

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1204**

FINAL READING

Introduced by Cavanaugh, J., 9.

Read first time January 16, 2024

Committee: General Affairs

1 A BILL FOR AN ACT relating to law; to amend sections 9-402, 9-422, 9-426,  
2 9-427, 9-429, 9-502, 9-511, 9-823, 28-1105.01, 28-1422, 28-1429,  
3 53-123.01, 59-1523, 77-4003, 77-4005, 77-4006, 77-4012, 77-4013,  
4 77-4017, 77-4019, and 77-4020, Reissue Revised Statutes of Nebraska,  
5 sections 28-1418.01, 28-1420, 28-1425, and 84-712.05, Revised  
6 Statutes Cumulative Supplement, 2022, and sections 53-101, 53-103,  
7 53-123.16, 77-4001, and 77-4025, Revised Statutes Supplement, 2023;  
8 to define and redefine terms; to change provisions relating to the  
9 Nebraska Lottery and Raffle Act and the Nebraska Small Lottery and  
10 Raffle Act; to provide for the anonymity of winners of certain  
11 prizes under the State Lottery Act; to prohibit actions relating to  
12 unlicensed tobacco products manufacturers, wholesalers, and  
13 retailers; to change provisions relating to issuance, revocation,  
14 and forfeiture of certain tobacco licenses; to prohibit conduct  
15 relating to controlled or counterfeit controlled substances; to  
16 prohibit delivery sales of electronic nicotine delivery systems and  
17 provide requirements for packaging and advertising of such systems;  
18 to provide requirements for e-liquid containers; to authorize a  
19 holder of a microdistillery license and a holder of a manufacturer's  
20 license to operate a rickhouse under the Nebraska Liquor Control  
21 Act; to require certification of manufacturers of electronic  
22 nicotine delivery systems under the Tobacco Products Tax Act; to

1 provide duties for such manufacturers; to provide powers and duties  
2 for the Tax Commissioner; to provide penalties; to change public  
3 records disclosure provisions as prescribed; to harmonize  
4 provisions; to eliminate provisions relating to a small lottery; to  
5 repeal the original sections; and to outright repeal section 9-510,  
6 Reissue Revised Statutes of Nebraska.

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

1 Section 1. Section 9-402, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 9-402 (1) The purpose of the Nebraska Lottery and Raffle Act is to  
4 protect the health and welfare of the public, to protect the economic  
5 welfare and interest in certain lotteries and raffles with gross proceeds  
6 greater than fifteen ~~one~~ thousand dollars ~~and certain raffles with gross~~  
7 ~~proceeds greater than five thousand dollars~~, to insure that the profits  
8 derived from the operation of any such lottery or raffle are accurately  
9 reported in order that their revenue-raising potential be fully exposed,  
10 to insure that the profits are used for legitimate purposes, and to  
11 prevent the purposes for which the profits of any such lottery or raffle  
12 are to be used from being subverted by improper elements.

13 (2) The purpose of the Nebraska Lottery and Raffle Act is also to  
14 completely and fairly regulate each level of the traditional marketing  
15 scheme of tickets or stubs for such lotteries and raffles to insure  
16 fairness, quality, and compliance with the Constitution of Nebraska. To  
17 accomplish such purpose, the regulation and licensure of nonprofit  
18 organizations and any other person involved in the marketing scheme are  
19 necessary.

20 (3) The Nebraska Lottery and Raffle Act shall apply to all lotteries  
21 and raffles with gross proceeds greater than fifteen ~~in excess of one~~  
22 thousand dollars, except for lotteries by the sale of pickle cards  
23 conducted in accordance with the Nebraska Pickle Card Lottery Act,  
24 lotteries conducted by a county, city, or village in accordance with the  
25 Nebraska County and City Lottery Act, and lottery games conducted in  
26 accordance with the State Lottery Act, ~~and to all raffles with gross~~  
27 ~~proceeds in excess of five thousand dollars.~~

28 (4) All such lotteries and raffles shall be played and conducted  
29 only by the methods permitted in the Nebraska Lottery and Raffle Act ~~act~~.  
30 No other form, means of selection, or method of play shall be allowed.

31 Sec. 2. Section 9-422, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 9-422 No person, except a licensed organization operating pursuant  
3 to the Nebraska Lottery and Raffle Act, shall conduct any lottery or  
4 raffle with gross proceeds greater than fifteen ~~in excess of one~~ thousand  
5 ~~dollars or any raffle with gross proceeds in excess of five thousand~~  
6 ~~dollars~~. Any lottery or raffle conducted in violation of this section is  
7 hereby declared to be a public nuisance. Any person who violates this  
8 section shall be guilty of a Class III misdemeanor. Nothing in this  
9 section shall be construed to apply to any lottery conducted in  
10 accordance with the Nebraska County and City Lottery Act, any lottery by  
11 the sale of pickle cards conducted in accordance with the Nebraska Pickle  
12 Card Lottery Act, or any lottery game conducted pursuant to the State  
13 Lottery Act.

14 Sec. 3. Section 9-426, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 9-426 (1) A licensed organization may obtain from the department a  
17 special permit to conduct one raffle and one lottery. The cost of the  
18 special permit shall be ten dollars. The special permit shall exempt the  
19 licensed organization from subsection (2) ~~subsections (2) and (3)~~ of  
20 section 9-427 and from section 9-430. The organization shall comply with  
21 all other requirements of the Nebraska Lottery and Raffle Act.

22 (2) The special permit shall be valid for one year and shall be  
23 issued by the department upon the proper application by the licensed  
24 organization. The special permit shall become invalid upon termination,  
25 revocation, or cancellation of the organization's license to conduct a  
26 lottery or raffle. The application shall be in such form and contain such  
27 information as the department may prescribe.

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

1           Sec. 4. Section 9-427, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           9-427 (1) The gross proceeds of any lottery or raffle shall be used  
4 solely for lawful purposes, awarding of prizes, and allowable expenses.

5           ~~(2) Not less than sixty-five percent of the gross proceeds of any~~  
6 ~~lottery shall be used for the awarding of prizes, and not more than ten~~  
7 ~~percent of the gross proceeds shall be used to pay the allowable expenses~~  
8 ~~of operating such scheme.~~

9           (2) ~~(3)~~ Not less than sixty-five percent of the gross proceeds of  
10 any lottery or raffle shall be used for the awarding of prizes, and not  
11 more than ten percent of the gross proceeds of a lottery or raffle shall  
12 be used to pay the allowable expenses of operating such scheme, except  
13 that if prizes are donated to the licensed organization to be awarded in  
14 connection with a such raffle, the prizes awarded shall have a fair  
15 market value equal to at least sixty-five percent of the gross proceeds  
16 of the raffle and the licensed organization shall use the proceeds for  
17 allowable expenses, optional additional prizes, and a lawful purpose.

18           Sec. 5. Section 9-429, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20           9-429 Any licensed organization or any other organization ~~or person~~  
21 conducting a lottery or raffle activity required to be licensed pursuant  
22 to the Nebraska Lottery and Raffle Act shall pay to the department a tax  
23 of two percent of the gross proceeds of each lottery or raffle having  
24 gross proceeds greater ~~of more than~~ fifteen ~~one~~ thousand dollars ~~or~~  
25 ~~raffle having gross proceeds of more than five thousand dollars~~. Such tax  
26 shall be remitted annually by September 30 each year on forms approved  
27 and provided by the department. The department shall remit the tax to the  
28 State Treasurer for credit to the Charitable Gaming Operations Fund. All  
29 deficiencies of the tax imposed by this section shall accrue interest and  
30 be subject to a penalty as provided for sales and use taxes in the  
31 Nebraska Revenue Act of 1967.

1           Sec. 6. Section 9-502, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           9-502 (1) The purpose of the Nebraska Small Lottery and Raffle Act  
4 is to allow qualifying nonprofit organizations to conduct lotteries and  
5 raffles with gross proceeds not greater than fifteen ~~one~~ thousand dollars  
6 ~~or raffles with gross proceeds not greater than five thousand dollars~~  
7 subject to minimal regulation.

8           (2) The Nebraska Small Lottery and Raffle Act shall apply to all  
9 lotteries and raffles with gross proceeds not greater than fifteen ~~one~~  
10 thousand dollars, except for lotteries by the sale of pickle cards  
11 conducted in accordance with the Nebraska Pickle Card Lottery Act,  
12 lotteries conducted by a county, city, or village in accordance with the  
13 Nebraska County and City Lottery Act, and lottery games conducted  
14 pursuant to the State Lottery Act, ~~and to all raffles with gross proceeds~~  
15 ~~not greater than five thousand dollars.~~

16           (3) All such lotteries and raffles shall be played and conducted  
17 only by the methods permitted in the Nebraska Small Lottery and Raffle  
18 Act ~~act~~. No other form or method shall be authorized or permitted.

19           Sec. 7. Section 9-511, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21           9-511 Any qualifying nonprofit organization may conduct a lottery or  
22 raffle that has gross proceeds not greater than fifteen ~~five~~ thousand  
23 dollars. Each chance in such lottery or raffle shall have an equal  
24 likelihood of being a winning chance. The gross proceeds shall be used  
25 solely for charitable or community betterment purposes, awarding of  
26 prizes, and expenses. Any qualifying nonprofit organization may conduct  
27 one lottery per calendar month that has gross proceeds not greater than  
28 fifteen thousand dollars. Any qualifying nonprofit organization may  
29 conduct one or more raffles in a calendar month if the total gross  
30 proceeds from such raffles do not exceed fifteen ~~five~~ thousand dollars  
31 during such month.

1           Sec. 8. Section 9-823, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           9-823 The Tax Commissioner shall adopt and promulgate rules and  
4 regulations necessary to carry out the State Lottery Act. The rules and  
5 regulations shall include provisions relating to the following:

6           (1) The lottery games to be conducted subject to the following  
7 conditions:

8           (a) No lottery game shall use the theme of dog racing or  
9 horseracing;

10           (b) In any lottery game utilizing tickets, each ticket in such game  
11 shall bear a unique number distinguishing it from every other ticket in  
12 such lottery game;

13           (c) No name of an elected official shall appear on the tickets of  
14 any lottery game; and

15           (d) In any instant-win game, the overall estimated odds of winning  
16 some prize shall be printed on each ticket and shall also be available at  
17 the office of the division at the time such lottery game is offered for  
18 sale to the public;

19           (2) The retail sales price for lottery tickets;

20           (3) The types and manner of payment of prizes to be awarded for  
21 winning tickets in lottery games;

22           (4) The method for determining winners, the frequency of drawings,  
23 if any, or other selection of winning tickets subject to the following  
24 conditions:

25           (a) No lottery game shall be based on the results of a dog race,  
26 horserace, or other sports event;

27           (b) If the lottery game utilizes the drawing of winning numbers, a  
28 drawing among entries, or a drawing among finalists (i) the drawings  
29 shall be witnessed by an independent certified public accountant, (ii)  
30 any equipment used in the drawings shall be inspected by the independent  
31 certified public accountant and an employee of the division or designated

1 agent both before and after the drawing, and (iii) the drawing shall be  
2 recorded on videotape with an audio track; and

3 (c) Drawings in an instant-win game, other than grand prize drawings  
4 or other runoff drawings, shall not be held more often than weekly.  
5 Drawings or selections in an online game shall not be held more often  
6 than daily;

7 (5) The validation and manner of payment of prizes to the holders of  
8 winning tickets subject to the following conditions:

9 (a) The prize shall be given to the person who presents a winning  
10 ticket, except that for awards in excess of five hundred dollars, the  
11 winner shall also provide his or her social security number or tax  
12 identification number;

13 (b) A prize may be given to only one person per winning ticket,  
14 except that a prize shall be divided between the holders of winning  
15 tickets if there is more than one winning ticket per prize;

16 (c) For the convenience of the public, the director may authorize  
17 lottery game retailers to pay winners of up to five hundred dollars after  
18 performing validation procedures on their premises appropriate to the  
19 lottery game involved;

20 (d) No prize shall be paid to any person under nineteen years of  
21 age, and any prize resulting from a lottery ticket held by a person under  
22 nineteen years of age shall be awarded to the parent or guardian or  
23 custodian of the person under the Nebraska Uniform Transfers to Minors  
24 Act;

25 (e) No prize shall be paid for tickets that are stolen, counterfeit,  
26 altered, fraudulent, unissued, produced or issued in error, unreadable,  
27 not received or not recorded by the division by acceptable deadlines,  
28 lacking in captions that confirm and agree with the lottery play symbols  
29 as appropriate to the lottery game involved, or not in compliance with  
30 additional specific rules and regulations and public or confidential  
31 validation and security tests appropriate to the particular lottery game

1 involved;

2 (f) No particular prize in any lottery game shall be paid more than  
3 once. In the event of a binding determination by the director that more  
4 than one claimant is entitled to a particular prize, the sole right of  
5 such claimants shall be the award to each of them of an equal share in  
6 the prize; ~~and~~

7 (g) After the expiration of the claim period for prizes for each  
8 lottery game, the director shall make available a detailed tabulation of  
9 the total number of tickets actually sold in the lottery game and the  
10 total number of prizes of each prize denomination that were actually  
11 claimed and paid; and

12 (h) The division and any lottery contractor shall not publicly  
13 disclose the identity of any person awarded a prize of two hundred fifty  
14 thousand dollars or more except upon written authorization of such  
15 person;

16 (6) Requirements for eligibility for participation in grand prize  
17 drawings or other runoff drawings, including requirements for submission  
18 of evidence of eligibility;

19 (7) The locations at which tickets may be sold except that no ticket  
20 may be sold at a retail liquor establishment holding a license for the  
21 sale of alcoholic liquor at retail for consumption on the licensed  
22 premises unless the establishment holds a Class C liquor license with a  
23 sampling designation as provided in subsection (6) of section 53-124;

24 (8) The method to be used in selling tickets;

25 (9) The contracting with persons as lottery game retailers to sell  
26 tickets and the manner and amount of compensation to be paid to such  
27 retailers;

28 (10)(a) The form and type of marketing of informational and  
29 educational material.

30 (b) Beginning on September 1, 2019, all lottery advertisements shall  
31 disclose the odds of winning the prize with the largest value for any

1 lottery game in a clear and conspicuous manner. Such disclosure shall be  
2 in a font size of not less than thirty-five percent of the largest font  
3 used in the advertisement, except that for any online advertisement, such  
4 disclosure shall be in a font size of at least ten points. This  
5 subdivision (b) shall not apply to advertisements printed, distributed,  
6 broadcast, or otherwise disseminated or conducted prior to September 1,  
7 2019;

8 (11) Any arrangements or methods to be used in providing proper  
9 security in the storage and distribution of tickets or lottery games; and

10 (12) All other matters necessary or desirable for the efficient and  
11 economical operation and administration of lottery games and for the  
12 convenience of the purchasers of tickets and the holders of winning  
13 tickets.

14 Sec. 9. Section 28-1105.01, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 28-1105.01 (1) A person commits the offense of gambling debt  
17 collection if he or she employs any force or intimidation or threatens  
18 force or intimidation in order to collect any debt which results from  
19 gambling as described in ~~defined by~~ sections ~~9-510,~~ 28-1101 to 28-1109,  
20 and 28-1117.

21 (2) Gambling debt collection is a Class III felony.

22 Sec. 10. Section 28-1418.01, Revised Statutes Cumulative Supplement,  
23 2022, is amended to read:

24 28-1418.01 For purposes of sections 28-1418 to 28-1429.03 and  
25 sections 15 to 18 of this act:

26 (1) Alternative nicotine product means any noncombustible product  
27 containing nicotine that is intended for human consumption, whether  
28 chewed, absorbed, dissolved, or ingested by any other means. Alternative  
29 nicotine product does not include any electronic nicotine delivery  
30 system, cigarette, cigar, or other tobacco product, or any product  
31 regulated as a drug or device by the United States Food and Drug

1 Administration under Chapter V of the Federal Food, Drug, and Cosmetic  
2 Act;

3 (2) Cigarette means any product that contains nicotine, is intended  
4 to be burned or heated under ordinary conditions of use, and consists of  
5 or contains (a) any roll of tobacco wrapped in paper or in any substance  
6 not containing tobacco, (b) tobacco, in any form, that is functional in  
7 the product which, because of its appearance, the type of tobacco used in  
8 the filler, or its packaging and labeling, is likely to be offered to, or  
9 purchased by, consumers as a cigarette, or (c) any roll of tobacco  
10 wrapped in any substance containing tobacco which, because of its  
11 appearance, the type of tobacco used in the filler, or its packaging and  
12 labeling, is likely to be offered to, or purchased by, consumers as a  
13 cigarette described in subdivision (2)(a) of this section;

14 (3) Delivery sale means to sell, give, or furnish products (a) by  
15 mail or delivery service, (b) through the Internet or a computer network,  
16 (c) by telephone, or (d) through any other electronic method;

17 (4)(a) ~~(3)(a)~~ Electronic nicotine delivery system means any product  
18 or device containing nicotine, tobacco, or tobacco derivatives that  
19 employs a heating element, power source, electronic circuit, or other  
20 electronic, chemical, or mechanical means, regardless of shape or size,  
21 to simulate smoking by delivering the nicotine, tobacco, or tobacco  
22 derivatives in vapor, fog, mist, gas, or aerosol form to a person  
23 inhaling from the product or device.

24 (b) Electronic nicotine delivery system includes, but is not limited  
25 to, the following:

26 (i) Any substance containing nicotine, tobacco, or tobacco  
27 derivatives, whether sold separately or sold in combination with a  
28 product or device that is intended to deliver to a person nicotine,  
29 tobacco, or tobacco derivatives in vapor, fog, mist, gas, or aerosol  
30 form;

31 (ii) Any product or device marketed, manufactured, distributed, or

1 sold as an electronic cigarette, electronic cigar, electronic cigarillo,  
2 electronic pipe, electronic hookah, or similar products, names,  
3 descriptors, or devices; and

4 (iii) Any component, part, or accessory of such a product or device  
5 that is used during operation of the product or device when sold in  
6 combination with any substance containing nicotine, tobacco, or tobacco  
7 derivatives.

8 (c) Electronic nicotine delivery system does not include the  
9 following:

10 (i) An alternative nicotine product, cigarette, cigar, or other  
11 tobacco product, or any product regulated as a drug or device by the  
12 United States Food and Drug Administration under Chapter V of the Federal  
13 Food, Drug, and Cosmetic Act; or

14 (ii) Any component, part, or accessory of such a product or device  
15 that is used during operation of the product or device when not sold in  
16 combination with any substance containing nicotine, tobacco, or tobacco  
17 derivatives;

18 (5) ~~(4)~~ Self-service display means a retail display that contains a  
19 tobacco product, a tobacco-derived product, an electronic nicotine  
20 delivery system, or an alternative nicotine product and is located in an  
21 area openly accessible to a retailer's customers and from which such  
22 customers can readily access the product without the assistance of a  
23 salesperson. Self-service display does not include a display case that  
24 holds tobacco products, tobacco-derived products, electronic nicotine  
25 delivery systems, or alternative nicotine products behind locked doors;  
26 and

27 (6) ~~(5)~~ Tobacco specialty store means a retail store that (a)  
28 derives at least seventy-five percent of its revenue from tobacco  
29 products, tobacco-derived products, electronic nicotine delivery systems,  
30 or alternative nicotine products and (b) does not permit persons under  
31 the age of twenty-one years to enter the premises unless accompanied by a

1 parent or legal guardian, ~~except that until January 1, 2022, a tobacco~~  
2 ~~specialty store may allow an employee who is nineteen or twenty years of~~  
3 ~~age to work in the store.~~

4 Sec. 11. Section 28-1420, Revised Statutes Cumulative Supplement,  
5 2022, is amended to read:

6 28-1420 (1) ~~A It shall be unlawful for any person, partnership,~~  
7 ~~limited liability company, or corporation shall not to~~ sell, keep for  
8 sale, or give away in course of trade, any cigars, tobacco, electronic  
9 nicotine delivery systems, cigarettes, or cigarette material to anyone  
10 without first obtaining a license as provided in sections 28-1421 and  
11 28-1422.

12 (2) ~~A It shall also be unlawful for any wholesaler shall not to~~ sell  
13 or deliver any cigars, tobacco, electronic nicotine delivery systems,  
14 cigarettes, or cigarette material to any person, partnership, limited  
15 liability company, or corporation who, at the time of such sale or  
16 delivery, is not the recipient of a valid tobacco license for the current  
17 year to retail the same as provided in ~~such~~ sections 28-1421 and 28-1422.

18 (3) ~~A It shall also be unlawful for any person, partnership, limited~~  
19 ~~liability company, or corporation shall not to~~ purchase or receive, for  
20 purposes of resale, any cigars, tobacco, electronic nicotine delivery  
21 systems, cigarettes, or cigarette material if such person, partnership,  
22 limited liability company, or corporation is not the recipient of a valid  
23 tobacco license under sections 28-1421 and 28-1422 to retail such tobacco  
24 products at the time the same are purchased or received.

25 (4) A wholesaler or retailer shall not purchase or receive, for  
26 purposes of resale, any cigars, tobacco, electronic nicotine delivery  
27 systems, cigarettes, or cigarette material if the manufacturer of such  
28 products does not hold any license or certification required by the  
29 Tobacco Products Tax Act at the time such products are purchased or  
30 received.

31 (5) A tobacco product manufacturer shall not sell or deliver any

1 cigars, tobacco, electronic nicotine delivery systems, cigarettes, or  
2 cigarette material to any wholesaler or retailer who, at the time of such  
3 sale or delivery, is not the recipient of a valid tobacco license under  
4 sections 28-1421 and 28-1422 for the current year to sell such products  
5 at wholesale or retail.

6 ~~(6) A whoever shall be person~~ found guilty of violating this section  
7 ~~is shall be~~ guilty of a Class III misdemeanor for each offense.

8 Sec. 12. Section 28-1422, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 28-1422 (1) Every person, partnership, limited liability company,  
11 or corporation desiring a license under sections 28-1420 to 28-1429 shall  
12 file with the clerk or finance department of the city, town, or village  
13 where his, her, their, or its place of business is located, if within the  
14 limits of a city, town, or village, or with the clerk of the county where  
15 such place of business is located, if outside the limits of any city,  
16 town, or village, a written application stating:

17 (a) The the name of the person, partnership, limited liability  
18 company, or corporation for whom such license is desired;

19 (b) An email address for contacting such person, partnership,  
20 limited liability company, or corporation; and

21 (c) The the exact location of the place of business. and

22 (2) Each applicant shall also deposit with such application the  
23 amount of the license fee provided in section 28-1423.

24 (3) If the applicant is an individual, the application shall include  
25 the applicant's social security number.

26 (4) Any clerk or finance department that grants such a license shall  
27 notify the Tax Commissioner of such granting and transmit all applicable  
28 application materials received to the Tax Commissioner.

29 Sec. 13. Section 28-1425, Revised Statutes Cumulative Supplement,  
30 2022, is amended to read:

31 28-1425 Any licensee who shall sell, give, or furnish in any way to

1 any person under the age of twenty-one years, or who shall willingly  
2 allow to be taken from his or her place of business by any person under  
3 the age of twenty-one years, any cigars, tobacco, cigarettes, cigarette  
4 material, electronic nicotine delivery systems, or alternative nicotine  
5 products is guilty of a Class III misdemeanor. Any officer, director, or  
6 manager having charge or control, either separately or jointly with  
7 others, of the business of any corporation which violates sections  
8 28-1419, 28-1420 to 28-1429, and 28-1429.03 and sections 15 to 18 of this  
9 act, if he or she has knowledge of such violation, shall be subject to  
10 the penalties provided in this section. In addition to the penalties  
11 provided in this section, such licensee shall be subject to the  
12 additional penalty of a revocation and forfeiture of his, her, their, or  
13 its license, at the discretion of the court before whom the complaint for  
14 violation of such sections may be heard. If such license is revoked and  
15 forfeited, all rights under such license shall at once cease and  
16 terminate and a new license shall not be issued until the expiration of  
17 the period provided for in section 28-1429.

18 Sec. 14. Section 28-1429, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 28-1429 (1) If a ~~In the event that the license issued under~~  
21 sections 28-1420 to 28-1429 is of a licensee hereunder shall be revoked  
22 and forfeited as provided in section 28-1425 for a violation of section  
23 15 or 16 of this act, no new license shall be issued to such licensee  
24 until the expiration of five years after the date of such revocation and  
25 forfeiture.

26 (2) If a license issued under sections 28-1420 to 28-1429 is revoked  
27 and forfeited as provided in section 28-1425 for any other violation of  
28 sections 28-1418 to 28-1429.03 and sections 17 and 18 of this act, no new  
29 license shall be issued to such licensee until the expiration of one year  
30 from after the date of such revocation and forfeiture except as otherwise  
31 provided in section 28-1423.

1           Sec. 15. A person holding a license under sections 28-1420 to  
2 28-1429 who sells, gives, or furnishes in any way to any consumer in this  
3 state, or who willingly allows to be taken from such licensee's place of  
4 business by any person, any controlled substance or counterfeit  
5 substance, as such terms are defined in section 28-401, shall be, in  
6 addition to the penalties provided for in the Uniform Controlled  
7 Substances Act, subject to the additional penalty of revocation and  
8 forfeiture of such license as provided in sections 28-1425 and 28-1429 at  
9 the discretion of the court.

10           Sec. 16. (1) A person shall not, by delivery sale, sell, give, or  
11 furnish to any consumer in this state any electronic nicotine delivery  
12 system. A violation of this subsection is a Class I misdemeanor.

13           (2) Any common carrier that knowingly transports any electronic  
14 nicotine delivery system in any form for a person who is in violation of  
15 subsection (1) of this section is guilty of a Class I misdemeanor.

16           (3) In addition to any other penalty, a violation of this section  
17 shall constitute a deceptive trade practice under the Uniform Deceptive  
18 Trade Practices Act and shall be subject to any remedies or penalties  
19 available for a violation of such act.

20           (4) All electronic nicotine delivery systems that are sold, given,  
21 or furnished in violation of this section are subject to seizure,  
22 forfeiture, and destruction and shall not be purchased or sold in the  
23 state. The cost of such seizure, forfeiture, and destruction shall be  
24 borne by the person from whom the products are seized.

25           (5) This section does not apply to the following:

26           (a) The shipment of electronic nicotine delivery systems to a  
27 foreign trade zone that is established under 19 U.S.C. 81a et seq. and  
28 that is located in this state if the products are from outside of this  
29 country, were ordered by a distributor in another state, and are not  
30 distributed in this state;

31           (b) A government employee who is acting in the course of the

1 employee's official duties; or

2 (c) The shipment of electronic nicotine delivery systems to a  
3 university that is acquiring the systems to conduct basic and applied  
4 research, if the systems are exempt from federal excise tax under 26  
5 U.S.C. 5704(a).

6 Sec. 17. (1) A person holding a license under sections 28-1420 to  
7 28-1429 shall ensure that any e-liquid container for an electronic  
8 nicotine delivery system sold by such person:

9 (a) Meets any applicable packaging standards imposed by the federal  
10 Child Nicotine Poisoning Prevention Act of 2015, 15 U.S.C. 1472a; and

11 (b) Has a label that meets the nicotine addictiveness warning  
12 statement requirements set forth in 21 C.F.R. 1143.3.

13 (2) For purposes of this section, e-liquid container means a  
14 container holding any consumable material as defined in section  
15 77-4003.01.

16 Sec. 18. A person holding a license under sections 28-1420 to  
17 28-1429 shall not market, advertise, sell, or cause to be sold an  
18 electronic nicotine delivery system if the system's container, packaging,  
19 or advertising:

20 (1) Depicts a cartoon-like fictional character that mimics a  
21 character primarily aimed at entertaining minors;

22 (2) Imitates or mimics trademarks or trade dress of products that  
23 are or have been primarily marketed to minors;

24 (3) Includes a symbol that is primarily used to market products to  
25 minors;

26 (4) Includes an image of a celebrity; or

27 (5) Is designed to disguise the fact that it is an electronic  
28 nicotine delivery system.

29 Sec. 19. Section 53-101, Revised Statutes Supplement, 2023, is  
30 amended to read:

31 53-101 Sections 53-101 to 53-1,122 and section 21 of this act shall

1 be known and may be cited as the Nebraska Liquor Control Act.

2 Sec. 20. Section 53-103, Revised Statutes Supplement, 2023, is  
3 amended to read:

4 53-103 For purposes of the Nebraska Liquor Control Act, the  
5 definitions found in sections 53-103.01 to 53-103.51 and section 21 of  
6 this act apply.

7 Sec. 21. Rickhouse means an offsite bonded warehouse which is kept  
8 and maintained for the purpose of storing spirits in barrels for aging in  
9 order to impart flavor from the barrel into the spirits.

10 Sec. 22. Section 53-123.01, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 53-123.01 (1) A manufacturer's license shall allow the manufacture,  
13 storage, and sale of alcoholic liquor to wholesale licensees in this  
14 state and to such persons outside the state as may be permitted by law,  
15 except that nothing in the Nebraska Liquor Control Act shall prohibit a  
16 manufacturer of beer from distributing tax-paid samples of beer at the  
17 premises of a licensed manufacturer for consumption on the premises. A  
18 manufacturer's license issued pursuant to this section shall be the only  
19 license required by the Nebraska Liquor Control Act for the manufacture  
20 and retail sale of beer manufactured on the licensed premises for  
21 consumption on the licensed premises.

22 (2)(a) A licensee who or which first obtains a craft brewery license  
23 pursuant to section 53-123.14, holds such license for not less than three  
24 years, and operates a brewpub or microbrewery on the licensed premises of  
25 such craft brewery license shall obtain a manufacturer's license when the  
26 manufacture of beer on the licensed premises exceeds twenty thousand  
27 barrels per year. The manufacturer's license shall authorize the  
28 continued retail sale of beer for consumption on or off the premises but  
29 only to the extent the premises were previously licensed as a craft  
30 brewery. The sale of any beer other than beer manufactured by the  
31 licensee, wine, or alcoholic liquor for consumption on the licensed

1 premises shall require the appropriate retail license. The holder of such  
2 manufacturer's license may continue to operate up to five retail  
3 locations which are in operation at the time such manufacturer's license  
4 is issued and shall divest itself from retail locations in excess of five  
5 locations. The licensee shall not begin operation at any new retail  
6 location even if the licensee's production is reduced below twenty  
7 thousand barrels per year.

8 (b) The holder of such manufacturer's license may obtain an annual  
9 catering license pursuant to section 53-124.12, a special designated  
10 license pursuant to section 53-124.11, or an entertainment district  
11 license pursuant to section 53-123.17.

12 (3) A holder of a manufacturer's license to manufacture spirits may  
13 operate a rickhouse that meets the requirements for a distilled spirit  
14 plant pursuant to 26 U.S.C. 5178, as such section existed on January 1,  
15 2024, if such manufacturer receives authorization from the commission and  
16 notifies the commission of the location of such rickhouse in a manner  
17 prescribed by the commission.

18 Sec. 23. Section 53-123.16, Revised Statutes Supplement, 2023, is  
19 amended to read:

20 53-123.16 (1) Any person who operates a microdistillery shall obtain  
21 a license pursuant to the Nebraska Liquor Control Act. A license to  
22 operate a microdistillery shall permit the licensee to produce a maximum  
23 of one hundred thousand gallons of liquor per year in the aggregate from  
24 all physical locations comprising the licensed premises. For purposes of  
25 this section, licensed premises may include up to five separate physical  
26 locations. A microdistillery may also sell to licensed wholesalers for  
27 sale and distribution to licensed retailers. A microdistillery license  
28 issued pursuant to this section shall be the only license required by the  
29 Nebraska Liquor Control Act for the manufacture and retail sale of  
30 microdistilled product for consumption on or off the licensed premises,  
31 except that the sale of any beer, wine, or alcoholic liquor, other than

1 microdistilled product manufactured by the microdistillery licensee, by  
2 the drink for consumption on the microdistillery premises shall require  
3 the appropriate retail license. Any license held by the operator of a  
4 microdistillery shall be subject to the act. A holder of a  
5 microdistillery license may obtain an annual catering license pursuant to  
6 section 53-124.12, a special designated license pursuant to section  
7 53-124.11, an entertainment district license pursuant to section  
8 53-123.17, or a promotional farmers market special designated license  
9 pursuant to section 53-124.16. The commission may, upon the conditions it  
10 determines, grant to any microdistillery licensed under this section a  
11 special license authorizing the microdistillery to purchase and to  
12 import, from such persons as are entitled to sell the same, wines or  
13 spirits to be used solely as ingredients and for the sole purpose of  
14 blending with and flavoring microdistillery products as a part of the  
15 microdistillation process.

16 (2) A holder of a microdistillery license may directly sell for  
17 resale up to five hundred gallons per calendar year of microdistilled  
18 products produced at its licensed premises directly to retail licensees  
19 located in the State of Nebraska which hold the appropriate retail  
20 license if the holder of the microdistillery license:

21 (a) Self-distributes its microdistilled products utilizing only  
22 persons employed by the microdistillery licensee; and

23 (b) Complies with all relevant statutes, rules, and regulations that  
24 apply to Nebraska wholesalers regarding distribution of microdistilled  
25 products.

26 (3) A holder of a microdistillery license may store and warehouse  
27 tax-paid products produced on such licensee's licensed premises in a  
28 designated, secure, offsite storage facility if the holder of the  
29 microdistillery license receives authorization from the commission and  
30 notifies the commission of the location of the storage facility and  
31 maintains, at the microdistillery and at the storage facility, a separate

1 perpetual inventory of the product stored at the storage facility.  
2 Consumption of alcoholic liquor at the storage facility is strictly  
3 prohibited.

4 (4) A holder of a microdistillery license may operate a rickhouse  
5 that meets the requirements for a distilled spirit plant pursuant to 26  
6 U.S.C. 5178, as such section existed on January 1, 2024, if such licensee  
7 receives authorization from the commission and notifies the commission of  
8 the location of such rickhouse in a manner prescribed by the commission.

9 (5) (4) The commission may adopt and promulgate rules and  
10 regulations relating to the distribution rights of microdistillery  
11 licensees.

12 Sec. 24. Section 59-1523, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 59-1523 (1) The cigarette tax division of the Tax Commissioner may,  
15 after notice and hearing, revoke or suspend for any violation of section  
16 59-1520 the:

17 (a) License ~~license~~ or licenses of any person licensed under  
18 sections 28-1418 to 28-1429.03 and sections 15 to 18 of this act or  
19 sections 77-2601 to 77-2622; or -

20 (b) License or certification of any person licensed or certified  
21 under the Tobacco Products Tax Act.

22 (2) Cigarettes that are acquired, held, owned, possessed,  
23 transported, sold, or distributed in or imported into this state in  
24 violation of section 59-1520 are declared to be contraband goods and are  
25 subject to seizure and forfeiture. Any cigarettes so seized and forfeited  
26 shall be destroyed. Such cigarettes shall be declared to be contraband  
27 goods whether the violation of section 59-1520 is knowing or otherwise.

28 Sec. 25. Section 77-4001, Revised Statutes Supplement, 2023, is  
29 amended to read:

30 77-4001 Sections 77-4001 to 77-4025 and sections 29 and 30 of this  
31 act shall be known and may be cited as the Tobacco Products Tax Act.

1           Sec. 26. Section 77-4003, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           77-4003 Cancel shall mean to discontinue for up to five years all  
4 rights and privileges under a license or certification.

5           Sec. 27. Section 77-4005, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7           77-4005 Revoke shall mean to permanently void and recall all rights  
8 and privileges of a person to obtain a license or certification.

9           Sec. 28. Section 77-4006, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11           77-4006 Suspend shall mean to temporarily interrupt for up to one  
12 year all rights and privileges under a license or certification.

13           Sec. 29. (1) Each manufacturer of electronic nicotine delivery  
14 systems that are sold at retail in this state, whether directly or  
15 through a distributor, wholesaler, retailer, or similar intermediary or  
16 intermediaries, shall be certified as provided in this section.

17           (2) An application for certification under this section shall be  
18 made on a form and in a manner prescribed by the Tax Commissioner. The  
19 application shall include:

20           (a) The name and address of the applicant or, if the applicant is a  
21 firm, partnership, limited liability company, or association, the name  
22 and address of each of its members or, if the applicant is a corporation,  
23 the name and address of each of its officers and the address of its  
24 principal place of business;

25           (b) The location of the principal place of business to be licensed;

26           (c) If applicable, a copy of the Prevent All Cigarette Trafficking  
27 (PACT) Act Registration Form (ATF Form 5070.1) as submitted by the  
28 applicant to the Bureau of Alcohol, Tobacco, Firearms and Explosives of  
29 the United States Department of Justice, and an attestation that the  
30 applicant is in compliance with, and will continue to comply with, all  
31 applicable requirements of 15 U.S.C. 375 and 376;

1       (d) An attestation that the applicant will comply with all  
2 applicable laws of Nebraska and of the applicant's principal place of  
3 business;

4       (e) For an applicant with a principal place of business outside the  
5 United States, a declaration, in a form prescribed by the Tax  
6 Commissioner, from each of its importers into the United States of any of  
7 its brands to be sold in the State of Nebraska, that the importer accepts  
8 joint and several liability with the applicant for all liability imposed  
9 in accordance with Tobacco Products Tax Act, including any fees, costs,  
10 attorney's fees, and penalties imposed under the act;

11       (f) An attestation that the applicant's products fully comply with  
12 the requirements of the United States Customs and Border Protection  
13 agency, including accurate Entry Summary forms (CPB Form 7501), and that  
14 the applicant is not in violation of 18 U.S.C. 541, 542, or 545;

15       (g) A list of each type or model of electronic nicotine delivery  
16 system of the manufacturer which is sold in this state; and

17       (h) Such other information as the Tax Commissioner may require for  
18 the purpose of administering the Tobacco Products Tax Act.

19       (3) An application for a certification under this section shall be  
20 accompanied by a nonrefundable fee in an amount equal to seventy-five  
21 dollars for each type or model of electronic nicotine delivery system  
22 which is sold in this state.

23       (4) A manufacturer shall not cause to be sold at retail in this  
24 state any type or model of electronic nicotine delivery system not  
25 included in the application under this section without first:

26       (a) Filing an amended certification form in a form and manner  
27 prescribed by the Tax Commissioner; and

28       (b) Paying the appropriate fee under subsection (3) of this section.

29       (5) Upon receipt of an application in proper form and payment of the  
30 fee, the Tax Commissioner shall issue a certification to the applicant,  
31 except as provided in section 77-4013. A certification shall not be

1 assignable, shall be valid only for the person in whose name it is  
2 issued, and shall be continuously valid unless suspended, canceled, or  
3 revoked by the Tax Commissioner.

4 (6) A manufacturer who is certified under this section shall have  
5 established sufficient contact with this state for the exercise of  
6 personal jurisdiction over the manufacturer in any matter or issue  
7 arising under the Tobacco Products Tax Act.

8 Sec. 30. (1) Any nonresident manufacturer of electronic nicotine  
9 delivery systems that has not registered to do business in the State of  
10 Nebraska as a foreign corporation or business entity shall, as a  
11 condition precedent to being certified pursuant to section 29 of this  
12 act, appoint and continually engage without interruption the services of  
13 an agent in the State of Nebraska to act as agent for the service of  
14 process on whom all process, and any action or proceeding against such  
15 manufacturer concerning or arising out of the enforcement of the Tobacco  
16 Products Tax Act, may be served in any manner authorized by law. Such  
17 service shall constitute legal and valid service of process on the  
18 manufacturer. The manufacturer shall provide the name, address, telephone  
19 number, and proof of the appointment and availability of such agent to  
20 the Tax Commissioner.

21 (2) The manufacturer shall provide notice to the Tax Commissioner  
22 thirty calendar days prior to termination of the authority of an agent  
23 and shall further provide proof to the satisfaction of the Tax  
24 Commissioner of the appointment of a new agent no less than five calendar  
25 days prior to the termination of an existing agent appointment. In the  
26 event an agent terminates an agency appointment, the manufacturer shall  
27 notify the Tax Commissioner of the termination within five calendar days  
28 and shall include proof to the satisfaction of the Tax Commissioner of  
29 the appointment of a new agent.

30 Sec. 31. Section 77-4012, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           77-4012 The Tax Commissioner may revoke, cancel, or suspend any  
2 license or certification for a violation of the Tobacco Products Tax Act  
3 or any rule or regulation adopted and promulgated by the Tax Commissioner  
4 in administering the act. If a license or certification is revoked,  
5 canceled, or suspended, the licensee or certified manufacturer shall  
6 immediately surrender such license or certification to the Tax  
7 Commissioner. No determination of revocation, cancellation, or suspension  
8 shall be made until notice has been given and a hearing has been held by  
9 the Tax Commissioner as provided in section 77-4019, if requested by the  
10 licensee or certified manufacturer.

11           Sec. 32. Section 77-4013, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13           77-4013 The Tax Commissioner may restore licenses or certifications  
14 which have been revoked, canceled, or suspended, but the Tax Commissioner  
15 shall not issue a new license or certification after the revocation of  
16 such a license or certification unless he or she is satisfied that the  
17 former licensee or certified manufacturer will comply with the Tobacco  
18 Products Tax Act. A person whose license or certification has previously  
19 been revoked, canceled, or suspended shall pay the Tax Commissioner a fee  
20 of twenty-five dollars for the issuance of a license or certification  
21 after each revocation, cancellation, or suspension.

22           Sec. 33. Section 77-4017, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24           77-4017 (1) Every person licensed or certified under the Tobacco  
25 Products Tax Act licensee shall keep complete and accurate records for  
26 all places of business, including itemized invoices of tobacco products  
27 (a) held, purchased, manufactured, or brought in or caused to be brought  
28 into this state or (b) for a person licensee located outside of this  
29 state, shipped or transported to retailers in this state. Such records  
30 shall be of sufficient detail to identify the manufacturer of each  
31 tobacco product held, purchased, manufactured, or brought in or caused to

1 be brought into this state. For snuff, such records shall also include  
2 the net weight as listed by the manufacturer.

3 (2) All books, records, and other papers and documents required to  
4 be kept by this section shall be preserved for a period of at least three  
5 years after the due date of the tax imposed by the Tobacco Products Tax  
6 Act unless the Tax Commissioner, in writing, authorizes their destruction  
7 or disposal at an earlier date.

8 (3) At any time during usual business hours, duly authorized agents  
9 or employees of the Tax Commissioner may enter any place of business of a  
10 person licensed or certified under the Tobacco Products Tax Act licensee  
11 and inspect the premises, the records required to be kept pursuant to  
12 this section, and the tobacco products contained in such place of  
13 business for purposes of determining whether or not such person licensee  
14 is in full compliance with the act. Refusal to permit such inspection by  
15 a duly authorized agent or employee of the Tax Commissioner shall be  
16 grounds for revocation, cancellation, or suspension of the license or  
17 certification.

18 Sec. 34. Section 77-4019, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 77-4019 (1) A licensee may request a hearing on any proposed notice  
21 of deficiency issued by the Tax Commissioner.

22 (2) Any person licensed or certified under the Tobacco Products Tax  
23 Act A ~~licensee~~ may also request a hearing after notice that the Tax  
24 Commissioner intends to revoke, cancel, or suspend a license or  
25 certification.

26 (3) Such request shall be made within twenty days after the receipt  
27 of the notice of deficiency or the notice that the Tax Commissioner  
28 intends to revoke, cancel, or suspend a license or certification.

29 (4) At such hearing the Tax Commissioner, or any officer or employee  
30 of the Tax Commissioner designated in writing, may examine any books,  
31 papers, or memoranda bearing upon the matter at issue and require the

1 attendance of any person licensed or certified under the Tobacco Products  
2 Tax Act licensee or any officer or employee of such person licensee  
3 having knowledge pertinent to such hearing. The Tax Commissioner or his  
4 or her designee shall have the power to administer oaths to persons  
5 testifying at such hearing.

6 (5) During the hearing, the Tax Commissioner or his or her designee  
7 shall not be bound by the technical rules of evidence, and no informality  
8 in any proceeding or in the manner of taking testimony shall invalidate  
9 any order or decision made or approved by the Tax Commissioner.

10 Sec. 35. Section 77-4020, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 77-4020 Within a reasonable time after the hearing pursuant to  
13 section 77-4019, the Tax Commissioner shall make a final decision or  
14 final determination and notify the licensee or certified manufacturer by  
15 mail of such decision or determination. If any tax or additional tax  
16 becomes due, such notice shall be accompanied by a demand for payment of  
17 any tax due. A licensee or certified manufacturer may appeal the decision  
18 of the Tax Commissioner, and the appeal shall be in accordance with the  
19 Administrative Procedure Act.

20 Sec. 36. Section 77-4025, Revised Statutes Supplement, 2023, is  
21 amended to read:

22 77-4025 (1) There is hereby created a cash fund in the Department of  
23 Revenue to be known as the Tobacco Products Administration Cash Fund. All  
24 revenue collected or received by the Tax Commissioner from the license  
25 fees, certification fees, and taxes imposed by the Tobacco Products Tax  
26 Act shall be remitted to the State Treasurer for credit to the Tobacco  
27 Products Administration Cash Fund, except that all such revenue relating  
28 to electronic nicotine delivery systems shall be remitted to the State  
29 Treasurer for credit to the General Fund.

30 (2) All costs required for administration of the Tobacco Products  
31 Tax Act shall be paid from the Tobacco Products Administration Cash Fund.

1 Credits and refunds allowed under the act shall be paid from the Tobacco  
2 Products Administration Cash Fund. Any receipts, after credits and  
3 refunds, in excess of the amounts sufficient to cover the costs of  
4 administration may be transferred to the General Fund at the direction of  
5 the Legislature.

6 (3) Any money in the Tobacco Products Administration Cash Fund  
7 available for investment shall be invested by the state investment  
8 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska  
9 State Funds Investment Act.

10 Sec. 37. Section 84-712.05, Revised Statutes Cumulative Supplement,  
11 2022, is amended to read:

12 84-712.05 The following records, unless publicly disclosed in an  
13 open court, open administrative proceeding, or open meeting or disclosed  
14 by a public entity pursuant to its duties, may be withheld from the  
15 public by the lawful custodian of the records:

16 (1) Personal information in records regarding a student, prospective  
17 student, or former student of any educational institution or exempt  
18 school that has effectuated an election not to meet state approval or  
19 accreditation requirements pursuant to section 79-1601 when such records  
20 are maintained by and in the possession of a public entity, other than  
21 routine directory information specified and made public consistent with  
22 20 U.S.C. 1232g, as such section existed on February 1, 2013, and  
23 regulations adopted thereunder;

24 (2) Medical records, other than records of births and deaths and  
25 except as provided in subdivision (5) of this section, in any form  
26 concerning any person; records of elections filed under section 44-2821;  
27 and patient safety work product under the Patient Safety Improvement Act;

28 (3) Trade secrets, academic and scientific research work which is in  
29 progress and unpublished, and other proprietary or commercial information  
30 which if released would give advantage to business competitors and serve  
31 no public purpose;

1           (4) Records which represent the work product of an attorney and the  
2 public body involved which are related to preparation for litigation,  
3 labor negotiations, or claims made by or against the public body or which  
4 are confidential communications as defined in section 27-503;

5           (5) Records developed or received by law enforcement agencies and  
6 other public bodies charged with duties of investigation or examination  
7 of persons, institutions, or businesses, when the records constitute a  
8 part of the examination, investigation, intelligence information, citizen  
9 complaints or inquiries, informant identification, or strategic or  
10 tactical information used in law enforcement training, except that this  
11 subdivision shall not apply to records so developed or received:

12           (a) Relating to the presence of and amount or concentration of  
13 alcohol or drugs in any body fluid of any person; or

14           (b) Relating to the cause of or circumstances surrounding the death  
15 of an employee arising from or related to his or her employment if, after  
16 an investigation is concluded, a family member of the deceased employee  
17 makes a request for access to or copies of such records. This subdivision  
18 does not require access to or copies of informant identification, the  
19 names or identifying information of citizens making complaints or  
20 inquiries, other information which would compromise an ongoing criminal  
21 investigation, or information which may be withheld from the public under  
22 another provision of law. For purposes of this subdivision, family member  
23 means a spouse, child, parent, sibling, grandchild, or grandparent by  
24 blood, marriage, or adoption;

25           (6) The identity and personal identifying information of an alleged  
26 victim of sexual assault or sex trafficking as provided in section  
27 29-4316;

28           (7) Appraisals or appraisal information and negotiation records  
29 concerning the purchase or sale, by a public body, of any interest in  
30 real or personal property, prior to completion of the purchase or sale;

31           (8) Personal information in records regarding personnel of public

1 bodies other than salaries and routine directory information;

2 (9) Information solely pertaining to protection of the security of  
3 public property and persons on or within public property, such as  
4 specific, unique vulnerability assessments or specific, unique response  
5 plans, either of which is intended to prevent or mitigate criminal acts  
6 the public disclosure of which would create a substantial likelihood of  
7 endangering public safety or property; computer or communications network  
8 schema, passwords, and user identification names; guard schedules; lock  
9 combinations; or public utility infrastructure specifications or design  
10 drawings the public disclosure of which would create a substantial  
11 likelihood of endangering public safety or property, unless otherwise  
12 provided by state or federal law;

13 (10) Information that relates details of physical and cyber assets  
14 of critical energy infrastructure or critical electric infrastructure,  
15 including (a) specific engineering, vulnerability, or detailed design  
16 information about proposed or existing critical energy infrastructure or  
17 critical electric infrastructure that (i) relates details about the  
18 production, generation, transportation, transmission, or distribution of  
19 energy, (ii) could be useful to a person in planning an attack on such  
20 critical infrastructure, and (iii) does not simply give the general  
21 location of the critical infrastructure and (b) the identity of personnel  
22 whose primary job function makes such personnel responsible for (i)  
23 providing or granting individuals access to physical or cyber assets or  
24 (ii) operating and maintaining physical or cyber assets, if a reasonable  
25 person, knowledgeable of the electric utility or energy industry, would  
26 conclude that the public disclosure of such identity could create a  
27 substantial likelihood of risk to such physical or cyber assets.  
28 Subdivision (10)(b) of this section shall not apply to the identity of a  
29 chief executive officer, general manager, vice president, or board member  
30 of a public entity that manages critical energy infrastructure or  
31 critical electric infrastructure. The lawful custodian of the records

1 must provide a detailed job description for any personnel whose identity  
2 is withheld pursuant to subdivision (10)(b) of this section. For purposes  
3 of subdivision (10) of this section, critical energy infrastructure and  
4 critical electric infrastructure mean existing and proposed systems and  
5 assets, including a system or asset of the bulk-power system, whether  
6 physical or virtual, the incapacity or destruction of which would  
7 negatively affect security, economic security, public health or safety,  
8 or any combination of such matters;

9 (11) The security standards, procedures, policies, plans,  
10 specifications, diagrams, access lists, and other security-related  
11 records of the Lottery Division of the Department of Revenue and those  
12 persons or entities with which the division has entered into contractual  
13 relationships. Nothing in this subdivision shall allow the division to  
14 withhold from the public any information relating to:

15 (a) Amounts ~~amounts~~ paid persons or entities with which the division  
16 has entered into contractual relationships; ~~τ~~

17 (b) Amounts ~~amounts~~ of prizes paid; ~~or τ~~

18 (c) The ~~the~~ name of any ~~the~~ prize winner awarded a prize of less  
19 than two hundred fifty thousand dollars, and the city, village, or county  
20 where the prize winner resides;

21 (12) With respect to public utilities and except as provided in  
22 sections 43-512.06 and 70-101, personally identified private citizen  
23 account payment and customer use information, credit information on  
24 others supplied in confidence, and customer lists;

25 (13) Records or portions of records kept by a publicly funded  
26 library which, when examined with or without other records, reveal the  
27 identity of any library patron using the library's materials or services;

28 (14) Correspondence, memoranda, and records of telephone calls  
29 related to the performance of duties by a member of the Legislature in  
30 whatever form. The lawful custodian of the correspondence, memoranda, and  
31 records of telephone calls, upon approval of the Executive Board of the

1 Legislative Council, shall release the correspondence, memoranda, and  
2 records of telephone calls which are not designated as sensitive or  
3 confidential in nature to any person performing an audit of the  
4 Legislature. A member's correspondence, memoranda, and records of  
5 confidential telephone calls related to the performance of his or her  
6 legislative duties shall only be released to any other person with the  
7 explicit approval of the member;

8 (15) Records or portions of records kept by public bodies which  
9 would reveal the location, character, or ownership of any known  
10 archaeological, historical, or paleontological site in Nebraska when  
11 necessary to protect the site from a reasonably held fear of theft,  
12 vandalism, or trespass. This section shall not apply to the release of  
13 information for the purpose of scholarly research, examination by other  
14 public bodies for the protection of the resource or by recognized tribes,  
15 the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or  
16 the federal Native American Graves Protection and Repatriation Act;

17 (16) Records or portions of records kept by public bodies which  
18 maintain collections of archaeological, historical, or paleontological  
19 significance which reveal the names and addresses of donors of such  
20 articles of archaeological, historical, or paleontological significance  
21 unless the donor approves disclosure, except as the records or portions  
22 thereof may be needed to carry out the purposes of the Unmarked Human  
23 Burial Sites and Skeletal Remains Protection Act or the federal Native  
24 American Graves Protection and Repatriation Act;

25 (17) Library, archive, and museum materials acquired from  
26 nongovernmental entities and preserved solely for reference, research, or  
27 exhibition purposes, for the duration specified in subdivision (17)(b) of  
28 this section, if:

29 (a) Such materials are received by the public custodian as a gift,  
30 purchase, bequest, or transfer; and

31 (b) The donor, seller, testator, or transferor conditions such gift,

1 purchase, bequest, or transfer on the materials being kept confidential  
2 for a specified period of time;

3 (18) Job application materials submitted by applicants, other than  
4 finalists or a priority candidate for a position described in section  
5 85-106.06 selected using the enhanced public scrutiny process in section  
6 85-106.06, who have applied for employment by any public body as defined  
7 in section 84-1409. For purposes of this subdivision, (a) job application  
8 materials means employment applications, resumes, reference letters, and  
9 school transcripts and (b) finalist means any applicant who is not an  
10 applicant for a position described in section 85-106.06 and (i) who  
11 reaches the final pool of applicants, numbering four or more, from which  
12 the successful applicant is to be selected, (ii) who is an original  
13 applicant when the final pool of applicants numbers less than four, or  
14 (iii) who is an original applicant and there are four or fewer original  
15 applicants;

16 (19)(a) Records obtained by the Public Employees Retirement Board  
17 pursuant to section 84-1512 and (b) records maintained by the board of  
18 education of a Class V school district and obtained by the board of  
19 trustees or the Public Employees Retirement Board for the administration  
20 of a retirement system provided for under the Class V School Employees  
21 Retirement Act pursuant to section 79-989;

22 (20) Social security numbers; credit card, charge card, or debit  
23 card numbers and expiration dates; and financial account numbers supplied  
24 to state and local governments by citizens;

25 (21) Information exchanged between a jurisdictional utility and city  
26 pursuant to section 66-1867;

27 (22) Draft records obtained by the Nebraska Retirement Systems  
28 Committee of the Legislature and the Governor from Nebraska Public  
29 Employees Retirement Systems pursuant to subsection (4) of section  
30 84-1503;

31 (23) All prescription drug information submitted pursuant to section

1 71-2454, all data contained in the prescription drug monitoring system,  
2 and any report obtained from data contained in the prescription drug  
3 monitoring system;

4 (24) Information obtained by any government entity, whether federal,  
5 state, county, or local, regarding firearm registration, possession,  
6 sale, or use that is obtained for purposes of an application permitted or  
7 required by law or contained in a permit or license issued by such  
8 entity. Such information shall be available upon request to any federal,  
9 state, county, or local law enforcement agency; and

10 (25) The security standards, procedures, policies, plans,  
11 specifications, diagrams, and access lists and other security-related  
12 records of the State Racing and Gaming Commission, those persons or  
13 entities with which the commission has entered into contractual  
14 relationships, and the names of any individuals placed on the list of  
15 self-excluded persons with the commission as provided in section 9-1118.  
16 Nothing in this subdivision shall allow the commission to withhold from  
17 the public any information relating to the amount paid any person or  
18 entity with which the commission has entered into a contractual  
19 relationship, the amount of any prize paid, the name of the prize winner,  
20 and the city, village, or county where the prize winner resides.

21 Sec. 38. Original sections 9-402, 9-422, 9-426, 9-427, 9-429,  
22 9-502, 9-511, 9-823, 28-1105.01, 28-1422, 28-1429, 53-123.01, 59-1523,  
23 77-4003, 77-4005, 77-4006, 77-4012, 77-4013, 77-4017, 77-4019, and  
24 77-4020, Reissue Revised Statutes of Nebraska, sections 28-1418.01,  
25 28-1420, 28-1425, and 84-712.05, Revised Statutes Cumulative Supplement,  
26 2022, and sections 53-101, 53-103, 53-123.16, 77-4001, and 77-4025,  
27 Revised Statutes Supplement, 2023, are repealed.

28 Sec. 39. The following section is outright repealed: Section 9-510,  
29 Reissue Revised Statutes of Nebraska.