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Nebraska Education Laws

CONSTITUTION OF THE STATE OF NEBRASKA OF 1875, AND SUBSEQUENT AMENDMENTS

Preamble. We, the people, grateful to Almighty God for our freedom, do ordain and establish the following declaration of rights and frame of government, as the Constitution of the State of Nebraska.

ARTICLE I

BILL OF RIGHTS

Section.

1. Statement of rights.
2. Slavery prohibited.
3. Due process of law; equal protection.
4. Religious freedom.
5. Freedom of speech and press.
6. Trial by jury.
7. Search and seizure.
8. Habeas corpus.
9. Bail; fines; imprisonment; cruel and unusual punishment.
10. Presentment or indictment by grand jury; information.
11. Rights of accused.
12. Evidence against self; double jeopardy.
13. Justice administered without delay; Legislature; authorization to enforce mediation and arbitration.
14. Treason.
15. Penalties; corruption of blood; transporting out of state prohibited.
16. Bill of attainder; retroactive laws; contracts; special privileges.
17. Military subordinate.
18. Soldiers quarters.
19. Right of peaceable assembly and to petition government.
20. Imprisonment for debt prohibited.
21. Private property compensated for.
22. Elections to be free.
23. Capital cases; right of direct appeal; effect; other cases; right of appeal.
24. Repealed.
25. Rights of property; no discrimination; aliens.
26. Powers retained by people.
27. English language to be official.
28. Crime victims; rights enumerated; effect; Legislature; duties.
29. [Valid marriage.]

§ 1. Statement of rights.

All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, the pursuit of happiness, and the right to keep and bear arms for security or defense of self, family, home, and others, and for lawful common defense, hunting, recreational use, and all other lawful purposes, and such rights shall not be denied or infringed by the state or any subdivision thereof. To secure these rights, and

the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed.

Source: Neb. Const. art. I, § 1 (1875); Amended 1988, Initiative Measure No. 403.

§ 2. Slavery prohibited.

There shall be neither slavery nor involuntary servitude in this state, otherwise than for punishment of crime, whereof the party shall have been duly convicted.

Source: Neb. Const., art. I, § 2 (1875).

§ 3. Due process of law; equal protection.

No person shall be deprived of life, liberty, or property, without due process of law, nor be denied equal protection of the laws.

Source: Neb. Const. art I, § 3 (1875); Amended 1998, Laws 1997, LR 20CA, § 1.

§ 4. Religious freedom.

All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences. No person shall be compelled to attend, erect or support any place of worship against his consent, and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious beliefs; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the Legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

Source: Neb. Const. art. I, § 4 (1875).

§ 5. Freedom of speech and press.

Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth when published with good motives, and for justifiable ends, shall be a sufficient defense.

Source: Neb. Const. art. I, § 5 (1875).

§ 6. Trial by jury.

The right of trial by jury shall remain inviolate, but the Legislature may authorize trial by a jury of a less number than twelve in courts inferior to the District Court, and may by general law authorize a verdict in civil cases in any court by not less than five-sixths of the jury.

Source: Neb. Const. art. I, § 6 (1875); Amended 1920, Constitutional Convention, 1919-1920, No. 1.

§ 7. Search and seizure.

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

Source: Neb. Const. art. I, § 7 (1875).

§ 8. Habeas corpus.

The privilege of the writ of habeas corpus shall not be suspended.

Source: Neb. Const. art. I, § 8 (1875); Amended 1998, Laws 1997, LR 30CA, § 1.

§ 9. Bail; fines; imprisonment; cruel and unusual punishment.

All persons shall be bailable by sufficient sureties, except for treason, sexual offenses involving penetration by force or against the will of the victim, and murder, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Source: Neb. Const. art. I, § 9 (1875); Amended 1978, Laws 1978, LB 553, § 1.

§ 10. Presentment or indictment by grand jury; information.

No person shall be held to answer for a criminal offense, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in case of impeachment, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, unless on a presentment or indictment of a grand jury; *Provided*, That the Legislature may by law provide for holding persons to answer for criminal offenses on information of a public prosecutor; and may by law, abolish, limit, change, amend, or otherwise regulate the grand jury system.

Source: Neb. Const. art. I, § 10 (1875).

§ 11. Rights of accused.

In all criminal prosecutions the accused shall have the right to appear and defend in person or by counsel, to demand the nature and cause of accusation, and to have a copy thereof; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

Source: Neb. Const. art. I, § 11 (1875).

§ 12. Evidence against self; double jeopardy.

No person shall be compelled, in any criminal case, to give evidence against himself, or be twice put in jeopardy for the same offense.

Source: Neb. Const. art. I, § 12 (1875).

§ 13. Justice administered without delay; Legislature; authorization to enforce mediation and arbitration.

All courts shall be open, and every person, for any injury done him or her in his or her lands, goods, person, or reputation, shall have a remedy by due course of law and justice administered without denial or delay, except that the Legislature may provide for the enforcement of mediation, binding arbitration agreements, and other forms of dispute resolution which are entered into voluntarily and which are not revocable other than upon such grounds as exist at law or in equity for the revocation of any contract.

Source: Neb. Const. art. I, § 13 (1875); Amended 1996, Laws 1995, LR 1CA, § 1.

§ 14. Treason.

Treason against the state shall consist only in levying war against the state, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Source: Neb. Const. art. I, § 14 (1875).

§ 15. Penalties; corruption of blood; transporting out of state prohibited.

All penalties shall be proportioned to the nature of the offense, and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the state for any offense committed within the state.

Source: Neb. Const. art. I, § 15 (1875).

§ 16. Bill of attainder; retroactive laws; contracts; special privileges.

No bill of attainder, ex post facto law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities shall be passed.

Source: Neb. Const. art. I, § 16 (1875).

§ 17. Military subordinate.

The military shall be in strict subordination to the civil power.

Source: Neb. Const. art. I, § 17 (1875).

§ 18. Soldiers quarters.

No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war except in the manner prescribed by law.

Source: Neb. Const. art. I, § 18 (1875).

§ 19. Right of peaceable assembly and to petition government.

The right of the people peaceably to assemble to consult for the common good, and to petition the government, or any department thereof, shall never be abridged.

Source: Neb. Const. art. I, § 19 (1875).

§ 20. Imprisonment for debt prohibited.

No person shall be imprisoned for debt in any civil action on mesne or final process.

Source: Neb. Const. art. I, § 20 (1875); Amended 1998, Laws 1997, LR 26CA, § 1.

§ 21. Private property compensated for.

The property of no person shall be taken or damaged for public use without just compensation therefor.

Source: Neb. Const. art. I, § 21 (1875).

§ 22. Elections to be free.

All elections shall be free; and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise.

Source: Neb. Const. art. I, § 22 (1875).

§ 23. Capital cases; right of direct appeal; effect; other cases; right of appeal.

In all capital cases, appeal directly to the Supreme Court shall be as a matter of right and shall operate

as a supersedeas to stay the execution of the sentence of death until further order of the Supreme Court. In all other cases, criminal or civil, an aggrieved party shall be entitled to one appeal to the appellate court created pursuant to Article V, section 1, of this Constitution or to the Supreme Court as may be provided by law. (Amended, 1972, 1990.)

Source: Neb. Const. art. I, § 23 (1875); Amended 1972, Laws 1972, LB 196, § 1; Amended 1990, Laws 1990, LR 8, § 1.

§ 24. Repealed 1990. Laws 1990, LR 8, § 1.

§ 25. Rights of property; no discrimination; aliens.

There shall be no discrimination between citizens of the United States in respect to the acquisition, ownership, possession, enjoyment or descent of property. The right of aliens in respect to the acquisition, enjoyment and descent of property may be regulated by law.

Source: Neb. Const. art. I, § 25 (1875); Amended 1920, Constitutional Convention, 1919-1920, No. 2.

§ 26. Powers retained by people.

This enumeration of rights shall not be construed to impair or deny others, retained by the people, and all powers not herein delegated, remain with the people.

Source: Neb. Const. art. I, § 26 (1875).

§ 27. English language to be official.

The English language is hereby declared to be the official language of this state, and all official proceedings, records and publications shall be in such language, and the common school branches shall be taught in said language in public, private, denominational and parochial schools.

Source: Neb. Const. art. I, § 27 (1920); Adopted 1920, Constitutional Convention, 1919-1920, No. 3.

§ 28. Crime victims; rights enumerated; effect; Legislature; duties.

(1) A victim of a crime, as shall be defined by law, or his or her guardian or representative shall have: The right to be informed of all criminal court proceedings; the right to be present at trial unless the trial court finds sequestration necessary for a fair trial for the defendant; and the right to be informed of, be present at, and make an oral or written statement at sentencing, parole, pardon, commutation, and conditional release proceedings. This enumeration of certain rights for crime victims shall not be construed to impair or deny others provided by law or retained by crime victims.

(2) The Legislature shall provide by law for the implementation of the rights granted in this section. There shall be no remedies other than as specifically provided by the Legislature for the enforcement of the rights granted by this section.

(3) Nothing in this section shall constitute a basis for error in favor of a defendant in any criminal proceeding, a basis for providing standing to participate as a party to any criminal proceeding, or a basis to contest the disposition of any charge.

Source: Neb. Const. art. I, § 28 (1996); Adopted 1996, Laws 1995, LR 21CA, § 1.

§ 29. [Valid marriage.]

Only marriage between a man and a woman shall be valid or recognized in Nebraska. The uniting of two persons of the same sex in a civil union, domestic partnership, or other similar same-sex relationship shall not be valid or recognized in Nebraska.

Source: Neb. Const. art. 1, § 29 (2000); by Initiative No. 416.

ARTICLE VII

EDUCATION

Section.

1. Legislature; free instruction in common schools; provide.
2. State Department of Education; general supervision of school system.
3. State Board of Education; members; election; manner of election; term of office.
4. State Board of Education; Commissioner of Education; appointment; powers and duties.
5. Fines, penalties, and license money; allocation; use of forfeited conveyances.
6. Educational lands; management; Board of Educational Lands and Funds; members; appointment; sale of lands.
7. Perpetual funds enumerated.
8. Trust funds belong to state for educational purposes; use; investment.
9. Educational funds; trust funds; use of.
10. University of Nebraska; government; Board of Regents; election; student membership; terms.
11. Appropriation of public funds; handicapped children; sectarian instruction; religious test of teacher or student.
12. Education and reform of minors.
13. State colleges; government; board; name; selection; duties; compensation.
14. Coordinating Commission for Postsecondary Education; membership; powers and duties; coordination, defined.
15. Omitted.
- 16 and 17. Repealed.

§ 1. Legislature; free instruction in common schools; provide.

The Legislature shall provide for the free instruction in the common schools of this state of all persons between the ages of five and twenty-one years. The Legislature may provide for the education of other persons in educational institutions owned and controlled by the state or a political subdivision thereof.

Source: Neb. Const. art. VIII, § 1 (1875); Transferred by Constitutional Convention, 1919-1920, art. VII, § 1; Amended 1940, Laws 1939, c. 109, § 1, p. 477; Amended 1952, Laws 1951, c. 164, § 2(3), p. 646; Amended 1954, Laws 1953, c. 174, § 1, p. 554; Amended 1970, Laws 1969, c. 423, § 1, p. 1439; Amended 1972, Laws 1972, LB 1023, § 1.

§ 2. State Department of Education; general supervision of school system.

The State Department of Education shall be comprised of a State Board of Education and a Commissioner of Education. The State Department of Education shall have general supervision and administration of the school system of the state and of such other activities as the Legislature may direct.

Source: Neb. Const. art. VIII, § 2 (1875); Transferred by Constitutional Convention, 1919-1920, art. VII, § 2; Amended 1972, Laws 1972, LB 1023, § 1.

§ 3. State Board of Education; members; election; manner of election; term of office.

The State Board of Education shall be composed of eight members, who shall be elected from eight districts of substantially equal population as provided by the Legislature. Their term of office shall be for four years each. Their duties and powers shall be prescribed by the Legislature, and they shall receive no compensation, but shall be reimbursed their actual expense incurred in the performance of their duties. The members of the State Board of Education shall not be actively engaged in the educational profession and they shall be elected on a nonpartisan ballot.

Source: Neb. Const. art. VIII, § 3 (1875); Transferred by Constitutional Convention, 1919-1920, art. VII, § 3; Amended 1972, Laws 1972, LB 1023, § 1.

§ 4. State Board of Education; Commissioner of Education; appointment; powers and duties.

The State Board of Education shall appoint and fix the compensation of the Commissioner of Education, who shall be the executive officer of the State Board of Education and the administrative head of the State Department of Education, and who shall have such powers and duties as the Legislature may direct. The board shall appoint all employees of the State Department of Education on the recommendation of the Commissioner of Education.

Source: Neb. Const. art. VIII, § 4 (1875); Transferred by Constitutional Convention, 1919-1920, art. VII, § 4; Amended 1966, Laws 1965, c. 294, § 1, p. 836; Amended 1972, Laws 1972, LB 1023, § 1.

§ 5. Fines, penalties, and license money; allocation; use of forfeited conveyances.

(1) Except as provided in subsections (2) and (3) of this section, all fines, penalties, and license money

arising under the general laws of the state, except fines and penalties for violation of laws prohibiting the overloading of vehicles used upon the public roads and highways of this state, shall belong and be paid over to the counties respectively where the same may be levied or imposed, and all fines, penalties, and license money arising under the rules, bylaws, or ordinances of cities, villages, precincts, or other municipal subdivision less than a county shall belong and be paid over to the same respectively. All such fines, penalties, and license money shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same may accrue, except that all fines and penalties for violation of laws prohibiting the overloading of vehicles used upon the public roads and highways shall be placed as follows: Seventy-five per cent in a fund for state highways and twenty-five per cent to the county general fund where the fine or penalty is paid.

(2) Fifty per cent of all money forfeited or seized pursuant to enforcement of the drug laws shall belong and be paid over to the counties for drug enforcement purposes as the Legislature may provide.

(3) Law enforcement agencies may use conveyances forfeited pursuant to enforcement of the drug laws as the Legislature may provide. Upon the sale of such conveyances, the proceeds shall be appropriated exclusively to the use and support of the common schools as provided in subsection (1) of this section.

Source: Neb. Const. art. VIII, § 5 (1875); Transferred by Constitutional Convention, 1919-1920, art. VII, § 5; Amended 1956, Laws 1955, c. 195, § 1, p. 558; Amended 1984, Laws 1984, LR 2, § 1.

§ 6. Educational lands; management; Board of Educational Lands and Funds; members; appointment; sale of lands.

No lands now owned or hereafter acquired by the state for educational purposes shall be sold except at public auction under such conditions as the Legislature shall provide. The general management of all lands set apart for educational purposes shall be vested, under the direction of the Legislature, in a board of five members to be known as the Board of Educational Lands and Funds. The members shall be appointed by the Governor, subject to the approval of the Legislature, with such qualifications and for such terms and compensation as the Legislature may provide.

Source: Neb. Const. art. VIII, § 6 (1875); Transferred by Constitutional Convention, 1919-1920, art. VII, § 6; Amended 1972, Laws 1972, LB 1023, § 1.

§ 7. Perpetual funds enumerated.

The following are hereby declared to be perpetual funds for common school purposes of which the

annual interest or income only can be appropriated, to wit:

First. Such per cent as has been, or may hereafter be, granted by Congress on the sale of lands in this state.

Second. All money arising from the sale or leasing of sections number sixteen and thirty-six in each township in this state, and the lands selected, or that may be selected, in lieu thereof.

Third. The proceeds of all lands that have been, or may hereafter be, granted to this state, where by the terms and conditions of such grant the same are not to be otherwise appropriated.

Fourth. The net proceeds of lands and other property and effects that may come to this state, by escheat or forfeiture, or from unclaimed dividends, or distributive shares of the estates of deceased persons.

Fifth. All other property of any kind now belonging to the perpetual fund.

Source: Neb. Const. art. VIII, § 7 (1875); Amended 1920, Constitutional Convention, 1919-1920, No. 20; Transferred by Constitutional Convention, 1919-1920, art. VII, § 7; Amended 1972, Laws 1972, LB 1023, § 1.

§ 8. Trust funds belong to state for educational purposes; use; investment.

All funds belonging to the state for educational purposes, the interest and income whereof only are to be used, shall be deemed trust funds. Such funds with the interest and income thereof are hereby solemnly pledged to the purposes for which they are granted and set apart and shall not be transferred to any other fund for other uses. The state shall supply any net aggregate losses thereof realized at the close of each calendar year that may in any manner accrue. Notwithstanding any other provisions in the Constitution, such funds shall be invested as the Legislature may by statute provide.

Source: Neb. Const. art. VIII, § 8 (1875); Amended 1920, Constitutional Convention, 1919-1920, No. 21; Transferred by Constitutional Convention, 1919-1920, art. VII, § 8; Amended 1972, Laws 1972, LB 1023, § 1.

§ 9. Educational funds; trust funds; use of.

The following funds shall be exclusively used for the support and maintenance of the common schools in each school district in the state as the Legislature shall provide:

a. Income arising from the perpetual funds;

b. The income from the unsold school lands, except that costs of administration shall be deducted from the income before it is so applied;

c. All other grants, gifts and devises that have been or may hereafter be made to the state which are not otherwise appropriated by the terms of the grant, gift or devise; and

d. Such other support as the Legislature may provide.

No distribution or appropriation shall be made to any school district for the year in which school is not maintained for the minimum term required by law.

Source: Neb. Const. art. VIII, § 9 (1875); Amended 1908, Laws 1907, c. 201, § 1, p. 580; Transferred by Constitutional Convention, 1919-1920, art. VII, § 9; Amended 1966, Laws 1965, c. 302, § 2(1), p. 852; Amended 1970, Laws 1969, c. 423, § 1, p. 1439; Amended 1972, Laws 1972, LB 1023, § 1.

§ 10. University of Nebraska; government; Board of Regents; election; student membership; terms.

The general government of the University of Nebraska shall, under the direction of the Legislature, be vested in a board of not less than six nor more than eight regents to be designated the Board of Regents of the University of Nebraska, who shall be elected from and by districts as herein provided and three students of the University of Nebraska who shall serve as nonvoting members. Such nonvoting student members shall consist of the student body president of the University of Nebraska at Lincoln, the student body president of the University of Nebraska at Omaha, and the student body president of the University of Nebraska Medical Center. The terms of office of elected members shall be for six years each. The terms of office of student members shall be for the period of service as student body president. Their duties and powers shall be prescribed by law; and they shall receive no compensation, but may be reimbursed their actual expenses incurred in the discharge of their duties.

The Legislature shall divide the state, along county lines, into as many compact regent districts, as there are regents provided by the Legislature, of approximately equal population, which shall be numbered consecutively.

The Legislature shall redistrict the state after each federal decennial census. Such districts shall not be changed except upon the concurrence of a majority of the members of the Legislature. In any such redistricting, county lines shall be followed whenever practicable, but other established lines may be followed at the discretion of the Legislature. Whenever the state is so redistricted the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term.

Source: Neb. Const. art. VIII, § 10 (1875); Amended 1920, Constitutional Convention, 1919-1920, No. 22; Transferred by Constitutional Convention, 1919-1920, art. VII, § 10; Amended 1968, Laws 1967, c. 320, § 1, p. 853; Amended 1974, Laws 1974, LB 323, § 1.

§ 11. Appropriation of public funds; handicapped children; sectarian instruction; religious test of teacher or student.

Notwithstanding any other provision in the Constitution, appropriation of public funds shall not be

made to any school or institution of learning not owned or exclusively controlled by the state or a political subdivision thereof; *Provided*, that the Legislature may provide that the state or any political subdivision thereof may contract with institutions not wholly owned or controlled by the state or any political subdivision to provide for educational or other services for the benefit of children under the age of twenty-one years who are handicapped, as that term is from time to time defined by the Legislature, if such services are nonsectarian in nature.

All public schools shall be free of sectarian instruction.

The state shall not accept money or property to be used for sectarian purposes; *Provided*, that the Legislature may provide that the state may receive money from the federal government and distribute it in accordance with the terms of any such federal grants, but no public funds of the state, any political subdivision, or any public corporation may be added thereto.

A religious test or qualification shall not be required of any teacher or student for admission or continuance in any school or institution supported in whole or in part by public funds or taxation.

Source: Neb. Const. art. VIII, § 11 (1875); Amended 1920, Constitutional Convention, 1919-1920, No. 23; Transferred by Constitutional Convention, 1919-1920, art. VII, § 11; Amended 1972, Laws 1971, LB 656, § 1; Amended 1976, Laws 1976, LB 666, § 1.

§ 12. Education and reform of minors.

The Legislature may provide by law for the establishment of a school or schools for the safe keeping, education, employment and reformation of all children under the age of eighteen years, who, for want of proper parental care, or other cause, are growing up in mendicancy or crime.

Source: Neb. Const. art. VIII, § 12 (1875); Amended 1920, Constitutional Convention, 1919-1920, No. 24; Transferred by Constitutional Convention, 1919-1920, art. VII, § 12.

§ 13. State colleges; government; board; name; selection; duties; compensation.

The general government of the state colleges as now existing, and such other state colleges as may be established by law, shall be vested, under the direction of the Legislature, in a board of seven members to be styled as designated by the Legislature, six of whom shall be appointed by the Governor, with the advice and consent of the Legislature, two each for a term of two, four, and six years, and two each biennium thereafter for a term of six years, and the Commissioner of Education shall be a member *ex officio*. The duties and powers of the board shall be prescribed by law, and the members thereof shall receive no compensation for the performance of their duties, but may be reimbursed their actual expenses incurred therein.

Source: Neb. Const. art. VIII, § 13 (1920); Adopted 1920, Constitutional Convention, 1919-1920, No. 25; Transferred by Constitutional Convention, 1919-1920, art. VII, § 13; Amended 1952, Laws 1951, c. 164, § 2(4), p. 646; Amended 1968, Laws 1967, c. 315, § 1, p. 845.

§ 14. Coordinating Commission for Postsecondary Education; membership; powers and duties; coordination, defined.

On January 1, 1992, there shall be established the Coordinating Commission for Postsecondary Education which shall, under the direction of the Legislature, be vested with the authority for the coordination of public postsecondary educational institutions. Public postsecondary educational institutions shall include each postsecondary educational campus or institution which is governed by the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, any board or boards established for the community colleges, or any other governing board for any other public postsecondary educational institution which may be established by the Legislature.

Coordination shall mean:

(1) Authority to adopt, and revise as needed, a comprehensive statewide plan for postsecondary education which shall include (a) definitions of the role and mission of each public postsecondary educational institution within any general assignments of role and mission as may be prescribed by the Legislature and (b) plans for facilities which utilize tax funds designated by the Legislature;

(2) Authority to review, monitor, and approve or disapprove each public postsecondary educational institution's programs and capital construction projects which utilize tax funds designated by the Legislature in order to provide compliance and consistency with the comprehensive plan and to prevent unnecessary duplication; and

(3) Authority to review and modify, if needed to promote compliance and consistency with the comprehensive statewide plan and prevent unnecessary duplication, the budget requests of the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, any board or boards established for the community colleges, or any other governing board for any other public postsecondary educational institution which may be established by the Legislature.

The Legislature may provide the commission with additional powers and duties related to postsecondary education as long as such powers and duties do not invade the governance and management authority of the Board of Regents of the University of Nebraska and the Board of Trustees of the Nebraska State Colleges as provided in the Constitution of Nebraska, Article VII, sections 10 and 13. The Legislature may provide that coordination of the community colleges by the commission pursuant to this section may be conducted through a board or association representing all the community colleges.

Nothing in this section providing for statewide coordination shall limit or require the use of property tax revenue by and for community colleges.

The commission shall consist of eleven members, residents of the state or the districts for which appointed, who shall be appointed by the Governor with the approval of a majority of the Legislature. Six of the members shall be chosen from six districts of approximately equal population and five shall be chosen on a statewide basis.

The terms of the members of the commission shall be six years or until a successor is qualified and takes office, except that of the members initially appointed, four members shall serve for terms of two years and four members shall serve for terms of four years. The members of the commission shall receive no compensation for the performance of their duties but may be reimbursed their actual and necessary expenses. (Original Section 14 repealed, 1972. New Section 14 adopted, 1990.)

Source: Neb. Const. art. VII, § 14 (1990); Adopted 1990, Laws 1990, LB 1141, § 1.

§ 15. Omitted.

Source: Article VII, section 15, of the Constitution of Nebraska, as adopted in 1992 by Initiative 408, has been omitted because of the decision of the Nebraska Supreme Court in *Duggan v. Beermann*, 249 Neb. 411, 544 N.W.2d 68 (1996)

§ 16 and 17. Repealed 1972. Laws 1972, LB 1023, § 1.

CHAPTER 9 BINGO AND OTHER GAMBLING

ARTICLE 8

STATE LOTTERY

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§ 9-801. Act, how cited.

Sections 9-801 to 9-841 shall be known and may be cited as the State Lottery Act.

Source: Laws 1991, LB 849, § 1; Laws 1993, LB 138, § 17; Laws 1994, LB 694, § 114.

§ 9-802. Purpose of act.

The purpose of the State Lottery Act is to establish lottery games which will raise revenue for the purposes set forth in section 9-812.

Source: Laws 1991, LB 849, § 2; Laws 1993, LB 138, § 18.

§ 9-803. Terms, defined.

For purposes of the State Lottery Act:

(1) Director shall mean the Director of the Lottery Division;

(2) Division shall mean the Lottery Division of the Department of Revenue;

(3) Lottery contractor shall mean a lottery vendor or lottery game retailer with whom the division has contracted for the purpose of providing goods or services for the state lottery;

(4) Lottery game shall mean any variation of the following types of games:

(a) An instant-win game in which disposable tickets contain certain preprinted winners which are determined by rubbing or scraping an area or areas on the tickets to match numbers, letters, symbols, or configurations, or any combination thereof, as provided by the rules of the game. An instant-win game may also provide for preliminary and grand prize drawings conducted pursuant to the rules of the game. An instant-win game shall not include the use of any pickle card as defined in section 9-315; and

(b) An on-line lottery game in which lottery game retailer terminals are hooked up to a central computer via a telecommunications system through which (i) a player selects a specified group of numbers or symbols out of a predetermined range of numbers or symbols and purchases a ticket bearing the player-selected numbers or symbols for eligibility in a drawing regularly scheduled in accordance with game rules or (ii) a player purchases a ticket bearing randomly selected numbers for eligibility in a drawing regularly scheduled in accordance with game rules.

Lottery game shall not be construed to mean any video lottery game;

(5) Lottery game retailer shall mean a person who contracts with or seeks to contract with the division to sell tickets in lottery games to the public;

(6) Lottery vendor shall mean any person who submits a bid, proposal, or offer as part of a major procurement;

(7) Major procurement shall mean any procurement or contract unique to the operation of the state lottery in excess of fifteen thousand dollars for the printing of tickets used in any lottery game, security services, consulting services, advertising services, any goods or services involving the receiving or recording of number selections in any lottery game, or any goods or services involving the determination of winners in any lottery game. Major procurement shall include production of instant-win tickets, procurement of on-line gaming systems and drawing equipment, or retaining the services of a consultant who will have access to any goods or services involving the receiving or recording of number selections or determination of winners in any lottery game; and

(8) Ticket or lottery ticket shall mean any tangible evidence authorized by the division to prove participation in a lottery game.

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Source: Laws 1991, LB 849, § 3; Laws 1993, LB 138, § 19; Laws 1994, LB 694, § 115; Laws 1995, LB 343, § 1; Laws 1999, LB 479, § 1.

§ 9-804. Lottery Division of the Department of Revenue; established; Director of the Lottery Division.

The Lottery Division of the Department of Revenue is hereby established. The division shall be administered by the Director of the Lottery Division who shall be appointed by and serve at the pleasure of the Tax Commissioner. The division shall administer and regulate the lottery games conducted pursuant to the State Lottery Act.

Source: Laws 1991, LB 849, § 4; Laws 1993, LB 138, § 20.

§ 9-805. Tax Commissioner; agreements authorized.

The Tax Commissioner may enter into written agreements with one or more government-authorized lotteries to participate in the conduct and operation of lottery games and may enter into written agreements with one or more government-authorized lotteries or other persons, entities, organizations, or associations to purchase goods or services in support of lottery games when necessary or desirable to make lottery games more remunerative for the State of Nebraska so long as the games and purchases are consistent with the State Lottery Act. Major procurement purchase requirements under the act shall only apply to the Nebraska portion of any purchase made through the agreements.

Source: Laws 1991, LB 849, § 5; Laws 1993, LB 138, § 21; Laws 1999, LB 479, § 2.

§ 9-806. Legislative intent.

In construing the State Lottery Act, it is the intent of the Legislature that the following policies be implemented:

(1) The lottery games shall be operated by the division;

(2) The lottery games shall be operated as a self-sufficient, revenue-raising operation after money generated from the conduct of the lottery is used to repay the initial appropriation plus interest;

(3) All contracts entered into by the division for the provision of goods and services shall be subject to the act and shall be exempt from any other state law concerning the purchase of goods or services;

(4) Preference for contracts shall be given to bidders and applicants based in Nebraska if the costs and benefits are equal or superior to those available from competing persons. All major procurements of goods or services essential to the operation of a lottery shall require that the person awarded the contract establish a permanent office in this state;

(5) Every entity submitting a bid, proposal, or offer to the division shall disclose all information required by the Tax Commissioner; and

(6) Every entity submitting a bid, proposal, or offer to the division shall be required to meet such other requirements as established by the Tax Commissioner, including the posting of a bond.

Source: Laws 1991, LB 849, § 6; Laws 1993, LB 138, § 22.

§ 9-807. Division; personnel; bond.

(1) Other than the director, all employees of the division shall be classified employees under the rules and regulations of the personnel division of the Department of Administrative Services.

(2) Before entering upon the duties of the office, the director and each employee of the division shall be bonded under the blanket surety bond required by section 11-201.

Source: Laws 1991, LB 849, § 7; Laws 1992, Third Spec.Sess., LB 14, § 1; Laws 1993, LB 138, § 23; Laws 1995, LB 343, § 3.

§ 9-808. Division; personnel; investigators or security personnel; powers and duties; confidentiality; exception.

(1) The Tax Commissioner shall employ or contract with such personnel as necessary to carry out the responsibilities of the division. The Tax Commissioner shall employ investigators or security personnel who shall be vested with the authority and power of a law enforcement officer to carry out the laws of this state administered by the Tax Commissioner or the Department of Revenue.

(2) Investigators or security personnel of the division may enter and search premises and seize all relevant materials pursuant to a warrant issued by a court.

(3)(a) Investigators or security personnel shall, as deemed necessary, conduct background investigations of all individuals seeking employment in the division. Such background investigations shall include, but not be limited to, police records checks, conviction records checks, national and statewide criminal records clearinghouse checks, and fingerprint checks.

(b) It shall be a condition of employment in the division that an individual supply investigators or security personnel with his or her fingerprints for the purpose of conducting a background investigation for employment purposes.

(c) Any individual convicted of any crime involving moral turpitude, fraud, theft, theft of services, and theft by deception and any individual whose constitutional rights have been forfeited and not restored shall not be eligible for employment in the division.

(d) All information obtained through a background investigation performed by the division shall be confidential, except that the Tax Commissioner may exchange such confidential information with state, federal, and local law enforcement agencies.

Source: Laws 1991, LB 849, § 8; Laws 1993, LB 138, § 24.

§ 9-809. Auditor of Public Accounts; audit; Tax Commissioner; reports.

(1) The books, records, funds, and accounts of the division shall be audited at least annually by or under the direction of the Auditor of Public Accounts who shall submit a report of the audit to the Governor and the Legislature. The expenses of the audit shall be paid from the State Lottery Operation Cash Fund.

(2) The Tax Commissioner shall make an annual written report by November 1 of each year to the Governor and the Legislature, which report shall include a summary of the activities of the division for the previous fiscal year through June 30, a statement detailing lottery revenue, prize disbursements, expenses of the division, and allocation of remaining revenue, and any recommendations for change in the statutes which the Tax Commissioner deems necessary or desirable. The report shall be a public record.

Source: Laws 1991, LB 849, § 9; Laws 1993, LB 138, § 25; Laws 1994, LB 694, § 116.

§ 9-810. Lottery ticket; restrictions on sale and purchase; computation of retail sales; termination of liability; prize credited against certain tax liability or debt; procedure.

(1) A person under nineteen years of age shall not purchase a lottery ticket. No lottery ticket shall be sold to any person under nineteen years of age. No person shall purchase a lottery ticket for a person under nineteen years of age, and no person shall purchase a lottery ticket for the benefit of a person under nineteen years of age.

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

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

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

(5) Prior to the payment of any lottery prize in excess of five hundred dollars for a winning lottery ticket presented for redemption to the division, the division shall check the name and social security number of the winner with a list provided by the Department of Revenue of people identified as having an outstanding state tax liability and a list of people certified by the Department of Health and Human Services as owing a debt as defined in section 77-27,161. The division shall credit any such lottery prize against any outstanding state tax liability owed by such winner and the balance of such prize amount, if any, shall be paid to the winner by the division. The division shall credit any such lottery prize against any certified debt in the manner set forth in sections 77-27,160 to 77-27,173. If the winner has both an outstanding state tax liability and a certified debt, the division shall add the liability and the debt together and pay the appropriate agency or person a share of the prize in the proportion that the liability or debt owed to the agency or person is to the total liability and debt.

Source: Laws 1991, LB 849, § 10; Laws 1993, LB 563, § 23; Laws 1993, LB 138, § 26; Laws 1996, LB 1044, § 44; Laws 1997, LB 307, § 1.

§ 9-811. Exemption from occupation tax.

Lottery games conducted pursuant to the State Lottery Act shall be exempt from any local or occupation tax levied or assessed by any political subdivision having the power to levy, assess, or collect such a tax.

Source: Laws 1991, LB 849, § 11; Laws 1993, LB 138, § 27.

§ 9-811.01. Lottery Investigation Petty Cash Fund; establishment; use; investment; Tax Commissioner; department; duties; records and reports.

The Tax Commissioner may apply to the Director of Administrative Services and the Auditor of Public Accounts to establish and maintain a Lottery Investigation Petty Cash Fund. The money used to initiate and maintain the fund shall be drawn solely from the State Lottery Operation Cash Fund. The Tax Commissioner shall determine the amount of money to be held in the Lottery Investigation Petty Cash Fund, consistent with carrying out the duties and responsibilities of the division but not to exceed five thousand dollars for the entire division. This restriction shall not apply to funds otherwise appropriated to the State Lottery Operation Cash Fund for investigative purposes. When the Director of Administrative Services and the Auditor of Public Accounts have approved the establishment of the Lottery Investigation Petty Cash Fund, a voucher shall be submitted to the Department of Administrative Services accompanied by such information as the department may require for the establishment of