correctly written after my signature.

WARNING TO PETITION SIGNERS-- VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL CHARGES: Any person who signs any name other than his or her own to any petition or who is not qualified to sign the petition shall be guilty of a Class I misdemeanor. Any person who falsely swears to a circulator's affidavit on a petition, who accepts money or other things of value for signing a petition, or who offers money or other things of value in exchange for a signature upon any petition shall be guilty of a Class IV felony.

	DATE	SIGNATURE	PRINTED NAME	DATE OF BIRTH	ADDRESS (Street Number & Name)	CITY OR VILLAGE	ZIP CODE
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STATE OF NEBRASKA) _____, (name of circulator) being first duly sworn, deposes and says that he or she is the circulator
) ss of this petition containing _____ signatures, that he or she is at least eighteen years of age, that each person whose name appears on the petition personally
 COUNTY OF _____) signed the petition in the presence of the affiant, that the date to the left of each signature is the correct date on which the signature was affixed to the petition
 and that the date was personally affixed by the person signing such petition, that the affiant believes that each signer has written his or her
 name, street and number or voting precinct, and city, village, or post office address correctly, that the affiant believes that each signer was qualified to sign the petition, and that the affiant stated to each signer
 the object of the petition as printed on the petition before he or she affixed his or her signature to the petition.

Circulator

Address

City, State, Zip

Subscribed and sworn to before me, a notary public, this _____ day of _____, 20__ at _____, Nebraska.

(Seal)

Notary Public

Proposed Statutory Amendment Language:

A BILL

FOR AN ACT relating to gaming; to amend sections 28-1101, 28-1105, 28-1113, 77-2704.20, and 77-3001, Reissue Revised Statutes of Nebraska, and section 2-1203.01, Revised Statutes Cumulative Supplement, 2018; to adopt the Nebraska Racetrack Gaming Act; to authorize games of chance as prescribed; to create a commission; to provide for the regulation of games of chance; to define terms; to provide duties for the State Racing Commission; to exempt the Nebraska Racetrack Gaming Act from prohibitions and penalties on gambling; to exempt purchases by the Nebraska Gaming Commission from sales and use taxes; to harmonize provisions; to provide an operative date; and to repeal the original sections.

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

Section 1. Sections 1 to 6 of this act shall be known and may be cited as the Nebraska Racetrack Gaming Act.

Sec. 2. Notwithstanding any other provision of law, and to the full extent permitted by the Constitution of Nebraska, including amendments to the Constitution of Nebraska adopted contemporaneously with the enactment of the Nebraska Racetrack Gaming Act, the operation of games of chance is permitted only by authorized gaming operators within licensed racetrack enclosures as provided in the act.

Sec. 3. For purposes of the Nebraska Racetrack Gaming Act:

(1) Authorized gaming operator means a person or entity licensed pursuant to the act to operate games of chance within a licensed racetrack enclosure;

(2) Authorized gaming operator license means a license to operate games of chance as an authorized gaming operator at a licensed racetrack enclosure;

(3) Game of chance means any game which has the elements of chance, prize, and consideration, including any wager on a slot machine, table game, counter game, or card game. Game of chance does not include any game the operation of which is prohibited at a casino by federal law;

(4) Gaming device means an electronic, mechanical, or other device which plays a game of chance when activated by a player using currency, a token, or other item of value;

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

(6) Limited gaming device means an electronic gaming device which (a) offers games of chance, (b) does not dispense currency, tokens, or other items of value, and (c) does not have a cash winnings hopper, mechanical or simulated spinning reel, or side handle; and

(7) Racing license means a license issued by the State Racing Commission.

Sec. 4. (1) The operation of games of chance at a licensed racetrack enclosure may be conducted by an authorized gaming operator who holds an authorized gaming operator license.

(2) No more than one authorized gaming operator license shall be granted for each licensed racetrack enclosure within the state; provided that, it shall not be a requirement that the person or entity applying for or to be granted such authorized gaming operator license hold a racing license or be the same person or entity who operates the licensed racetrack enclosure at which such authorized gaming operator license shall be granted.

(3) Gaming devices, limited gaming devices, and all other games of chance may be operated by authorized gaming operators at a licensed racetrack enclosure.

(4) No person younger than twenty-one years of age shall play or participate in any way in any game of chance or use any gaming device or limited gaming device at a licensed racetrack enclosure.

(5) No authorized gaming operator shall permit an individual younger than twenty-one years of age to play or participate in any game of chance or use any gaming device or limited gaming device conducted or operated pursuant to the Nebraska Racetrack Gaming Act.

Sec. 5. (1) For purposes of providing the necessary licensing and regulation of the operation of games of chance by authorized gaming operators within licensed racetrack enclosures pursuant to the Nebraska Racetrack Gaming Act, the Nebraska Gaming Commission is created.

(2) The commission shall consist of seven members. Not more than four of the seven members shall be affiliated with the same political party. No member shall have any personal financial interest in any licensed racetrack enclosure or authorized gaming operator for the duration of his or her term. The members of the commission shall elect one of the members to be chairperson.

(3) The five members of the State Racing Commission shall be *ex officio* members of the Nebraska Gaming Commission, serving terms and receiving appointment in the same manner as provided in sections 2-1201 and 2-1202.

(4) The Governor shall appoint two additional members to serve with the members of the State Racing Commission as members of the Nebraska Gaming Commission. The members appointed pursuant to this subsection shall serve five-year terms. One of such members shall have experience in the Nebraska gaming industry, and one shall be a member of the organization representing the majority of licensed owners and trainers of horses at racetracks in Nebraska.

(5) The compensation of the members of the Nebraska Gaming Commission shall be one thousand dollars per month, which may be adjusted every two years in an amount not to exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the first year to June 30 of the year of adjustment.

Sec. 6. The Nebraska Gaming Commission shall:

(1) License and regulate authorized gaming operators for the operation of all games of chance authorized pursuant to the Nebraska Racetrack Gaming Act, including adopting, promulgating, and enforcing rules and regulations governing such authorized gaming operators consistent with the act;

(2) Regulate the operation of games of chance in order to prevent and eliminate corrupt practices and fraudulent behavior, and thereby promote integrity, security, and honest administration in, and accurate accounting of, the operation of games of chance which are subject to the act;

(3) Establish criteria to license applicants for authorized gaming operator licenses and all other types of gaming licenses for other positions and functions incident to the operation of games of chance, including adopting, promulgating, and enforcing rules, regulations, and eligibility standards for such authorized gaming operator licenses, gaming licenses, and positions and functions incident to the operation of games of chance;

(4) Charge fees for applications for licenses and for the issuance of authorized gaming operator licenses and all other types of gaming licenses to successful applicants which shall be payable to the Nebraska Gaming Commission;

(5) Charge fees to authorized gaming operators in an amount necessary to offset the cost of oversight and regulatory services to be provided which shall be payable to the Nebraska Gaming Commission;

(6) Impose a one-time authorized gaming operator license fee of one million dollars on each authorized gaming operator for each licensed racetrack enclosure payable to the Nebraska Gaming Commission;

- (7) Grant, deny, revoke, and suspend authorized gaming operator licenses and all other types of gaming licenses based upon reasonable criteria and procedures established by the commission to facilitate the integrity, productivity, and lawful conduct of gaming within the state;
- (8) Grant or deny for cause applications for authorized gaming operator licenses of not less than twenty years in duration with no more than one such authorized gaming operator license granted for any licensed racetrack enclosure within the state;
- (9) Conduct background investigations of applicants for authorized gaming operator licenses and all other types of gaming licenses;
- (10) Adopt and promulgate rules and regulations for the standards of manufacture of gaming equipment;
- (11) Inspect the operation of any authorized gaming operator conducting games of chance for the purpose of certifying the revenue thereof and receiving complaints from the public;
- (12) Issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers or things at or prior to any hearing as is necessary to enable the commission to effectively discharge its duties;
- (13) Administer oaths or affirmations as necessary to carry out the act;
- (14) Have the authority to impose, subject to judicial review, administrative fines not to exceed twenty-five thousand dollars for each violation of the act or any rules and regulations adopted and promulgated pursuant to the act;
- (15) Collect and remit administrative fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska;
- (16) Adopt and promulgate rules and regulations for any gaming taxes assessed to authorized gaming operators;
- (17) Collect and account for any gaming taxes assessed to authorized gaming operators and remit such taxes to the State Treasurer or county treasurer as required by Nebraska law;
- (18) Promote treatment of gaming-related behavioral disorders;
- (19) Establish procedures for the governance of the commission;
- (20) Acquire necessary offices, facilities, counsel, and staff;
- (21) Establish procedures for an applicant for a staff position to disclose conflicts of interest as part of the application for employment; and
- (22) Do all things necessary and proper to carry out its powers and duties under the act, including the adoption and promulgation of rules and regulations and such other actions as permitted by the Administrative Procedure Act.

Sec. 7. Section 2-1203.01, Revised Statutes Cumulative Supplement, 2018, is amended to read:

2-1203.01. The State Racing Commission shall:

- (1) Enforce all state laws covering horseracing as required by sections 2-1201 to 2-1229 and enforce rules and regulations adopted and promulgated by the commission under the authority of section 2-1203;
- (2) License racing industry participants, race officials, mutuel employees, concessionaires, and such other persons as deemed necessary by the commission if the license applicants meet eligibility standards established by the commission;
- (3) Prescribe and enforce security provisions, including, but not limited to, the restricted access to areas within track enclosures and backstretch areas, and prohibitions against misconduct or corrupt practices;
- (4) Determine or cause to be determined by chemical testing and analysis of body fluids whether or not any prohibited substance has been administered to the winning horse of each race and any other horse selected by the board of stewards;
- (5) Verify the certification of horses registered as being Nebraska-bred under section 2-1213; ~~and~~
- (6) Collect and verify the amount of revenue received by the commission under section 2-1208; ~~and~~
- (7) Serve as *ex officio* members of the Nebraska Gaming Commission, and perform the duties set forth in the Nebraska Racetrack Gaming Act.

Sec. 8. Section 28-1101, Reissue Revised Statutes of Nebraska, is amended to read:

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, (b) the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor, or (c) engaging in the procurement, sale, or offering for sale within this state of any chance, share, or interest in a lottery of another state or government whether or not such chance, share, or interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest except as provided in the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701;
- (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 in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701, 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 any bingo, lottery by the sale of pickle cards, lottery, raffle, game of chance, or gift enterprise conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701;
- (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 something of value, free games redeemable for 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 something of value, except as authorized in the furtherance of parimutuel wagering. Supplies, equipment, cards, tickets, stubs, and other items used in any bingo, lottery by the sale of pickle cards, other lottery, raffle, game of chance, or gift enterprise conducted in accordance with the

Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701 are not gambling devices within this definition;

(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

(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.

Sec. 9. Section 28-1105, Reissue Revised Statutes of Nebraska, is amended to read:
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 mutuel scheme or enterprise or other scheme not conducted pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701 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 such acts or section.

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

Sec. 10. Section 28-1113, Reissue Revised Statutes of Nebraska, is amended to read:
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 conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or section 9-701; or

(3) Apply to or prohibit the operation of games of chance, whether using a gambling device or otherwise, by authorized gaming operators within licensed racetrack enclosures or the participation or playing of such games of chance, whether participated in or played using a gambling device or otherwise, by individuals twenty-one years of age or older within licensed racetrack enclosures as provided in the Nebraska Racetrack Gaming Act.

Sec. 11. Section 77-2704.20, Reissue Revised Statutes of Nebraska, is amended to read:
77-2704.20.

Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases made by licensees of the State Racing Commission; or of purchases made by licensees of the Nebraska Gaming Commission.

Sec. 12. Section 77-3001, Reissue Revised Statutes of Nebraska, is amended to read:
77-3001.

For purposes of the Mechanical Amusement Device Tax Act, unless the context otherwise requires:

(1) Person means an individual, partnership, limited liability company, society, association, joint-stock company, corporation, estate, receiver, lessee, trustee, assignee, referee, or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals;

(2) Mechanical amusement device means any machine which, upon insertion of a coin, currency, credit card, or substitute into the machine, operates or may be operated or used for a game, contest, or amusement of any description, such as, by way of example, but not by way of limitation, pinball games, shuffleboard, bowling games, radio-ray rifle games, baseball, football, racing, boxing games, and coin-operated pool tables. Mechanical amusement device also includes game and draw lotteries and coin-operated automatic musical devices. The term does not mean vending machines which dispense tangible personal property, devices located in private homes for private use, pickle card dispensing devices which are required to be registered with the Department of Revenue pursuant to section 9-345.03, gaming devices or limited gaming devices as defined in and operated pursuant to the Nebraska Racetrack Gaming Act, or devices which are mechanically constructed in a manner that would render their operation illegal under the laws of the State of Nebraska;

(3) Operator means any person who operates a place of business in which a machine or device owned by him or her is physically located or any person who places and who either directly or indirectly controls or manages any machine or device;

(4) Distributor means any person who sells, leases, or delivers possession or custody of a machine or mechanical device to operators thereof for a consideration either directly or indirectly received;

(5) Whenever in the act, the words machine or device are used, they refer to mechanical amusement device; and

(6) Whenever in the act, the words machine, device, person, operator, or distributor are used, the words in the singular include the plural and in the plural include the singular.

Sec. 13. This act becomes operative on January 1, 2021.

Sec. 14. Original sections 28-1101, 28-1105, 28-1113, 77-2704.20, and 77-3001, Reissue Revised Statutes of Nebraska, and section 2-1203.01, Revised Statutes Cumulative Supplement, 2018, are repealed.

Sec. 15. If any section or provision of this act is determined by a court of competent jurisdiction to be unconstitutional or otherwise void or invalid for any reason, such determination shall not affect the validity of the act as a whole or any part thereof, other than the part so determined to be unconstitutional or otherwise void or invalid.