



- **LOTTERY AND RAFFLE REGULATIONS**
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- **If you will be conducting a lottery with gross proceeds (total receipts from ticket sales) exceeding \$1,000.00 or a raffle* with gross proceeds exceeding \$5,000.00, you should refer to regulations 35-400 through 35-409 of this booklet.**
 - **If you will be conducting a lottery with gross proceeds (total receipts from ticket sales) of \$1,000.00 or less, or a raffle* with gross proceeds of \$5,000.00 or less. You should refer to regulations 35-500 through 35-504 of this booklet.**
- * To qualify as a raffle, at least 80 percent of the prizes to be awarded must be merchandise prizes, not redeemable for cash.

LOTTERY AND RAFFLE REGULATIONS

Title 316, Chapter 35

REG-35-400 SCOPE, ELIGIBILITY, AND LICENSING REQUIREMENTS

400.01 Bingo, Lottery, Raffle, and Lottery by Pickle Card Regulations 35-400 through 35-409 are adopted to carry out the provisions of the Nebraska Lottery and Raffle Act.

400.02 A nonprofit organization, volunteer fire company, or volunteer first-aid, rescue, ambulance, or emergency squad who wishes to conduct any lottery with gross proceeds in excess of \$1,000.00 or any raffle with gross proceeds in excess of \$5,000.00 must first apply for and obtain a license from the Department. Such license shall be applied for on a form prescribed by the Department and be accompanied by the appropriate fees. Lottery and raffle licenses shall expire and may be renewed on a biennial basis, according to the following schedule:

400.02A A license to conduct a lottery or raffle issued to a nonprofit organization holding a certificate of exemption under section 501 (c)(3) or (c)(4) of the Internal Revenue Code and any license issued to a utilization of funds member for such nonprofit organization shall expire on September 30 of each odd-numbered year.

400.02B A license to conduct a lottery or raffle issued to a nonprofit organization holding a certificate of exemption under any other subsection of section 501 of the Internal Revenue Code, or to any volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad and any license issued to a utilization of funds member for such nonprofit organization or volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad shall expire on September 30 of each even-numbered year.

400.02C A licensed organization wishing to renew its license must submit its application for renewal at least thirty (30) days prior to the date the organization intends to begin selling lottery or raffle tickets in the new licensing period. Licenses are not transferable.

400.03 The determination as to whether a license will be required shall be based upon the potential gross proceeds desired from the lottery or raffle activity. Potential gross proceeds shall be determined by multiplying the number of tickets to be sold by the selling price of a single ticket. The value of any free tickets shall be included in the determination of potential gross proceeds. For purposes of determining potential gross proceeds, each ticket shall be calculated at its individual selling price before the application of any discount for the purchase of two or more tickets.

400.03A If the selling price of an admission to an event, or the purchase price of a meal, calendar or similar such

item includes an opportunity to participate in a lottery or raffle, the gross proceeds of the lottery or raffle shall be based upon the full selling price of the ticket, without a reduction for the cost of the admission or other tangible item connected with the purchase of the lottery or raffle ticket. For example, if a person purchases a ticket to a dinner at the cost of \$100.00 and that ticket enters the person in a lottery or raffle drawing, then the gross proceeds of the lottery or raffle activity shall be based upon the full \$100.00 selling price of the ticket.

400.03B However, if, for example, the organization sells lottery or raffle tickets separately from the dinner ticket and a person is not required to be present in order to win a prize, then the organization may base the determination of the gross proceeds on the cost of the lottery or raffle ticket alone.

400.04 Organizations that will not exceed the gross proceeds thresholds as described in Regulation 35-400.02 are not required to be licensed and shall adhere to the requirements set forth under the Nebraska Small Lottery and Raffle Act and Regulations 35-500 through 35-504.

400.05 It shall be the responsibility of the licensed organization to keep the information contained on its application current. The Department must be informed within thirty (30) days of any changes in the information supplied by the licensee in its most recent filing with the Department.

400.05A Changes can be reported by filing a new application identifying only the information to be changed. Those changes must be confirmed by the signature of an officer or utilization of funds member. All persons signing the most current application shall obligate the licensee to comply with the Nebraska Lottery and Raffle Act and regulations for that licensing period.

400.06 A nonprofit organization, volunteer fire company, or volunteer first-aid, rescue, ambulance, or emergency squad applying for a lottery and raffle license shall be incorporated in this state as a nonprofit corporation or organized in this state as a religious or nonprofit organization.

400.06A In order for a nonprofit corporation to qualify for a license, it shall be incorporated in Nebraska. A corporation incorporated in a foreign state holding a certificate of authority to conduct affairs in Nebraska is not considered to be incorporated in Nebraska and shall not qualify for a license. A corporation incorporated in a foreign state which has domesticated under sections 21-1966.01 or 21-1966.03, R.R.S. 1943, shall be considered incorporated in Nebraska and may qualify for a license. In order for a nonprofit organization other than a corporation to qualify for a license, it shall be organized or established in Nebraska.

400.07 Any nonprofit organization holding a certificate of exemption under section 501 of the Internal Revenue Code or any volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad may apply for a license to conduct a lottery or raffle.

400.07A A nonprofit organization is considered exempt under section 501 of the Internal Revenue Code if it can provide a copy of the exemption ruling or exemption determination letter issued by the Internal Revenue Service when making application for an initial license. The proof of exemption is not required to be filed with a subsequent application by the organization to renew an existing license to conduct a lottery or raffle unless the circumstances under which the exemption was issued or the nature of the organization has changed substantially to the extent that the exempt status may no longer be applicable or the Department specifically requests the exemption determination letter.

400.07A(1) An organization may be exempt under a group exemption letter issued by the Internal Revenue Service. A group exemption letter is a ruling or determination letter issued to a parent organization. A group exemption letter recognizes, on a group basis, the exemption under section 501(c) of the subordinate organizations on whose behalf the parent organization has applied for recognition of exemption. A parent organization is an organization that has one or more subordinates under its general supervision or control. A subordinate is a chapter, local, post, or unit of a parent organization. Examples: American Legion, Veterans of Foreign Wars, Fraternal Order of Eagles. Under these circumstances, a subordinate organization applying for an initial license must provide the Department with a copy of the group exemption letter issued to the parent organization or indicate the Group Exemption Number (GEN).

400.08 In addition to all other information requested by the Department, each applicant for a lottery and raffle license and each subsequent renewal thereof may, at the discretion of the Department, be required to provide:

400.08A A copy of the organization's articles of incorporation or bylaws; or, if not a corporation, a copy of any bylaws or other documents which sets forth the organization's structure and purpose; or

400.08B A current roster of all active members.

400.09 The Department may also require the organization seeking a license to produce evidence of activities other than lotteries and raffles conducted by the organization's membership.

400.10 A nonprofit organization, volunteer fire company, volunteer first-aid, rescue, ambulance, or emergency squad, or individual applying to be a utilization of funds member shall not be considered licensed until such organization or individual has physical possession of the license issued by

the Department. An organization may not begin to sell lottery or raffle tickets until it has received its license.

400.10A A licensed organization or utilization of funds member who has had its license lost, stolen, or destroyed must notify the Department as soon as possible. A duplicate license will be issued. No additional fee is required under such circumstances.

400.10B A licensed organization or utilization of funds member who no longer desires to be licensed shall notify the Department in writing of their intentions to cancel their license. Such notification shall be signed by an officer of the organization. A notification of license cancellation shall be accompanied by the original licenses issued by the Department.

400.10C In the event that a license under the Nebraska Lottery and Raffle Act is suspended, canceled, or revoked, the licensee shall surrender physical possession of such license(s) to the Department immediately upon receipt of the order of suspension, cancellation, or revocation from the Department. In the case of suspension, the Department shall return the licenses to the licensee at the end of the suspension period. In the case of cancellation, the former licensee may reapply for a license when the period of cancellation has expired. In the case of revocation, the former licensee may not reapply for any license at any time in the future under the Nebraska Lottery and Raffle Act unless otherwise authorized by the Department.

400.10C(1) When a licensee has successfully appealed an order of suspension, revocation, or cancellation, the Department shall return physical possession of the licenses which have been suspended, revoked, or canceled.

400.11 In addition to the licensing requirements by the Department, no licensed organization may conduct a lottery or raffle in Douglas or Lancaster Counties or the cities of Omaha or Lincoln until specific authorization has been granted by ordinance or resolution. Other counties or incorporated municipalities may by resolution or ordinance regulate, control, or prohibit any lottery or raffle. No county or incorporated municipality may authorize a lottery or raffle which has not been approved and licensed by the Department.

(Sections 9-402, 9-403, 9-405, 9-406, 9-407, 9-409, 9-411, 9-415, 9-416, 9-417, 9-417.01, 9-419, 9-421, 9-422, 9-424, 9-427, 9-429, 9-430, 9-431, and 9-433, R.R.S. 1997. Sections 9-410, 9-417.02, 9-418, 9-423, 9-425, and 9-426, R.S.Supp., 2002. November 12, 2002.)

REG-35-401 LAWFUL PURPOSE

401.01 A licensed or previously licensed organization shall spend its lottery and raffle profit, as defined in section 9-414 of the Nebraska Lottery and Raffle Act, solely for lawful purposes. Expenditure of monies for a lawful purpose shall generally mean charitable or community betterment purposes.

401.01A Charitable or community betterment purposes shall include but not be limited to the following:

401.01A(1) Enhancing the opportunity of individuals for religious advancement, such as offering religious programs, conducting religious activities, and/or operating and maintaining a church, church school, or its facilities.

401.01A(2) Providing for educational advancement, such as donating to the operating fund of a school or establishing or contributing to a scholarship fund.

401.01A(3) Relieving or protecting individuals from disease, suffering, or distress, such as purchasing food or clothing for the needy or helping to provide medical care for individuals in need.

401.01A(4) Contributing to the physical well-being of individuals, such as donations to foster athletic activities. Contributions to promote amateur athletics may be made in the following manners:

401.01A(4)(a) Donations directly to a city, village, or county which sponsors amateur athletics or maintains athletic facilities;

401.01A(4)(b) Donations to organizations or associations founded for the purpose of promoting amateur sports through the sponsorship of leagues or other amateur sports competition; or

401.01A(4)(c) Donations to organizations recognized by the Internal Revenue Service as proper recipients for tax deductible contributions which sponsor athletics, such as Little League Baseball, Inc., or educational institutions which conduct athletic activities.

401.01A(5) Assisting individuals in establishing themselves as worthy and useful citizens by providing educational or business opportunities such as donations to training programs designed to provide individuals with job skills.

401.01A(6) Providing individuals with opportunities to contribute to the betterment of the community, such as sponsoring park clean-up or beautification projects.

401.01A(7) Increasing the comprehension and devotion to the principles upon which this nation was founded, such as sponsoring civic events to make individuals more aware of the history of the United States, the state of Nebraska, or other civic institutions or principles.

401.01A(8) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures such as contributing to a county, city, or village building fund or donations to fund parks or recreation areas.

401.01A(9) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people such as paying for housing, food, or medical services for needy people, contributing to a local police or fire department or contributing to the general fund of a village, city, or county.

401.02 In addition, a licensed or previously licensed organization may spend its profit derived from a lottery or raffle for any activity which benefits and is conducted by the organization. This shall include any charitable, benevolent, humane, religious, philanthropic, recreational, social, educational, civic, or fraternal activities conducted by the organization for the benefit of its members as a whole. The organizations identified above may spend their proceeds in a broader manner than those organizations which do not have this status. For instance, they may spend proceeds derived from a lottery or raffle to provide social activities for the members, to retire a debt of the organization, or to make capital improvements to the organization's meeting hall. Lottery or raffle proceeds spent in this manner must be spent to benefit the membership as a whole and not any one individual member, except that nothing in this section shall prohibit the funding of a scholarship, medical assistance, or disaster relief to individuals in need.

401.02 Proceeds derived from the conduct of a lottery or raffle shall not be used for any political activity such as lobbying, or participating in or contributing to any political campaign on behalf of an elected official or person who is or has been a candidate for public office.

(Sections 9-402, 9-403, 9-408, 9-411, 9-414, 9-415, and 9-427, R.R.S. 1997. Sections 9-410 and 9-418, R.S.Supp., 2002. November 12, 2002.)

REG-35-402 PRIZES

402.01 At least 65 percent of the gross proceeds of any lottery or raffle shall be used for the awarding of prizes, except that if a licensed organization conducts a lottery or raffle under a special permit as provided in Regulation 35-405, less than 65 percent of the gross proceeds may be used for the awarding of prizes.

402.02 The aggregate cost of all prizes to be awarded in a single lottery or raffle shall not exceed the gross proceeds realized from the sale of the tickets except in those circumstances where the prizes to be awarded are donated and received without cost to the licensed organization.

402.03 An organization conducting a lottery or raffle in which real or personal property prizes are to be awarded shall have paid for in full or otherwise become the owner without lien or interest of others of all the real or personal property to be awarded as prizes prior to the date on which winners will be determined.

402.04 Prizes awarded in a raffle must be at least 80 percent merchandise, to be valued at their fair market value. Fair market value means the price one would normally pay for an item in an arm's length transaction with a retail business. A merchandise prize may be any item which can be legally owned or possessed, but which is not directly or indirectly redeemable for cash by the licensed organization or any agent thereof. For purposes of this regulation, real estate and savings bonds are not considered to be merchandise prizes. Merchant gift certificates are to be considered as a merchandise prize and shall be assessed at their face value.

402.04A For purposes of this regulation, to determine if the prizes meet the 80 percent merchandise requirement in order for the activity to qualify as a raffle, the total fair market value of the merchandise prizes compared to the total value of all prizes to be awarded shall be the determining factor, and not simply the number of merchandise prizes.

402.05 Prizes awarded in a lottery may include cash, merchandise, or anything of value which may be legally owned and possessed. If prizes other than cash are offered in a lottery, the fair market value of all merchandise prizes must be less than 80 percent of the total value of all prizes awarded. For purposes of this regulation, real estate and savings bonds are considered to be cash prizes and shall be assessed at their purchase price value.

402.06 Items donated to an organization to be awarded as prizes in a lottery or raffle may be any items which can be legally owned and possessed, and must be valued at their fair market value. The value of the donated prizes must be included in the determination of whether at least 65 percent of the actual gross proceeds are awarded as prizes.

402.07 Pickle cards shall not be awarded as a prize in a lottery or raffle.

(Sections 9-302, 9-312, 9-315, 9-402, 9-403, 9-407, 9-411, 9-413, 9-415, and 9-427, R.R.S. 1997. Sections 9-410, 9-418, and 9-426, R.S.Supp., 2002. November 12, 2002.)

REG-35-403 UTILIZATION OF FUNDS MEMBER--RESPONSIBILITY

403.01 Each licensed organization must designate and license at least one of its members as a utilization of funds member. To be eligible for a utilization of funds member license, an individual must have been an active and bona fide member of the organization for a least one year prior to applying for the license.

403.01A If a licensed organization can provide evidence that the one-year membership requirement will impose an undue hardship, the Department may waive such requirement. An officer of the licensed organization must provide a written explanation of the nature of the hardship with the utilization of funds member's license application.

403.02 The licensed utilization of funds member shall serve as chairperson, supervisor, and coordinator of the lottery

or raffle activity and shall be responsible for the conduct and management of the game, including:

403.02A Coordination of the purchase and printing of the tickets;

403.02B Supervising all ticket sellers;

403.02C Maintaining all recordkeeping requirements;

403.02D Timely completing and filing all state tax returns and any other reports that may be required;

403.02E Depositing all monies received into the lottery/raffle bank account;

403.02F Ensuring that all lottery/raffle gross proceeds are utilized only for allowable expenses, prizes, taxes and lawful purposes;

403.02G Ensuring that all laws, rules and regulations regarding the conduct of a lottery and/or raffle are adhered to by all individuals connected with the lottery or raffle; and

403.02H Ensuring that, upon proper request, all records and documents relating to the conduct of licensed lottery and raffle activity by the licensed organization are made available to the Department or its representatives.

403.03 The licensed utilization of funds member shall be responsible for submitting a sample lottery or raffle ticket or a copy of such tickets to the Department. The above shall be submitted with the organization's quarterly tax return for each lottery or raffle conducted by the licensed organization during the reporting period.

403.04 The licensed utilization of funds member shall maintain a list of all paid ticket sellers which shall include:

403.04A The name, complete address, and telephone number of each individual or business who is being paid for selling tickets;

403.04B The compensation paid each seller; and,

403.04C The ticket numbers assigned to each paid seller.

403.05 The licensed utilization of funds member shall be responsible for the collection of all monies received by ticket sellers, for the collection of all of the ticket stubs from the sellers, and for collection of all tickets which are void or were not sold.

403.06 The licensed utilization of funds member must be present when the winner(s) of a lottery or raffle are determined.

403.07 The licensed utilization of funds member shall prepare a winners' register for each lottery or raffle. For each prize awarded, the winners' register shall include the following:

403.07A The date on which the winner(s) are determined, the prize(s) awarded, and date each such prize was awarded to each winner;

403.07B The name, complete address, and telephone number of each winner; and

403.07C The name, complete address, and telephone number of the individual who conducted the physical drawing of winning ticket stub(s) (if applicable).

403.08 If more than one individual is licensed as a utilization of funds member, each licensed utilization of funds member is jointly and severally responsible for the duties imposed by this regulation.

(Sections 9-402, 9-403, 9-404, 9-407, 9-408, 9-411, 9-412, 9-415, 9-417.01, 9-424, 9-427, 9-428, 9-429, and 9-431, R.R.S. 1997. Sections 9-410, 9-418, 9-425, and 9-426, R.S.Supp., 2002. November 12, 2002.)

REG-35-404 CONDUCT OF THE GAME

404.01 Each ticket used in any licensed lottery or raffle activity must be constructed as a two-part ticket, with a detachable stub. The portion of the ticket which is given to the purchaser must contain the following information legibly printed on each ticket:

404.01A The name of the licensed organization as it appears on the lottery or raffle license;

404.01B The Nebraska identification number of the licensed organization (the 35- prefix number which is printed in the upper right hand corner of the license);

404.01C The date the winners will be determined;

404.01D The price per ticket;

404.01E A statement setting forth whether the participant must be present to win; and

404.01F A number, of a set of sequential numbers, which is different from any other number found on a ticket sold for that particular lottery or raffle activity.

404.01G The detachable stub portion of the ticket shall contain a sequential number which corresponds to the number printed on the ticket from which it is detached.

404.01G(1) In addition, when the purchaser is not required to be present when the winner(s) are determined in order to be eligible to win a prize, the stub must contain the name, complete address, and telephone number of the purchaser.

404.01H Tickets shall not contain the word "DONATION" used in connection with the purchase price of the tickets.

404.02 A sample lottery or raffle ticket or a copy of such tickets must be submitted with the organization's quarterly tax return for each lottery or raffle conducted by the licensed organization during the reporting period.

404.03 Each lottery or raffle ticket shall be offered for the same price as every other ticket being sold for that particular lottery or raffle. Nothing shall prohibit an organization from offering a discount for the purchase of two or more tickets, provided that the discount is offered to all persons wishing to participate in the lottery or raffle; however,

no person may be required to purchase more than one ticket in order to participate in a lottery or raffle. The sale of lottery or raffle tickets may not be conditioned upon the purchase of the right to play bingo or admission to a bingo game.

404.04 All chances to participate in a lottery or raffle must be paid for in advance by either cash or a check. The extension of credit or use of a credit card is prohibited. Nothing in this section shall prohibit the issuing of free tickets; however, the value of all free tickets shall be included in the gross proceeds derived from the lottery or raffle activity. No person under 18 years of age may purchase a lottery or raffle ticket or receive a free ticket unless such lottery or raffle is being conducted under a special permit as set forth in Regulation 35-405.

404.04A Lottery or raffle tickets which have not been sold or given to a participant shall not be included when determining the winner(s). An organization shall not include unsold tickets when determining the winner(s) nor shall the organization purchase the unsold tickets to be included on behalf of the organization.

404.04B Nothing in this regulation shall be construed to prohibit an organization from allowing free tickets given to participants from being included when determining the winner(s).

404.05 No person under 18 years of age may sell or distribute a lottery or raffle ticket unless such lottery or raffle is being conducted under a special permit pursuant to Regulation 35-405. Each ticket seller shall return all eligible ticket stubs to the licensed utilization of funds member who shall account for all eligible ticket stubs prior to the determination of the winner(s). Any receptacle used for a ticket drawing shall be designed so that each ticket stub has an equal opportunity to be drawn.

404.06 All proceeds derived from a lottery or raffle must be kept separate from any other monies of the organization and deposited into a separate lottery/raffle bank account.

404.07 If a participant's presence is required when the winner(s) are to be determined, statements setting forth this condition must be conspicuously printed on each ticket and all promotional material concerning the lottery or raffle.

404.08 A licensed utilization of funds member must be present to supervise and witness the determination of the winners. In those circumstances where the lottery or raffle participants are not required to be present, the determination of the winner(s) shall be conducted and witnessed by the utilization of funds member and at least one officer of the licensed organization.

404.09 When more than one prize or opportunity to win has been offered in a particular ticket drawing lottery or raffle, and a series of drawings must be made to determine all the winners, once a ticket stub has been drawn it shall not be returned to the receptacle.

404.09A This provision shall not apply to a calendar lottery or raffle.

404.10 Every reasonable effort must be made by the licensed utilization of funds member to contact all winners. Prizes not claimed within ninety (90) days from the date on which winners are determined shall be utilized by the licensed organization for a lawful purpose. Nothing in this regulation shall prohibit the awarding of prizes in a lottery or raffle which is conducted under a special permit after the expiration date of the special permit provided that specific condition is set forth on the tickets and all winners have been determined and announced or posted prior to the expiration date of the special permit.

404.11 Each lottery or raffle must be separate and distinct from any other lottery or raffle. All tickets to be sold must be sold prior to the determination of the winner(s). A lottery or raffle shall conclude on the date winner(s) are determined. No lottery or raffle shall have multiple dates for determining the winner(s). Neither losing nor winning ticket stubs in one lottery or raffle may be included in any other lottery or raffle. All winning lottery and raffle ticket stubs must be retained with the organization's records for a period of not less than six months from the drawing date.

404.12 In the event that not enough tickets are sold to cover the cost of the prizes to be awarded, the licensed organization shall take the following steps:

404.12A Submit a request to the Department in writing at least ten (10) days prior to the date originally set to determine the winner(s), for an extension of the date to determine the winner(s). If an extension is granted by the Department, the licensed organization shall post notification of the extended date at its principal location and all locations where tickets are sold. Every effort shall be made to notify ticket purchasers and the public of this change. The notification shall include an alternative date for the determination of the winner(s). A desired level of profit is not sufficient cause for the granting of an extension.

404.12B Cancellation of the lottery or raffle. Every effort must be made through the procedure described in Regulation 404.12A to generate gross proceeds through ticket sales to cover the cost of the prizes to be awarded. If the extension of the date to determine the winner(s) and the extended time for ticket sales does not generate enough proceeds to cover the cost of prizes to be awarded, the organization, upon approval of the Department, shall cancel the lottery or raffle and refund each participant the total amount to which he or she is entitled for each ticket purchased. A notice of the cancellation shall be posted at the organization's principal office. The notification of cancellation shall include the location or individual's name, complete address and telephone number where participants may receive their refund. Each participant shall present each of their ticket(s) for a refund. The utilization of funds

member shall be responsible for the complete refund procedure. Any monies not claimed or refunded after ninety (90) days of the posting of the cancellation and after reasonable efforts to contact the ticket purchasers, shall be utilized by the licensed organization for a lawful purpose. Any prizes paid for and not returnable shall be utilized by the licensed organization for a lawful purpose.

404.12C In the event that the organization is requesting an extension as provided in subsection A of this regulation relative to a lottery or raffle being conducted under a special permit, and the organization is requesting to extend the date to determine the winner(s) beyond the expiration date of the special permit, such extension shall be granted only if the organization agrees to pay out at least 65 percent of its gross receipts in prizes.

404.13 The Nebraska Lottery and Raffle Act does not prohibit the advertising or promoting of a lottery or raffle in any manner. Any county or incorporated municipality may, however, impose restrictions on this activity. The selling or distributing of a lottery or raffle ticket through the United States mail is a federal violation according to Title 18, section 1302 of the United States Code.

(Sections 9-402, 9-403, 9-407, 9-408, 9-411, 9-415, 9-417.01, 9-428, 9-430, 9-431, and 9-433, R.R.S. 1997. Sections 9-410, 9-418, and 9-426, R.S.Supp., 2002. November 12, 2002.)

REG-35-405 SPECIAL PERMIT

405.01 An organization licensed to conduct a lottery and raffle may apply to the Department for a special permit to conduct one lottery and one raffle which exempts the organization from the sixty-five percent of gross proceeds prize payout requirement, the ten percent of gross proceeds allowable expense limitation, and the 18 years of age participation restriction. An applicant may apply for a lottery and raffle license and a special permit at the same time, on the same application form.

405.01A A lottery or raffle conducted under a special permit shall be exempt only from those items described above and shall otherwise be conducted pursuant to all the provisions of the Nebraska Lottery and Raffle Act and corresponding regulations.

405.02 A licensed organization may only receive one special permit per twelve-month period commencing October 1 of each year. The special permit is valid for three consecutive months. Upon the expiration date of the special permit, all tickets shall have been sold, all winners shall have been determined, and an announcement or posting of all winners shall have been made.

405.02A In the event that a lottery or raffle conducted pursuant to a special permit extends into a new twelve-month period commencing October 1, the beginning date stated on the special permit shall be the determining factor as to which twelve-month period the permit shall be attributed to.

405.02B A special permit allows a licensed organization to conduct one lottery or one raffle or both. If the organization wishes to conduct both a lottery and a raffle, both activities must be conducted and completed between the beginning date and ending date printed on the special permit.

405.02C Nothing shall prohibit an organization from awarding prizes to the winners after the expiration date of the special permit; provided, that each special lottery or raffle ticket and all promotional materials connected with the special lottery or raffle sets forth this feature of the lottery or raffle.

405.03 Once a special permit has been issued to a licensed organization, the lottery or raffle activity must be conducted between the beginning and ending dates stated on the special permit. No extension of time shall be granted within which to operate a lottery or raffle pursuant to any special permit except as provided for in Regulation 35-404.12C.

405.03A A licensed organization may request a change in the dates of a special permit which has been issued provided such request is made to the Department at least ten days prior to the beginning date of the special permit. Such request shall be made in writing and must be accompanied by the original permit issued by the Department. No additional permit fee will be required under these circumstances.

405.04 If the three month time period indicated on the special permit extends beyond the expiration date of the organization's current lottery and raffle license, the licensed organization must file a renewal application and submit the appropriate fees for a lottery and raffle license and utilization of funds member license, in order to continue the special permit activity into the next licensing period; however, the organization will not be required to apply for another special permit or to pay any additional special permit fees to continue the lottery or raffle activity currently being conducted.

(Sections 9-402, 9-403, 9-406, 9-411, 9-413, 9-415, 9-427, and 9-430, R.R.S. 1997. Sections 9-410, 9-418, and 9-426, R.S.Supp., 2002. November 12, 2002.)

REG-35-406 ALLOWABLE EXPENSES

406.01 A licensed organization may spend a portion of the gross proceeds derived from the lottery or raffle activity for allowable expenses. A licensed organization is limited to spending no more than ten percent of the gross proceeds of each lottery or raffle activity for allowable expenses of operating each lottery or raffle; except that no expense limitation is imposed upon a lottery or raffle being conducted under a special permit. Allowable expenses shall mean and include:

406.01A All costs associated with the purchase, printing, or manufacturing of any items to be used or distributed to participants such as the tickets themselves or calendars

for a calendar lottery. This shall include any imprinting or delivery charges and any sales tax required to be paid by the licensed organization in connection with the lottery or raffle;

406.01B All costs associated with office expenses. This shall include any salary, wage, or fee paid to any person operating the lottery or raffle or keeping the books and records, postage costs, office supplies such as paper, notebooks, pencils, any utility charges for the office, and any other expense incurred with the operation of the lottery or raffle;

406.01C Any lease or rental expenses for equipment or facilities used in connection with the conduct of the lottery or raffle. This would include for example, the rental of a ticket tumbling cage;

406.01D All promotional expenses including the purchase of signs, flyers, or any other type of advertising expense;

406.01E License and permit fees for the organization and utilization of funds member and the lottery or raffle tax on gross proceeds prescribed in section 9-429 of the Nebraska Revised Statutes, as amended;

406.01F Any fee paid to any person associated with the operation of the lottery or raffle, such as ticket sellers or business outlets paid to sell lottery or raffle tickets; and

406.01G Any fee or tax imposed pursuant to section 9-433 of the Nebraska Revised Statutes, as amended, such as a local lottery or raffle tax or permit fee.

(Sections 9-402, 9-403, 9-404, 9-407, 9-411, 9-415, 9-427, 9-429, and 9-433, R.R.S. 1997. Sections 9-410, 9-418, and 9-426, R.S.Supp., 2002. November 12, 2002.)

REG 35-407 LOTTERY AND RAFFLE TAXES

407.01 A nonprofit organization conducting a lottery with gross proceeds in excess of \$1,000.00, or a raffle with gross proceeds in excess of \$5,000.00, is required to remit to the Department, a tax of two per cent of the gross proceeds of such lottery or raffle.

407.02 A licensed organization is required to report within thirty (30) days of the end of each calendar quarter, its gross proceeds and tax due on a form prescribed by the Department and to remit any tax due for that quarter, even though the gross proceeds for a particular quarter do not exceed the \$1,000.00 or \$5,000.00 threshold. If the total gross proceeds derived from the sale of lottery or raffle tickets does not exceed the \$1,000.00 or \$5,000.00 threshold at the conclusion of the lottery or raffle activity, the taxes paid on the gross proceeds are refundable. The licensed organization should submit an amended return to the Department requesting a refund or credit of the lottery or raffle taxes paid to the Department.

407.02A The lottery and raffle tax is to be reported on the Nebraska Lottery and Raffle Tax Return, Form 51.

407.03 Failure to file a quarterly tax return or remit the tax due by the due date will subject the licensed organization to assessment of a penalty of \$25.00 or ten percent of the tax due, whichever is greater. In addition, interest will be imposed at the rate specified in section 45-104.02 of the Nebraska Revised Statutes, as amended, from the due date to the date paid.

407.03(A) Quarterly returns filed after the due date which indicate a zero amount of proceeds and/or a zero balance of tax due, shall not be subject to the penalty as previously described.

407.04 If the due date for filing the quarterly tax return falls on a Saturday, Sunday, or a day considered a holiday by the state, the return will be considered to be timely filed if it is postmarked no later than twelve o'clock midnight of the next working day following the due date. Postmarks not made by the United States post office will not be recognized for purposes of this regulation.

407.05 A licensed organization is not required to charge, collect or remit sales tax on the purchase price of a lottery or raffle ticket unless such ticket is connected in part with the purchase of some other tangible personal property or an admission charge which is subject to such tax. Examples of tangible personal property which may be connected to the purchase of a lottery or raffle ticket are items such as a calendar or a dinner.

407.06 Nebraska withholding tax is required on payments of lottery or raffle winnings which are subject to federal withholding and that are paid from a Nebraska source to a resident or nonresident individual.

407.06A On or before February 15 following the close of each calendar year, a payor of such gambling winnings must furnish to each winner for state purposes two copies of a completed and legible Statement for Recipients of Certain Gambling Winnings, Federal Form W-2G, or a federally approved substitute. One of the copies must be labeled "state copy", to be submitted with the winner's Nebraska income tax return, and one copy must be labeled "winner's copy", for the winner's records.

407.06B On or before March 15 following the close of each calendar year, the payor must file with the Nebraska Department of Revenue a Nebraska Reconciliation of Income Tax Withheld, Form W-3N, in accordance with the instructions contained in Withholding Tax Regulation 21-013. A copy of the Federal Form W-2G furnished to each winner which shows the Nebraska tax withheld from winnings during the prior calendar year must be submitted with the Form W-3N. Those payors of gambling winnings who are also required to withhold state income tax on behalf of employees may file only one Form W-3N to transmit state copies of both Form W-2 and Form W-2G.

(Sections 77-2706, 77-2708, and 77-27,125, R.R.S. 1996. Sections 9-402, 9-403, 9-406, 9-407, 9-411, 9-415,

9-429, and 45-104.02, R.R.S. 1997. Sections 9-410, 9-418, 77-2703, 77-2702.16, 77-2704.12, and 77-2704.15, R.S.Supp., 2002. November 12, 2002.)

REG-35-408 RECORD KEEPING REQUIREMENTS

408.01 Separate records shall be maintained for each individual lottery or raffle conducted. A licensed utilization of funds member shall maintain all records including, but not limited to, the following:

408.01A The total gross proceeds from each lottery or raffle, the number of tickets sold, the price per ticket, the number of free tickets given away, and the value of any free tickets given away;

408.01B Receipts for the purchase of prizes to be awarded or the fair market value of prizes donated;

408.01C A detailed breakdown of all expenses associated with the conduct of the lottery or raffle;

408.01D A record of all persons paid to sell tickets including the person's name, address, telephone number, basis for payment, amount of payment, and date of payment;

408.01E Complete and accurate bank account information including all deposits, withdrawals, or transfers of money from the lottery/raffle bank account; and

408.01F A detailed breakdown of the disbursement of profits remaining after all allowable expenses, prizes, and taxes have been paid. This shall include the amount of the disbursement, the recipient's name, and the intended use or purpose for the disbursement.

408.01G Unless otherwise provided in these regulations, all records required by the Nebraska Lottery and Raffle Act or its corresponding regulations shall be maintained by the organization for a period of not less than three years.

(Sections 9-402, 9-403, 9-404, 9-407, 9-414, 9-417.01, 9-422, and 9-428, R.R.S. 1997. Section 9-418, R.S.Supp., 2002. November 12, 2002.)

REG-35-409 REPORTING REQUIREMENTS

409.01 A nonprofit organization conducting a lottery or raffle pursuant to the Nebraska Lottery and Raffle Act shall report annually to the Department on a form prescribed by the Department, information regarding its lottery and/or raffle activity. The annual report shall cover the organization's lottery and raffle activity for the period July 1 through June 30 of each year and shall be filed by August 15 of each year. A copy of the annual report shall also be made available to the membership of the licensed organization.

409.02 The annual report shall contain, but not be limited to, the following information for each lottery with gross proceeds in excess of \$1,000.00, and each raffle with gross proceeds in excess of \$5,000.00:

409.02A The name, complete address, state identification number, federal identification number, and Nebraska lottery and raffle license number of the organization;

409.02B The date on which the winner(s) were determined and whether the activity was a lottery or a raffle;

409.02C The gross proceeds of each lottery or raffle activity;

409.02D The total cash prizes awarded for each lottery or raffle activity;

409.02E The total fair market value of all merchandise prizes awarded for each lottery or raffle activity regardless of whether the merchandise prizes were bought by the organization or donated to the organization;

409.02F The total cost actually incurred by the licensed organization for the purchase of merchandise prizes for each lottery or raffle activity;

409.02G The total of all other expenses incurred by the organization for each lottery or raffle activity;

409.02H The total profit realized by the organization for each lottery or raffle activity;

409.02I A summary of the lawful purpose donations compiled from the detailed breakdown of the organization's lawful purpose donations from the lottery and raffle proceeds. The detailed breakdown shall include the name of recipient, date the donation was made, amount of donation, a description of the use of the proceeds, and the individual accepting the donation;

409.02J Information regarding the lottery and raffle bank account to include the name and address of the financial institution, the account number, the balance at the beginning of the reporting period, total of all deposits, total of any interest earned, total disbursements, and the balance at the end of the reporting period; and

409.02K Any other information which the Department deems necessary.

409.03 The annual report shall be declared to be accurate and correct by the signatures of an officer of the organization and a licensed utilization of funds member of the organization.

(Sections 9-402, 9-403, 9-404, 9-406, 9-407, 9-408, 9-411, 9-414, 9-415, 9-424, 9-427, and 9-428, R.R.S. 1997. Section 9-418, R.S.Supp., 2002. November 12, 2002.)

REG-35-410 PRORATION AND REFUND OF LICENSE FEES

410.01 The fees paid pursuant to the Nebraska Lottery and Raffle Act for any license issued to a nonprofit organization, volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad, or utilization of funds member are due in full for the biennial licensing period. A license fee may be prorated or refunded by the Department on an annual basis under the following circumstances:

410.01A If a new application is received by the Department for a license which will become effective on or after October 1 of the second year of the biennial licensing period, the applicable license fee shall be one-half of the biennial fee.

410.01B If a new application is received by the Department for a license which will become effective prior to October 1 of the second year of the biennial licensing period, no proration of the license fee shall be allowed.

410.01C No license fee may be refunded for any portion of the licensing period in which a license was not used unless otherwise authorized by the Department.

410.01D In the event a license issued pursuant to the Nebraska Lottery and Raffle Act is suspended, cancelled, or revoked by the Department, no portion of the license fee shall be refunded unless otherwise authorized by the Department.

410.01E In the event a license application is denied and a temporary license was issued to the applicant prior to the effective date of the license application denial, one-half of the biennial license fee paid by the applicant may be refunded, provided the effective date of the license application denial is prior to October 1 of the second year of the biennial licensing period. In the event a license application is denied and a temporary license was not issued or a license application is withdrawn, the license fees paid by the applicant may be refunded.

410.01F Upon the death of a person licensed as a utilization of funds member, or in the event any such licensee becomes disabled in such a manner as to render him or her unable to perform or fulfil his or her duties as a utilization of funds member, a licensed organization may submit an application to replace the utilization of funds member with a new individual for the remainder of the licensing period for no additional fee. Any such application shall be accompanied by the original utilization of funds member license and a written statement signed by an officer of the licensed organization explaining the circumstances under which the request for replacement of the licensee is being made.

(Sections 9-402, 9-403, 9-405, 9-406, 9-409, 9-416, 9-417, 9-417.01, and 9-424, R.R.S. 1997. Sections 9-410, 9-417.02, 9-418, 9-418.01, and 9-425, R.S.Supp., 2002. November 12, 2002.)

SMALL LOTTERY AND RAFFLE REGULATIONS

REG-35-500 SCOPE AND ELIGIBILITY

500.01 Bingo, Lottery, Raffle, and Lottery by Pickle Card Regulations 35-500 through 35-504 are adopted to carry out the provisions of the Nebraska Small Lottery and Raffle Act.

500.02 Any nonprofit organization incorporated in this state as a nonprofit corporation or organized in this state as a religious or nonprofit organization which is exempt under section 501 of the Internal Revenue Code, or any nonprofit organization located within this state whose major activities in this state are conducted for charitable or community betterment purposes is eligible to conduct one lottery per calendar month, the gross proceeds of which are not to exceed \$1,000.00, and/or any number of raffles per calendar month, if the total gross proceeds of all such raffles do not exceed \$5,000.00 in that calendar month. Qualifying nonprofit organizations conducting lottery and raffle activities not exceeding the gross proceeds limitations set forth in this regulation are not required to obtain a license, or pay any state lottery and raffle tax.

500.02A If a qualifying nonprofit organization conducting a small lottery or raffle exceeds the gross proceeds limitations set forth in this regulation, such organization may be required to pay the license fees for a lottery and raffle license, and shall be required to pay the lottery and raffle tax required by the Nebraska Lottery and Raffle Act and file any reports required by the Nebraska Lottery and Raffle Act and regulations.

(Sections 9-402, 9-429, 9-502, 9-503, 9-506, 9-508, 9-510, 9-511, and 9-512, R.R.S. 1997. Sections 9-1,101, 9-507, 9-509, and 77-369, R.S.Supp., 2002. November 12, 2002.)

REG-35-501 EXPENSES

501.01 A qualifying nonprofit organization shall spend the gross proceeds from its lottery and/or raffle activity solely for charitable or community betterment purposes, awarding of prizes, and expenses. Expenses shall include, but not be limited to:

501.01A All costs associated with the purchase, printing, or manufacturing of any items to be used or distributed to participants, such as tickets. This shall also include any imprinting or delivery charge and any sales tax required to be paid by the qualifying nonprofit organization;

501.01B All costs associated with office or clerical expenses, such as any salary, wage, or fee paid to any person operating the lottery or raffle or keeping the books and records; postage costs; office supplies such as paper, notebooks, pencils; any utility charges for the office; and any other expense incurred with the operation of the lottery or raffle;

501.01C Any lease or rental expense for equipment or facilities connected with the lottery or raffle;

501.01D Any promotional expense, such as advertising;

501.01E Any salary, wage, fee, or commission paid to any person or organization to operate, conduct, or supervise a lottery or raffle; and

501.01F Any fee paid to any person associated with the sale of lottery or raffle tickets, such as ticket sellers or business outlets paid to sell tickets.

(Sections 9-503, 9-504, 9-505, 9-506, 9-508, 9-510, and 9-511, R.R.S. 1997. Section 9-1,101, 9-507, 9-509, and 77-369, R.S.Supp., 2002. November 12, 2002.)

REG-35-502 CHARITABLE OR COMMUNITY BETTERMENT PURPOSES

502.01 A qualifying nonprofit organization conducting a lottery with gross proceeds not exceeding \$1,000 or a raffle with gross proceeds not exceeding \$5,000, shall spend the profits derived from the lottery or raffle activity solely for charitable or community betterment purposes.

502.01A Charitable or community betterment purposes shall include, but not be limited to the following:

502.01A(1) Enhancing the opportunity of individuals for religious advancement, such as offering religious programs, conducting religious activities, and/or operating and maintaining a church, church school, or its facilities;

502.01A(2) Providing for educational advancement such as donating to the operating fund of a school or establishing or contributing to a scholarship fund;

502.01A(3) Relieving or protecting individuals from disease, suffering, or distress, such as purchasing food or clothing for the needy or helping to provide medical care for individuals in need;

502.01A(4) Contributing to the physical well-being of individuals, such as donations to foster athletic activities;

502.01A(5) Assisting individuals in establishing themselves as worthy and useful citizens by providing educational or business opportunities, such as donations to training programs designed to provide individuals with job skills;

502.01A(6) Providing individuals with opportunities to contribute to the betterment of the community, such as sponsoring park clean-up or beautification projects;

502.01A(7) Increasing the comprehension of and devotion to the principles upon which this nation was founded, such as sponsoring civic events to make individuals more aware of the history of the United States, the State of Nebraska, or other civic institutions or principles;

502.01A(8) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures such

as contributing to a county, city, or village building fund or donations to fund parks or recreation areas; and

502.01A(9) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people such as paying for housing, food, or medical services for needy people, contributing to a local police or fire department, or contributing to the general fund of a village, city, or county.

502.02 In addition to those purposes identified in Regulation 502.01, a qualifying nonprofit organization may also spend its proceeds derived from a small lottery or raffle for any charitable, benevolent, humane, religious, philanthropic, educational, fraternal, recreational, social, or civic activities conducted by the organization for the benefit of its members, such as the use of proceeds to provide a social activity for the members, to retire a debt of the organization, or to make capital improvements to the organization's meeting hall. Proceeds spent in a manner described above must be spent to benefit the membership as a whole and not any one individual member. Nothing in this section shall prohibit the funding of a scholarship, medical assistance, or disaster relief to an individual in need.

502.03 Proceeds derived from the conduct of a small lottery or raffle shall not be used for any political activities such as lobbying or participating in or contributing to any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

(Sections 9-502, 9-503, 9-504, 9-508, 9-510, and 9-511, R.R.S. 1997. Section 9-1,101, 9-507, 9-509, and 77-369, R.S.Supp., 2002. November 12, 2002.)

REG-35-503 CONDUCT OF THE GAME

503.01 A qualifying nonprofit organization must accept something of value from a participant for an opportunity to participate in the lottery or raffle.

503.02 A qualifying nonprofit organization conducting a small lottery or raffle shall sell tickets which are sequentially numbered as a chance to participate in the lottery or raffle. No other form or method of participation is permitted.

503.02A Ticket sales shall not exceed the gross proceeds limitations set forth in Regulation 35-500.02.

503.03 Winners shall be determined by either (a) a random drawing of the tickets or ticket stubs; or (b) by a race of inanimate buoyant objects as provided in section 9-511.01 of the Nebraska Small Lottery and Raffle Act. No other form or method of determining a winner is permitted.

503.04 All tickets or ticket stubs for a ticket drawing shall be placed into a receptacle designed so that each ticket or ticket stub shall have an equal opportunity of being drawn.

503.05 If a participant's presence is required in order to win a prize, participants must be made aware of this condition upon purchasing a ticket.

503.06 A qualifying nonprofit organization conducting a small lottery or raffle in which real or personal property prizes are to be awarded shall have paid for in full or otherwise become the owner without lien or interest of others of all the real or personal property awarded as prizes prior to the date on which the winner(s) will be determined.

503.06A Prizes awarded in a small raffle must be at least 80 percent merchandise prizes, to be valued at their fair market value which means the price that one would normally pay for an item in an arm's length transaction with a retail business. A merchandise prize may be any item which can be legally owned or possessed which is not directly or indirectly redeemable for cash by the qualifying nonprofit organization or any agent thereof. For purposes of this regulation, real estate and savings bonds are not considered to be merchandise prizes. Merchant gift certificates are to be considered as a merchandise prize and shall be assessed at their face value.

503.06A(1) For purposes of this regulation, to determine if the prizes meet the 80 percent merchandise requirement in order for the activity to qualify as a raffle, the total fair market value of the merchandise prizes compared to the total value of all prizes to be awarded shall be the determining factor, and not simply by the number of merchandise prizes.

503.06B Prizes awarded in a small lottery may include cash, merchandise, or anything of value which may be legally owned and possessed. If prizes other than cash are offered in a small lottery, the fair market value of all merchandise prizes must be less than 80 percent of the total value of all prizes awarded. For purposes of this regulation, real estate and savings bonds shall be considered cash prizes and shall be assessed at their purchase price value.

503.06C Pickle cards shall not be awarded as a small lottery or raffle prize.

(Sections 9-302, 9-502, 9-503, 9-508, 9-510, and 9-511, R.R.S. 1997. Sections 9-1,101, 9-312, 9-315, 9-507, 9-509, 9-511.01, and 77-369, R.S.Supp., 2002. November 12, 2002.)

REG-35-504 RECORD KEEPING REQUIREMENTS

504.01 A qualifying nonprofit organization conducting a lottery or raffle pursuant to the Nebraska Small Lottery and Raffle Act and regulations thereof shall be required to maintain, on a monthly basis, the following written information:

504.01A The beginning and ending date for each lottery and/or raffle; and

504.01B The total gross proceeds derived from each lottery and/or raffle activity.

504.02 For purposes of this regulation, merchandise prizes shall be valued at their fair market value which means the price that one would normally pay for an item in an arm's length transaction with a retail business. The qualifying nonprofit organization shall compile this information to ensure that the gross proceeds limitations for a small lottery or small raffles are not exceeded in any given calendar month. The qualifying nonprofit organization shall retain this information for a period of not less than three years.

504.03 Proceeds derived from the conduct of a small lottery or raffle shall be kept separate from accounts statutorily required for bingo, a lottery by the sale of pickle cards, or a licensed lottery or raffle. Proceeds from a small lottery or raffle may be deposited or commingled in any account of the qualifying nonprofit organization other than those specifically prohibited in this regulation.

(Sections 9-255.03, 9-348, 9-428, 9-502, 9-503, 9-506, 9-508, 9-510, 9-511, and 9-512, R.R.S. 1997. Section 9-1,101, and 77-369, R.S.Supp., 2002. November 12, 2002.)