



## COUNTY AND CITY LOTTERY REGULATIONS

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## COUNTY AND CITY LOTTERY REGULATIONS

### REG-35-600 DEFINITIONS, SCOPE, AND ESTABLISHMENT BY COUNTIES, CITIES, AND VILLAGES

600.01 **General Authorization.** Bingo, Lottery, Raffle, and Lottery by Pickle Card Regulations 35-600 through 35-622 are adopted to carry out the provisions of the Nebraska County and City Lottery Act.

600.02 **Definitions.** The following definitions apply for purposes of Regulations 35-600 through 35-622:

600.02A Agent means a person authorized by the applicant or licensee to act for or in place of an applicant or licensee as a business representative to modify, affect, accept performance of, or transact business.

600.02B Authorized representative means any individual designated by the county, city, or village, or a joint entity created by the county, city, or village by entering into an agreement pursuant to the Interlocal Cooperation Act, to examine, approve, and sign a lottery worker license application for submission to the Department.

600.02C Business day means any day except Saturday, Sunday, or a legal holiday.

600.02D Cash means United States currency and does not mean checks, personal or otherwise, debit cards, or credit cards.

600.02E Compliance procedures for keno mean the analysis required by Reg-35-616 to determine whether the regulations are being followed during the operation of the keno game.

600.02F Conditioning, as it applies to keno, means a restatement of how many numbers or combinations of numbers are being selected by the players, the way in which they are wagered, and the corresponding dollar amounts wagered.

600.02G Debt holder of a corporation, partnership, or limited liability company means a person that holds any mortgages, notes, bonds, convertible debentures, or other obligations, whether written or oral, issued by the corporation, partnership, or limited liability company.

600.02H Department means the Nebraska Department of Revenue.

600.02I Draw ticket means the ticket prepared by a licensed lottery worker to record the winning numbers of each keno game if winning number selection is by manual ball draw method.

600.02J Equity holder of a corporation, partnership, or limited liability company means an individual or person that holds any capital stock, whether common or preferred, or any ownership interest or share issued by the corporation, partnership, or limited liability company.

600.02K Free play keno coupon means a certificate which entitles the holder to wager an amount corresponding to the face value of the coupon without charge.

600.02L Governing board means, in the case of a city, the city council; in the case of a village, the village board; or, in the case of a county, the county board.

600.02M Governing official means the chief executive officer of the county, city, or village, or any other elected or appointed official, including a governing board member, who has any decision-making responsibility regarding the conduct and operation of the lottery activity.

600.02N Independent game location means a location where keno wagers are placed and winning number selection is performed. An independent game location is not electronically linked to another location for purposes of transmitting or receiving winning number selection.

600.02O Inside ticket means keno paper with 80 preprinted numbers on which the player marks numbers to be wagered on and the type of wager.

600.02P Keno manager means the shift manager, supervisor, or individual in charge of the daily operation of a keno game at a location, an individual licensed as a sales outlet officer or owner, or an individual licensed as a lottery operator, officer, or owner.

600.02Q Keno system means an integrated system of computer hardware and software that generates outside tickets, records game outcomes, verifies winning tickets, produces management reports, and performs other functions and internal audit controls for the keno operation.

600.02R Keno writer means an individual whose primary responsibilities include accepting inside tickets or other requests for wagers and payments of wagers from players, issuing outside tickets, voiding tickets, and redeeming tickets. A keno writer does not include a keno manager, a lottery operator, or any person who is directly in charge of the manual selection of winning numbers.

600.02S Licensed racetrack enclosure means an enclosure licensed to conduct live thoroughbred horse racing for parimutuel wagering purposes pursuant to Neb. Rev. Stat. §§ 2-1201, et seq.

600.02T Licensee means a person holding a license issued by the Department pursuant to the Nebraska County and City Lottery Act.

600.02U Lottery equipment means: (a) all proprietary devices, machines, and parts used in and which are an integral part of conducting the lottery; and (b) equipment used in maintaining the equipment described in (a).

600.02U(1) Lottery equipment is equipment that directly affects the outcome of the lottery or monitors the operation of the lottery and includes, but is not limited to: keno balls; keno ball selection devices, including electrically-operated blower machines, automated ball draw systems, and other electronic selection devices; random number generators; and keno systems.

600.02U(2) Any equipment that does not directly affect the outcome of the lottery or is not an integral part of any system that monitors the operation of the lottery is not considered lottery equipment. For example, lottery equipment does not include video or digital recording equipment required for ball draw games, security cameras and systems, display devices, recording media, or other supply items used with the lottery equipment that do not directly affect the outcome of the game.

600.02V Lottery operator means any individual, sole proprietorship, partnership, limited liability company, or corporation which is licensed by the Department and responsible for conducting a lottery on behalf of a county, city, or village as provided by a written contract between the county, city, or village and the lottery operator. This contract may include responsibility and liability for all operational aspects of the lottery, including: daily gaming operations; purchase, repair, replacement, and maintenance of lottery equipment; purchase and maintenance of lottery supplies; compensation, staffing, and training of all employees and agents; processing and handling of lottery gross proceeds; preparing all reports required of a county, city, village, or lottery operator; advertising; developing official rules and procedures for play; collecting prizes and progressive game prizes; overseeing the lottery operation; record keeping; and all other lottery functions.

600.02W Lottery operator location means the main location of the lottery operator where keno wagers are placed.

600.02X Lottery supplies means all tickets, cards, boards, sheets, or other supplies which are used in and are an integral part of conducting any lottery activity.

600.02X(1) Lottery supplies do not include any item that does not directly affect the outcome of the lottery.

600.02X(2) For example, lottery supplies do not include keno paper, crayons and markers, and other

supplies that do not directly affect the outcome of the game.

600.02Y Lottery worker means any individual, other than a keno writer, who performs any work directly related to conducting a county/city lottery including, but not limited to: winning number selection; winning number verification; record keeping; shift checkout; review of keno writer banks; and security.

600.02Z Main location means a location where keno wagers may be placed, and winning numbers are selected and electronically transmitted to satellite locations.

600.02AA Manufacturer-distributor means any individual, sole proprietorship, partnership, limited liability company, or corporation which assembles, produces, makes, prints, or supplies lottery equipment or supplies for sale, use, or distribution in this state.

600.02BB Multirace ticket means a single ticket which allows a player to make the same keno wager on consecutive games. A player must wait until the last game wagered on has been called to collect any accumulated winnings, unless approval has been obtained from the keno manager or from the keno writer on duty and all voided wagers are properly documented in the transaction log.

600.02CC Outside ticket means the official paper ticket generated by the keno system that shows the player's wager.

600.02DD Owner means a person with a right to share in the profits, losses, or liabilities of a license applicant or licensee. The term includes loan guarantors who make actual debt payments for, or contribute capital to, a license applicant or licensee with a contingent right to share in the profits, losses, or liabilities of the operation. The term ownership interest has the same meaning as owner.

600.02EE Person means any individual or organization, including any sole proprietorship, partnership, limited liability company, or corporation.

600.02FF Play in a keno lottery means placing a wager, cashing a winning ticket, or collecting any winnings.

600.02GG Premises means any building, or any distinct portion of a building, where the lottery is conducted or played. Premises may include the main location, an independent game location, a sales outlet location, or a satellite location. Premises does not include any areas outside the building.

600.02HH Quick Pick ticket means a keno ticket for which the player selects numbers by requesting that the keno system generate them at random on an outside ticket.

600.02II Random number generator means hardware, software, or a combination hardware and software device for generating number values that exhibit characteristics of randomness.

600.02JJ Regrade means to manually recalculate the prize payout of a winning keno ticket according to the printed pay schedule.

600.02KK Replay means playing the identical keno wager as a prior wager with no change to selected numbers, conditioning, or amount of wager.

600.02LL ROM (read only memory) means the electronic component used for storing nonvolatile information in lottery equipment that provides instructions needed by the computer to begin its operations each time it is turned on. This includes programmable ROM (PROM) and erasable programmable ROM (EPROM).

600.02MM Sales outlet location means a location other than the lottery operator location where keno wagers are placed.

600.02NN Satellite location means a location where keno wagers are placed and where the winning numbers are electronically received from the main location. Winning number selection cannot be performed at a satellite location.

600.02OO Substantial interest or connected with, interested in, or otherwise concerned directly or indirectly means having a significant responsibility for, or otherwise benefitting or having rights from, a license issued by the Department.

600.02OO(1) For a sole proprietorship, this includes, but is not limited to, an individual or his or her spouse owning, operating, managing, or conducting, directly or indirectly, a part of the sole proprietorship.

600.02OO(2) For a partnership, this includes, but is not limited to, an individual, his or her spouse, or a partnership, limited liability company, or corporation owning, operating, managing, or conducting, directly or indirectly, a part of the partnership activity, or sharing in any of the profits or potential profits of the partnership activity.

600.02OO(3) For a limited liability company, this includes, but is not limited to, the involvement of an individual, his or her spouse, or a partnership, limited liability company, or corporation, owning, operating, managing, or conducting, directly or indirectly, a part of the limited liability company activity or sharing in any of the profits or potential profits of the limited liability company activity.

600.02OO(4) For a corporation, this includes, but is not limited to, an individual, his or her spouse, or a partnership, limited liability company, or corporation owning, operating, managing, or conducting, directly or indirectly, a part of the corporation activity, or being an officer or director of the corporation, or being a holder, directly or indirectly, of 10% or more of any

class of stock in the corporation or debt representing 10% or more of the total assets of the corporation.

600.02OO(5) For a nonprofit corporation or nonprofit organization, this includes, but is not limited to, an individual or his or her spouse being an officer, director, or managing the business affairs of the nonprofit corporation or nonprofit organization.

600.02PP Transaction log means a record of all transactions entered on the keno system. The transaction log includes, but is not limited to, all outside ticket information, ticket processing, voided tickets, game closing time, game results, payout, and all other information required by these regulations to be entered on the transaction log.

600.02QQ Way ticket means a single outside ticket which allows a player to wager on a combination of groups of numbers in various ways.

**600.03 Election Required.** Any county or city, or any village as defined in Neb. Rev. Stat. §§ 17-201, et seq., desiring to establish and conduct a lottery must hold an election, and a majority of the registered voters of the county, city, or village casting ballots on the issue must approve the establishment of the lottery. The term county also includes a municipal county as provided in Neb. Rev. Stat. §§ 13-2801, et seq.

600.03A The issue may be decided at a regular election or at a special election called by the governing board of the county, city, or village for the purpose of voting on establishing a lottery.

600.03B If an initiative petition signed by at least 20% of the number of individuals voting in the city or village in the last preceding general election is submitted to the governing board of the city or village, the question of whether a lottery will be approved must be submitted to the voters as provided in Neb. Rev. Stat. §§ 18-2501, et seq.

**600.04 License Required.** After voter approval, the county, city, or village must obtain a license from the Department to conduct a lottery.

600.04A An applicant for a license must submit a Nebraska Application for County/City Lottery, Form 50G, to the Department. Each application must include:

600.04A(1) The name and address of the applicant;

600.04A(2) A certified copy of the election results showing that the lottery was approved by a majority of the registered voters of the county, city, or village that cast ballots in the election;

600.04A(3) The approval by ordinance or resolution adopted by the governing board of a county, city, or village authorizing the conduct of a lottery;

600.04A(4) The names, addresses, and dates of birth of each individual employed by the county, city, or village to conduct the lottery;

600.04A(5) The name and address of the authorized representatives designated by the county, city, or village or by a joint entity created by the county, city, or village by entering into an agreement pursuant to the Interlocal Cooperation Act, to examine, sign, and approve a lottery worker license application for submission to the Department;

600.04A(6) The name and address of at least one individual employed by the county, city, or village who represents the county, city, or village in all matters with the Department regarding the conduct of the lottery;

600.04A(7) A written statement describing the type of lottery to be conducted by the county, city, or village;

600.04A(8) If the county, city, or village has entered into a written agreement with a lottery operator;

600.04A(8)(a) A copy of the proposal submitted to the county, city, or village by the individual, sole proprietorship, partnership, or corporation selected to operate the lottery; and

600.04A(8)(b) A copy of the proposed contract or written agreement between the county, city, or village and the selected lottery operator.

600.04A(9) The biennial license fee for the county, city, or village of \$100;

600.04A(10) The method of winning number selection to be used in the keno lottery activity and, if both a ball draw and a random number generator are used, a separate schedule showing the days and times each will be used; and

600.04A(11) Any other information which the Department deems necessary.

600.04B A county, city, or village must notify the Department within 30 days of any changes in the information originally submitted in its application. Changes can be reported by filing an amended application and identifying only the information to be changed. All requests for change must be signed by a member of the governing board, a governing official, or other individual authorized by a Power of Attorney filed with the Department.

600.04C A county, city, or village is not considered licensed until it has physical possession of the printed license issued by the Department.

600.04D A copy of the signed and dated final contract or written agreement between the county, city, or village

and the selected lottery operator must be provided to the Department prior to starting the lottery.

600.04E A license obtained by a county, city, or village to conduct a lottery must be renewed with the Department biennially if the county, city, or village intends to continue its lottery activity. The biennial license expires May 31 of every even-numbered year.

600.04E(1) License fees are due with the renewal application.

600.04E(2) Applications for renewal of a county, city, or village license must be submitted to the Department on a Nebraska Application for County/City Lottery, Form 50G, at least 60 days prior to the expiration date of the current license.

600.04F A county, city, or village electing to conduct a lottery may only conduct one type of lottery at any one time. If a county, city, or village conducting a lottery wishes to change the type of lottery that it conducts, it must notify the Department in writing of the change at least 30 days before the change takes effect.

**600.05 Sales Outlet Qualifications.** Prior to a county, city, village, or lottery operator conducting a lottery at a sales outlet location, the county, city, or village must establish sales outlet location qualification standards by ordinance or resolution.

600.05A The established qualification standards must be met by any person seeking to have its location qualify as an authorized sales outlet location.

600.05B The qualification standards are the sole basis on which the county, city, or village approves or disapproves each person that desires to conduct the lottery at its location.

600.05C The county, city, or village must file a copy of the ordinance or resolution establishing the qualification standards with the Department within 30 days after its adoption.

600.05D The county, city, or village must notify the Department of all approved sales outlet locations within 30 days of approval.

**600.06 Participation Restrictions.** Participation restrictions for playing or working with the county/city lottery include:

600.06A No individual under the age of 19 can play or participate in any way in any lottery.

600.06B No owner or officer of a lottery operator with whom the county, city, or village contracts to conduct its lottery can play any lottery conducted by the county, city, or village at any time.

600.06C No employee or agent of a county, city, village, lottery operator, or sales outlet location can play the lottery

of the county, city, or village for which he or she performs work during the time he or she is actually working at the lottery or while on duty with the lottery. This also prohibits an individual from purchasing a multirace ticket for which some or all of the games will be called while the individual is on duty with the lottery.

600.06D A county, city, or village which authorizes the conduct of a lottery must establish by ordinance or resolution, the additional limitations, if any, on the playing of any lottery conducted by that county, city, or village by any member of the governing board, a governing official, or the immediate family of the member or official.

600.06D(1) For purposes of this regulation, immediate family means spouse, children, grandchildren, siblings, or parents, including those individuals with the same relationship to the spouse, residing in the same household under the control and support of the head of such household.

600.06E Nothing in this regulation prevents a county, city, village, lottery operator, or sales outlet location from adopting more restrictive player participation rules.

600.06E(1) The county, city, or village may adopt any restrictions by ordinance or resolution or by virtue of contractual agreements reached between the county, city, or village and the lottery operator.

600.06E(2) The lottery operator or sales outlet location may adopt any restrictions by internal policies formulated by either party.

**600.07 Physical Limits of a Lottery.** A county, city, or village electing to conduct a lottery may only do so within the boundaries of the county, city, or village, or within a licensed racetrack enclosure which abuts the corporate limits of a city or village, or which is within the zoning jurisdiction of a city.

600.07A A county, city, or village electing to conduct a lottery may enter an agreement pursuant to the Interlocal Cooperation Act to conduct a joint lottery with another county, city, or village if each county, city, or village that is included within the agreement has authorized a lottery in accordance with the Nebraska County and City Lottery Act.

600.07B All parties to an agreement under the Interlocal Cooperation Act must hold a valid license to conduct a lottery issued by the Department if currently conducting a county/city lottery.

600.07C A joint lottery may only be conducted within the boundaries of the counties, cities, or villages, or within a licensed racetrack enclosure which abuts the corporate limits of, or which is within the zoning jurisdiction of, the cities or villages which are conducting the joint lottery.

**600.08 Expiration.** A lottery to be conducted by a county, city, or village which was authorized by an election held on or after

October 1, 1989, and which is inactive for more than any 10 consecutive years, is no longer authorized.

**600.09 Right to Vote on Continuation.** The registered voters of any county, city, or village have the right to vote on the question of whether or not an existing lottery should be continued.

600.09A If an initiative petition on continuing an existing lottery, signed by at least 20% of the number of individuals voting in the county, city, or village at the last preceding general election, is presented to the governing board of the county, city, or village conducting the lottery, the question of whether or not the lottery will continue must be submitted to the voters.

600.09B If the governing board of a county, city, or village decides to submit the issue to the registered voters of the county, city, or village at a regular or special election, the question of whether or not the lottery will continue must be submitted to the voters.

600.09C If a majority of the voters voting on the issue vote to discontinue the lottery, the county, city, or village must discontinue the lottery within 60 days after the certification of the election results.

600.09D If the voters decide to discontinue the lottery, the county, city, or village must notify the Department within 30 days of the certification of the election results. The notification consists of a copy of a certification of the results of the election prepared by the county, city, or village election commissioner or other official with the authority to certify the results of an election.

600.09E An election authorized under Reg-35-600.09B cannot be held within two years after the election authorizing the lottery, and not more than once every two years.

600.09F If an election results in discontinuing a lottery, a subsequent election to authorize another lottery cannot be held within two years after the election resulting in discontinuing the previously-authorized lottery.

600.09G Any contract entered into by a county, city, or village relating to conducting a lottery must include a provision permitting the county, city, or village to terminate the contract by giving 30 days' notice to the other party if the lottery has been discontinued by an election authorized under Neb. Rev. Stat. §§ 9-626 or 9-627.

**600.10 Local Restrictions.** Any county, city, or village may tax, regulate, control, or prohibit any lottery conducted pursuant to the Nebraska County and City Lottery Act within the boundaries of the county, city, or village by resolution or ordinance, except that no county may impose a tax or otherwise regulate, control, or prohibit any lottery within the corporate limits of a city or village.

600.10A If a city or village which has exercised its authority to prohibit lotteries of a county within its boundaries annexes any area in which a lottery is being lawfully conducted by a county, the county may continue the lottery for a period not to exceed the shorter of: (1) the remainder of the term of the county's agreement with the lottery operator; or (2) two years.

600.11 **Municipal Counties.** If any county, city, or village is conducting a lottery at the time it is consolidated into a municipal county, the municipal county is subject to the same rights and obligations with respect to the lottery as the county, city, or village which was abolished.

600.11A Any rights or obligations under existing lottery contracts of counties, cities, and villages which were abolished continue in effect.

600.11B The lottery will continue to be subject to all other provisions of the Nebraska County and City Lottery Act, except that it cannot be expanded to any new location in any area of the municipal county where the lottery was not previously authorized before the consolidation, unless the expansion has been approved by a majority of the registered voters of the municipal county voting at a regular election or special election called by the governing board of the municipal county for this purpose.

*(Neb. Rev. Stat. §§ 9-1,104, 9-601, 9-602, 9-603, 9-603.01, 9-603.02, 9-603.03, 9-604.01, 9-605, 9-605.01, 9-606, 9-606.01, 9-606.02, 9-607, 9-613, 9-614, 9-615, 9-615.01, 9-619, 9-620, 9-625, 9-626, 9-627, 9-630, 9-631, 9-634, 9-635, 9-643, and 9-644. December 27, 2015.)*

#### REG-35-601 COMMUNITY BETTERMENT PURPOSES

601.01 Any county, city, or village conducting a lottery pursuant to the Nebraska County and City Lottery Act shall spend the gross proceeds of the lottery only for community betterment purposes, awarding of prizes, taxes, and expenses.

601.02 Community betterment purposes shall mean the use of proceeds by a county, city, or village from the conduct of a lottery in the following manner:

601.02A Enhancing a person's opportunity for educational advancement, such as contributing to the operation of a school or establishing or contributing to a scholarship fund;

601.02B 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;

601.02C Contributing to the physical well being of individuals, such as donations to foster athletic activities. A county, city, or village may use its proceeds from the conduct of a lottery to build, improve, or maintain parks

or recreation facilities or to sponsor amateur athletic leagues or programs;

601.02D Assisting individuals in establishing themselves as worthy and useful citizens by providing educational or business opportunities, such as contributions to training programs designed to provide individuals with job skills or to aid handicapped people in making contributions to the community;

601.02E Providing individuals with opportunities to contribute to the betterment of the community, such as initiating cleanup or beautification projects;

601.02F 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, State of Nebraska, or other civic institutions or principles;

601.02G 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;

601.02H 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 or aiding the elderly or contributing to the general fund of a county, city, or village; and

601.02I Providing tax relief for the community, such as using funds raised from county, city, or village lottery to fund any programs or needs which would normally be paid for by taxes imposed upon the community.

601.03 Proceeds derived from the conduct of a lottery conducted by a county, city, or village shall not be used for any political activity, 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.

*(Section 77-369, R.R.S. 1943. Sections 9-602, 9-604, 9-609, and 9-612, R.S.Supp., 1986. January 3, 1990.)*

#### REG-35-602 EXPENSES

602.01 Expenses incurred in the conduct of a lottery conducted by a county, city, or village shall not exceed 14 percent of the gross proceeds of such lottery. The expense limitation is imposed upon the county, city, or village and does not apply to expenses incurred by a lottery operator in the conduct of a lottery on behalf of a county, city, or village. Lottery expenses shall include:

602.01A All costs incurred by the county, city, or village associated with the purchasing, leasing, printing, or

manufacturing of any items to be used or distributed in the lottery, such as tickets or chances to be sold or the printing of signs or flyers promoting the lottery or any lottery equipment or supplies;

602.01A(1) Expenses incurred by the county, city, or village in the lease or purchase of lottery equipment, lottery supplies, and other equipment, supplies and items used in the conduct of the lottery.

602.01A(1)(a) The purchase price of lottery equipment and other capital equipment expenditures related to the conduct of the lottery by a county, city, or village shall be amortized over the useful life of the equipment as determined in accordance with regulations of the United States Internal Revenue Service for depreciation purposes. The portion of the cost of the equipment that can be allocated to one year shall be applied to that year's allowable expense limitation.

602.01A(1)(b) As an example, if a county, city, or village purchases keno equipment for \$10,000.00 which has a useful life of ten years, the expense for that equipment for allowable expense purposes shall be \$1,000.00 per year;

602.01B All office or clerical expenses incurred by the county, city, or village in connection with the lottery, including but not limited to, the cost of any office equipment, office supplies and bookkeeping materials, copying and printing expenses, telephone costs, and postage costs;

602.01C All promotional expenses incurred by the county, city, or village including, but not limited to, the value of free play keno coupons and gift certificates awarded as promotional items, and the cost of radio, television, or newspaper advertising;

602.01D All salaries and related payroll expenses of individuals employed by the county, city, or village to operate, conduct, or supervise the lottery;

602.01E Any rental or lease expense incurred by the county, city, or village for real or personal property used and directly related to the operation of the lottery including, but not limited to, office or storage space rental, office equipment rental, car rental;

602.01F Any fee or commission paid to any person associated with the lottery including, but not limited to, a commission paid to a lottery operator who contracts with the county, city, or village to conduct the lottery on behalf of the county, city, or village, or in the case of a ticket drawing, any fees or commissions paid to ticket sellers or ticket outlets;

602.01G Federal excise taxes or occupational taxes paid by the county, city, or village relating to the conduct of a lottery;

602.01H Any premium paid by a county, city, or village to insure any prize; and

602.01I Any other expenses or costs incurred by a county, city, or village in the conduct of its lottery.

602.02 License fees paid by the county, city, or village to the Department shall not be included within the expense limitation.

602.02A Audit and legal expenses incurred by the county, city, or village shall be included within the expense limitation only to the extent such expenses exceed 1 percent of gross proceeds or \$5,000.00, whichever is greater, during the annual period from July 1 to June 30 of each year.

602.02A(1) For purposes of this section, audit and legal expenses shall include all expenses relating to:

602.02A(1)(a) The governmental organization of the lottery including, but not limited to, expenses for publication costs related to the drafting and adoption of ordinances or resolutions required under the Nebraska County and City Lottery Act, expenses incurred in the issuance of requests for proposals related to the operation of the lottery, legal fees incurred in the negotiation, drafting, and execution of a lottery operator agreement, and legal fees incurred in the negotiation, drafting, and execution of an interlocal cooperation agreement to conduct a joint lottery pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801, et al.;

602.02A(1)(b) Government maintenance, monitoring, and examination of lottery records including, but not limited to, expenses for storing lottery records and videotapes, expenses incurred in recording and compiling lottery information, expenses incurred in the audit and examination of lottery records; and

602.02A(1)(c) Enforcement, regulatory, administrative, investigative, and litigation functions undertaken by government including, but not limited to, expenses for background investigations or criminal history checks on sales outlet location license applicants and lottery worker license applicants, and fees incurred in prosecuting or defending legal actions related to the lottery.

602.02A(2) Audit and legal expenses shall not include any expenses related to the actual conduct of the game. These include, but are not limited to,

staffing, advertising, purchase, lease, or rental of lottery equipment, purchase, lease, or rental of lottery supplies, and printing costs.

602.02A(3) For the purpose of determining compliance with the limitation on audit and legal expenses when a joint lottery is conducted pursuant to an interlocal cooperation agreement, gross proceeds shall mean the combined gross proceeds of the joint lottery.

602.02A(3)(a) Example, communities A, B, and C enter into an interlocal cooperation agreement and generate annual gross proceeds of \$300,000.00, \$400,000.00, and \$1,000,000.00, respectively. The combined gross proceeds of the joint lottery are \$1,700,000.00. One percent of the combined gross proceeds, \$17,000.00, is greater than \$5,000.00. Audit and legal expenses incurred by the joint lottery will be applied against the 14 percent expense limitation only to the extent such expenses exceed \$17,000.00.

602.03 The term expenses does not include prizes awarded to participants or the county, city or village lottery tax remitted to the Department.

602.04 Where an expense incurred by a county, city, or village can be partially attributed to the conduct of a lottery, that portion of the expense attributable to the lottery shall be included within the 14 percent limitation regardless of the funding source used to pay the expense. For example, a bookkeeper who works on lottery activities as well as other county, city, or village matters, would have that portion of his or her salary representing the time the bookkeeper spent on lottery activities attributed to audit and legal expenses.

Example:

Bookkeeper's salary - \$15,000 per year

Time spent on lottery activity - 50 percent

$\$15,000.00 \times .50 = \$7,500.00$

Amount allocated to lottery expenses: \$7,500.00

602.05 A county, city, or village initially establishing a lottery may finance start-up costs relating to the operation of the lottery with money from the general fund of the county, city, or village during the first year of operation. General fund money used to finance such start-up costs must be repaid from funds received from the lottery. With the exception of license fees paid to the Department and audit and legal expenses relating directly to the conduct of the lottery, such start-up costs must be accounted for in the 14 percent limitation on expenses.

602.06 Compliance with the 14 percent expense limitation shall be based on the lottery expenses incurred by a county, city, or village during an annual period corresponding to the

fiscal year of the county, city, or village. If the lottery has not been operational for the entire fiscal year, the lottery expenses shall be annualized to determine compliance with the expense limitation.

602.06A A county, city, or village may not offset any lottery expenses incurred in a fiscal year which exceed the 14 percent expense limitation against lottery expenses incurred in any prior fiscal year where such expenses were less than 14 percent.

602.06B A county, city, or village may not offset any lottery expenses incurred in a fiscal year which exceed the 14 percent expense limitation against future lottery expenses.

*(Sections 9-605, 9-619, and 9-629, R.R.S. 1997. Section 9-620, R.S. Supp., 2004. November 13, 2005.)*

#### REG-35-603 COUNTY AND CITY LOTTERY TAXES

603.01 Counties, cities, or villages conducting a lottery are required to report the gross proceeds of each lottery on a form approved and provided by the Department and remit to the Department, with the report, a tax of 2 percent of the gross proceeds of each such lottery within 30 days of the end of each calendar quarter.

603.02 The tax return signed by a governing official or his or her authorized representative and accompanied by remittance will be considered timely filed if actually received by the Department or mailed, postage prepaid, on or before the 30th day of the month following the close of the quarter. If the due date for filing the tax return falls on a Saturday, Sunday, or a legal holiday, the return shall be considered timely filed if actually received by the Department or mailed, postage prepaid, on the next succeeding day which is not a Saturday, Sunday, or a legal holiday.

603.02A A United States Postal Service postmark shall be considered conclusive evidence of the date of mailing for the purpose of timely filing a return. When there is a private postage meter mark and there is no United State Postal Service postmark, the return is considered filed on the date received by the Department.

603.03 Failure to file a tax return or remit the tax due by the due date shall be cause for a penalty equal to 10 percent of the amount of tax not paid by the required due date or \$25.00, whichever is greater. Interest will accrue on any tax which is not timely remitted at the rate specified in section 45-104.02, R.R.S. 1943, as such rate may from time to time be adjusted by the Legislature, from the 30th day of the month following the quarterly period for which the amount should have been paid until the date of payment.

603.03A For purpose of this regulation, date of payment shall be considered the date such payment was received by the Department or, if mailed, the date of the United

States Postal Service postmark. When there is a private postage meter mark and there is no United State Postal Service postmark, the date of payment is considered the date received by the Department.

603.04 A tax return filed after the due date which indicates a zero amount of gross proceeds and/or zero balance of tax due shall not be subject to the \$25.00 penalty as previously described.

603.05 Remittance must accompany the tax return and be in the form of check, draft, money order, or other payment method approved by the Tax Commissioner made payable to the Nebraska Department of Revenue.

*(Sections 9-602, 9-606, 9-619, 9-629, and 9-648, R.R.S. 1997. Sections 9-620 and 77-2708, R.S.Supp., 2004. Section 45-104.02, R.R.S. 2004. November 13, 2005.)*

#### REG-35-604 RECORD KEEPING AND REPORTING REQUIREMENTS - TRADITIONAL TICKET DRAWING LOTTERY

604.01 All records required under the Nebraska County and City Lottery Act and this regulation shall be kept and maintained for a period of not less than three years.

604.02 In the case of a ticket drawing lottery, the following records shall be maintained by the county, city, or village conducting the lottery:

604.02A The gross proceeds from the sale of tickets plus any interest earned on such proceeds;

604.02B The value of prizes actually awarded;

604.02C The value of prizes not claimed;

604.02D The locations at which tickets are sold, if applicable, and for each location the gross proceeds from the sale of tickets at that location;

604.02E An itemization of the expenses incurred by the county, city, or village in operating the lottery, including, but not limited to:

604.02E(1) Printing costs;

604.02E(2) Advertising costs;

604.02E(3) Wages paid to individuals selling tickets;

604.02E(4) Commissions paid to lottery operators and sales outlet locations, if applicable;

604.02E(5) Any other expenses connected with the lottery; and

604.02F The remaining gross proceeds plus any interest earned on such proceeds to be used for community betterment purposes and the actual or intended use of such proceeds.

604.02G Each county, city, or village shall report on a quarterly basis the above-described information to the Department. The report shall be prepared on a form prescribed by the Department, and accompany the quarterly tax return prescribed in Neb. Rev. Stat. § 9-648 of the Nebraska County and City Lottery Act.

*(Sections 9-619 and 9-650, R.R.S. 1997. Section 9-620, R.S.Supp., 2004. November 13, 2005.)*

#### REG-35-605 LOTTERY OPERATORS

605.01 Any person that agrees to be responsible for conducting a lottery on behalf of a county, city, or village must apply for and obtain a lottery operator license from the Department prior to conducting any lottery. A separate lottery operator license is required for each county, city, or village on whose behalf a lottery will be conducted. A nonprofit organization or nonprofit corporation is not eligible to obtain a lottery operator license.

605.01A If a lottery is conducted jointly with one or more other counties, cities, or villages pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801, et seq., a separate lottery operator license is required for each county, city, or village included in the lottery activity.

605.02 For the purpose of this regulation, when a lottery operator utilizes individual locations within the county, city, or village as satellite or sales outlet locations where keno is played, these locations are not considered lottery operators. If a county, city, or village utilizes individual locations within the county, city, or village as outlets where lottery tickets are sold and retains complete operational control of the lottery activity, these locations are not considered lottery operators.

605.02A If a lottery operator leases a portion of a business location to operate keno as a main location, a satellite location, or an independent location, the business location must obtain a sales outlet location license. Notwithstanding the provisions of this regulation, any individual, sole proprietorship, partnership, limited liability company, corporation, nonprofit organization, or nonprofit corporation which leases space to a lottery operator to allow a lottery to be conducted at their location on behalf of a county, city, or village whose only business involvement at the location is a landlord and tenant relationship with the lottery operator is not required to apply for and obtain a sales outlet location license from the Department.

605.03 Unless the contract between a county, city, or village and the lottery operator specifies otherwise, a lottery operator has overall responsibility for the daily operation of the lottery including, but not limited to, responsibility and liability for all operational aspects of the lottery which may include

daily gaming operations; purchase, repair, replacement, and maintenance of lottery equipment; purchase and maintenance of lottery supplies; compensation, staffing, and training of all employees and agents; processing and handling of lottery gross proceeds; preparation of all reports required of a county, city, or village, or a lottery operator by the Department or any governmental entity or agency; advertising; development of official rules and procedures for play and collection of prizes and progressive game prizes; oversight of the lottery operation; and all other record keeping. A lottery operator is selected by a county, city, or village to conduct the lottery on behalf of the county, city, or village. A written contract may be executed which sets forth the obligations and responsibilities of both parties.

605.04 A lottery operator's license shall not be issued except to those applicants who are:

605.04A Residents of Nebraska if a sole proprietorship;

605.04B Organized under the laws of Nebraska if a partnership; or

605.04C Formed under the Limited Liability Company Act as provided in Neb. Rev. Stat. § 21-2601, et seq., if a limited liability company.

605.04D Incorporated under the Business Corporation Act as provided in Neb. Rev. Stat. § 21-2001, et seq., if a corporation. For the purpose of this regulation, a domesticated foreign corporation is not considered incorporated in Nebraska and, therefore, would not be eligible to obtain a license as a lottery operator.

605.05 No individual, sole proprietorship, partnership, limited liability company, or corporation shall conduct a lottery on behalf of a county, city, or village without having first obtained a lottery operator's license from the Department. Such license shall be applied for using the Nebraska Schedule I - County/City Lottery Operator Application, Form 50G. In addition to the information required on the application form, each applicant shall provide or perform the following:

605.05A A completed and notarized Personal History Record and Background Disclosure Form and two fingerprint cards for each individual who has an ownership interest, either directly or indirectly, in the applicant. If a sole proprietorship, by the individual owner and his or her spouse. If a partnership, by each partner, each partner's spouse, and any officer or director of the partnership. If a limited liability company, by each member and spouse. If a corporation, by each officer and his or her spouse and each individual who owns 10 percent or more of the debt or equity of the corporation.

605.05A(1) Completion of the Personal History Record and Background Disclosure Form and the

submission of fingerprint cards by a spouse may be waived if such individual has no proprietary interest, directly or indirectly, in the operation or profit derived from the activities of his or her spouse as a corporate stockholder, corporate debt holder, corporate officer, corporate director, limited liability company member, or partner of a lottery operator. An Affidavit by Spouse for Waiver of Fingerprinting and/or Personal History Record and Background Disclosure Form must be completed, notarized, and submitted for each such individual.

605.05A(2) The fingerprinting requirement for an applicant may be waived if the Nebraska Liquor Control Commission has received fingerprint reports on the applicant within the past two years of the filing date of the Schedule I or if the license issued by the Nebraska Liquor Control Commission has been continuously maintained since documented fingerprints were filed to obtain such license.

605.05A(3) The fingerprinting requirement shall be waived for any debt holder of the applicant which is a financial institution organized or chartered under the laws of Nebraska, any other state, or the United States relating to banks, savings institutions, trust companies, savings and loan associations, credit unions, and installment loan licensees, or similar associations organized under the laws of this state which are subject to supervision by the Department of Banking and Finance.

605.05B In addition to filing the Personal History Record and Background Disclosure Form and fingerprint cards, each applicant may be subject to a background investigation, an inspection of the applicant's facilities, or both. The applicant may be required to pay the actual costs incurred by the Department, in advance under appropriate circumstances, in conducting the investigation or inspection. If payment in advance is not requested, the Department will inform the applicant of the maximum amount the Department anticipates spending and the Department will not seek more than that amount from the applicant without first seeking the applicant's permission to continue the investigation. If payment in advance is requested and the applicant does comply, the Department will refund the amount the applicant's advance exceeds the actual costs or will collect any underpayment for costs not covered by the advance after completion of the investigation or inspection. If payment in advance is requested and the applicant does not wish to comply for whatever reason, it may withdraw its application and its license fee will be refunded.

605.05B(1) The background investigation shall be waived for any debt holder of the applicant which is

a financial institution organized or chartered under the laws of Nebraska, any other state, or the United States relating to banks, savings institutions, trust companies, savings and loan associations, credit unions, and installment loan licensees, or similar associations organized under the laws of this state which are subject to supervision by the Department of Banking and Finance.

605.05C Two sets of fingerprints on cards supplied by the Department and the required processing fees must be submitted to the Nebraska State Patrol.

605.06 The Department must be informed within 30 days after the licensee learns of any inaccuracies or makes any changes in the information supplied by the licensee in its most recent filing with the Department. Changes that will not require a new license to be issued can be reported by filing an amended application and identifying only the information to be changed. All requests for changes must be signed by an owner, partner, limited liability company member, corporate officer, or individual authorized by Power of Attorney on file with the Department and by a representative of the county, city, or village. No additional license fee shall be due under these circumstances.

605.06A The following are changes to a lottery operator license that are to be reported by the county, city, or village, or the lottery operator:

605.06A(1) For a sole proprietorship, the death, marriage, or divorce of the owner.

605.06A(2) For a partnership, the death, marriage, or divorce of one or more of the partners or when one partner sells part or all of his or her interest in the business to another existing partner.

605.06A(3) For a limited liability company, the death, marriage, or divorce of one or more of the members or when one member sells part or all of his or her interest in the business to another existing member.

605.06A(4) For a corporation, the resignation, death, marriage, or divorce of an existing officer or director, or a change of positions or titles among existing officers or directors, or the transfer of the outstanding and issued stock to shareholders in the corporation which results in no change to those previously reported as owning, directly or indirectly, 10 percent or more of the debt or equity of the corporation.

605.06B The following attachments are to be provided with the amended lottery operator application to report the above changes:

605.06B(1) In the case of death, if applicable, a copy of the court appointment of a Personal Representative, executor, administrator, or trustee.

605.06B(1)(a) The Personal Representative, executor, administrator, or trustee appointment will be valid for a lottery operator license for a period not to exceed the shorter of (1) the expiration of the existing lottery operator license, (2) the expiration of the existing lottery operator contract, or (3) one year.

605.06B(1)(b) A revised expiration date may be requested in writing with adequate documentation to indicate why the ownership of the licensed business could not change hands within the specified period. The prior written approval of such revision by the Department is required.

605.06B(2) In the case of marriage, the spouse's name, social security number, address, and date of birth are to be provided with the applicable Personal History Record and Background Disclosure Form or the Affidavit by Spouse for Waiver of Fingerprinting and/or Personal History Record and Background Disclosure Form. If fingerprints are required, the fingerprint cards and the required processing fees must be submitted to the Nebraska State Patrol.

605.06B(3) In the case of divorce, a copy of the decree and property settlement agreement or other documentation showing the deletion of the spouse's name from the license information.

605.06B(4) In the case of changes in corporate officers, a copy of the election results and the letter of resignation, if applicable.

605.06B(5) In the case of ownership changes within the existing owners, the new percentages of ownership for the remaining partners, members, shareholders, equity holders, or owners.

605.07 A lottery operator is not considered licensed until such time it has physical possession of the printed license issued by the Department.

605.07A If the lottery is conducted at the lottery operator's location, the current original lottery operator's license(s) issued by the Department must be posted prominently at the licensed location. A reproduced copy of the license(s) shall not be substituted for the original(s).

605.07A(1) If there is no lottery operator's location where the lottery is conducted, the current original license is to be retained with the lottery operator's records.

605.07B A lottery operator who has had his or her license(s) lost, stolen, or destroyed must notify the Department as soon as possible. The lottery operator shall send a written statement to the Department signed by an owner, officer, member, or partner confirming the loss,

theft, or destruction of the license. A duplicate license(s) for the lottery operator will be issued. No additional fee shall be due under these circumstances.

605.07C A lottery operator who is no longer under contract with the county, city, or village for which he or she is licensed or who no longer desires to be licensed shall notify the Department, in writing, of their intention to cancel the license. Such notification must be accompanied by the original license. In the event that a lottery operator's license is suspended, canceled, or revoked, the lottery operator shall surrender physical possession of its license immediately upon receipt of the order of suspension, cancellation, or revocation. In the case of suspension, the Department shall return the license to the county, city, or village 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 County and City Lottery Act.

605.07C(1) If a licensee has successfully appealed an order of suspension, revocation, or cancellation, the Department shall return the license which had been surrendered to the Department.

605.08 All lottery operator licenses shall expire on May 31 of every even-numbered year and may be renewed biennially.

605.08A License fees are due with the application.

605.08B Applications for renewal of a lottery operator license shall be submitted to the Department on the prescribed form at least 60 days prior to the expiration date of the license.

605.09 A lottery operator's license may not be transferred under any circumstance, including change of ownership. A change of ownership is to be reported by filing an amended application with appropriate attachments. If a business entity licensed as a lottery operator will cease to exist when the ownership change is completed, a new lottery operator's license must be applied for including the payment of any applicable license fees and a copy of the county, city, or village's approval of the new ownership of the lottery operator.

605.09A A change of ownership occurs:

605.09A(1) For a sole proprietorship, whenever the sole owner changes.

605.09A(2) For a partnership, whenever a new partner is added to the partnership. If the same partnership continues in existence, an amended application is to be filed, but no license fee is required. Otherwise, a new application and license fee are to be submitted.

605.09A(3) For a limited liability company, whenever a new member is added to the limited

liability company. If the same limited liability company continues in existence, an amended application is to be filed, but no license fee is required. Otherwise, a new application and license fee are to be submitted.

605.09A(4) For a corporation, whenever a change of ownership of shareholders or equity holders in the corporation results in any person becoming a holder directly or indirectly of 10 percent or more of any class of debt or equity interest in the corporation who did not hold such interest prior to the change in ownership and the same corporation continues in existence, an amended application is to be filed, but no license fee is required. Otherwise, a new application and license fee are to be submitted.

605.09B When a change of ownership of a business licensed as a lottery operator is anticipated, the current owner of the lottery operator may designate as his or her agent the party purchasing the business. In order to be designated as an agent, the following criteria must be satisfied:

605.09B(1) A Nebraska Schedule I - County/City Lottery Operator Application, Form 50G, must be on file with the Department;

605.09B(2) A Temporary Agency Agreement on a form prescribed by the Department must be filed with the Nebraska Schedule I;

605.09B(2)(a) The Temporary Agency Agreement must be approved by the Department and a copy returned to the lottery operator for posting with the current lottery operator license.

605.09B(2)(b) A Temporary Agency Agreement is not effective without the Department's approval.

605.09B(3) Throughout the duration of the Temporary Agency Agreement, the designated agent may operate the lottery using the current lottery operator's license with the licensed lottery operator fully responsible to the county, city, or village and to the state for the proper operation of the lottery until such time as the new lottery operator is licensed;

605.09B(4) Temporary agency agreements will be valid for a lottery operator license for a period not to exceed the shorter of (1) the expiration of the existing lottery operator license or (2) 180 days unless otherwise extended in writing by the Department prior to the expiration of the 180 days.

605.10 No sole proprietor, partner in a partnership, member in a limited liability company, officer or director of a corporation, or individual with a substantial debt or equity interest in

the person which is applying for or holds a lottery operator license shall have a substantial interest in any person licensed as a manufacturer or distributor of bingo equipment and supplies, as a manufacturer or distributor of pickle card units and punchboards, or as a manufacturer-distributor of lottery equipment and supplies.

605.11 No member of the governing board or any governing official of the county, city, or village shall have a substantial interest in any lottery operator with whom the county, city, or village contracts to conduct its lottery.

605.12 A business licensed as a lottery operator may apply for and obtain licenses to conduct other activities pursuant to the Nebraska Bingo Act and the Nebraska Pickle Card Lottery Act subject to the statutory limitations and eligibility criteria of those Acts. However, a business licensed as a lottery operator may not hold a license as a manufacturer or distributor pursuant to the Nebraska Bingo Act or the Nebraska Pickle Card Lottery Act, or as a manufacturer-distributor pursuant to the Nebraska County and City Lottery Act.

605.13 No owner or officer of a lottery operator with whom the county, city, or village contracts to conduct its lottery shall play any lottery conducted by such county, city, or village at any time.

605.14 Except as noted below, all purchases, leases, or rentals of lottery equipment and supplies by a lottery operator shall only be made from a licensed manufacturer-distributor of lottery equipment and supplies. It is the responsibility of the lottery operator to verify in all instances the license status of a business marketing or selling lottery equipment and supplies in Nebraska.

605.14A A licensed county, city, village, or lottery operator may sell or donate their used lottery equipment to another licensed county, city, village, or lottery operator.

605.14B A previously licensed county, city, village, or lottery operator may sell or donate their used lottery equipment which was acquired while licensed to a currently licensed county, city, village, or lottery operator.

605.14C The transfer or sale of such used lottery equipment must have prior written approval by the Department.

605.15 All purchases, leases, or rentals of lottery equipment and supplies in Nebraska are subject to the Nebraska sales or use tax. Any manufacturer-distributor who leases or rents lottery equipment and supplies to a lottery operator in Nebraska is required to collect the applicable state and local sales tax on such leases or rentals. A lottery operator who purchases lottery equipment and supplies from a manufacturer-distributor who is not required to collect the Nebraska sales or use tax must report and pay a use tax to the Department on all such purchases.

605.15A A lottery operator may not use the sales tax-exempt status of a county, city, or village to avoid the payment of any applicable sales or use tax on the purchase, lease, or rental of lottery equipment and supplies.

*(Sections 9-614, 9-619, 9-630, 9-640, 9-642, and 9-646, R.R.S. 1997. Section 77-2704, R.R.S. 2003. Sections 9-1,104, 9-606.01, 9-620, 9-631, and 77-2703, R.S.Supp. 2004. November 13, 2005.)*

#### REG-35-606 MANUFACTURER-DISTRIBUTORS

606.01 Any person that manufactures or distributes lottery equipment or supplies and intends to sell, rent, lease, or otherwise provide such equipment for use in Nebraska by a licensed county, city, village, or lottery operator must first apply for and obtain a manufacturer-distributor license from the Department. A manufacturer-distributor's license shall not be required of:

606.01A A person that manufactures or intends to sell only video recording equipment required for ball draw games, security cameras and systems, display devices, magnetic storage media, or other supply items used with lottery equipment that do not directly affect the outcome of the game.

606.01B A person that manufactures or intends to sell only keno paper, crayons and markers, and other supplies that do not directly affect the outcome of the game.

606.02 To qualify for a manufacturer-distributor's license, the applicant must be authorized to conduct business in Nebraska. Authorization to conduct business in Nebraska requires:

606.02A A domestic limited liability partnership and a domestic limited partnership to register with the Nebraska Secretary of State's office;

606.02B A domestic limited liability company to file Articles of Organization with the Nebraska Secretary of State's office;

606.02C A domestic corporation to file Articles of Incorporation with the Nebraska Secretary of State's office;

606.02D A foreign limited liability partnership and a foreign limited partnership to register with the Nebraska Secretary of State's office;

606.02E A foreign limited liability company or foreign corporation to obtain a certificate of authority to transact business in Nebraska from the Nebraska Secretary of State's office or to become domesticated by filing the required documents with the Nebraska Secretary of State's office and paying any required fees.

606.03 Applicants seeking a manufacturer-distributor's license who intend to be engaged in business in this state as defined in section 77-2702.06 of the Nebraska Revised Statutes,

as amended, shall also submit a Nebraska Tax Application, Form 20, to obtain a Nebraska Sales and Use Tax Permit.

606.03A Manufacturers-distributors who are engaged in business in Nebraska are required to obtain a Nebraska sales tax permit and must collect and remit Nebraska sales tax on the gross receipts derived from the sale, rental, or lease of all county/city lottery equipment and supplies in Nebraska, except those sold, rented, or leased to an entity which is exempt as set forth in Sales and Use Tax Regulation 1-012 and which has presented a properly completed Nebraska Resale or Exempt Sale Certificate, Form 13.

606.04 No person shall manufacture, sell, lease, rent, print, distribute, or otherwise provide lottery equipment or supplies for use or play in Nebraska without having first obtained a license from the Department. The applicant shall include with the completed application form prescribed by the Department the statutorily required license fee and, at the minimum, the following information:

606.04A The business name and address of the applicant and the name and address of each of the applicant's separate locations at which manufacturing, warehousing, selling, leasing, distributing, or promotion of lottery equipment and supplies occurs;

606.04B The type of ownership of the business and the name, social security number, home address, and date of birth of:

606.04B(1) If a sole proprietorship, the individual owner and his or her spouse.

606.04B(2) If a partnership, each partner and his or her spouse.

606.04B(3) If a limited liability company, each member and his or her spouse.

606.04B(4) If a corporation, each officer and his or her spouse, each director or board member, and each individual who owns 10 percent or more of the debt or equity of the corporation. If an entity holding 10 percent or more of the debt or equity of the applicant corporation is a partnership, limited liability company, or corporation, the information required in Reg-35-606.04B must be supplied for each partner of the partnership, each member of the limited liability company, or each officer of the corporation and every individual or entity holding 10 percent or more of the debt or equity of the partnership or corporation.

606.04C If the applicant is not a resident or a corporation, the full name, business address, and home address of an individual who is 19 years of age or older and a resident of this state to act as the manufacturer-distributor's agent for the purpose of receipt and acceptance of service

of process and other communications on behalf of the manufacturer-distributor;

606.04D A completed and notarized Personal History Record and Background Disclosure Form supplied by the Department for each individual listed pursuant to Reg-35-606.04B;

606.04D(1) Completion of the Personal History Record and Background Disclosure Form by a spouse may be waived if such individual has no proprietary interest, directly or indirectly, in the operation or profit derived from the activities of his or her spouse as a corporate stockholder, corporate debt holder, corporate officer, corporate director, limited liability company member, or partner of a manufacturer-distributor. An Affidavit by Spouse for Waiver of Fingerprinting and/or Personal History Record and Background Disclosure Form must be completed, notarized, and submitted for each such individual.

606.04E Two sets of fingerprints for each individual listed pursuant to Reg-35-606.04B on cards supplied by the Department and the required processing fees submitted to the Nebraska State Patrol;

606.04E(1) Completion of fingerprinting by a spouse may be waived if such individual has no proprietary interest, directly or indirectly, in the operation or profit derived from the activities of his or her spouse as a corporate stockholder, corporate debt holder, corporate officer, corporate director, limited liability company member, or partner of a manufacturer-distributor. An Affidavit by Spouse for Waiver of Fingerprinting and/or Personal History Record and Background Disclosure Form must be completed, notarized, and submitted for each such individual.

606.04F In addition to these requirements, each applicant is subject to a background investigation, an inspection of the applicant's facilities, or both. The applicant is required to pay the actual costs incurred by the Department in conducting the investigation or inspection. An advance deposit may be required in an amount estimated to cover the cost of the investigation or inspection. If the applicant does not wish to undergo a background investigation or facility inspection, the application may be withdrawn and any license fee remitted with the application will be refunded. If the applicant agrees to undergo a background investigation or facility inspection, the Department will refund any overpayment of costs or will collect any underpayment of costs after completion of the investigation or inspection.

606.04G The fingerprinting requirement and the background investigation and facility inspection shall be

waived for any debt holder of the applicant which is a financial institution organized or chartered under the laws of Nebraska, any other state, or the United States relating to banks, savings institutions, trust companies, savings and loan associations, credit unions, and installment loan licensees, or similar associations organized under the laws of this state which are subject to supervision by the Department of Banking and Finance.

606.04H If the applicant is a partnership, a copy of the partnership agreement must be provided. If the applicant is a limited liability company, a copy of the Articles of Organization must be provided. If the applicant is a corporation, a copy of the Articles of Incorporation and all amendments thereto must be provided.

606.05 An applicant or licensee shall notify the Department within 30 days after the applicant or licensee learns of any inaccuracies or makes any changes in the information supplied in its most recent filing with the Department. Changes that will not require a new license to be issued can be reported by filing an amended application and identifying only the information to be changed. All requests for changes must be signed by an owner, partner, limited liability company member, corporate officer, or individual authorized by Power of Attorney on file with the Department. Any individual signing the most current application shall obligate the licensee to comply with the Nebraska County and City Lottery Act and accompanying regulations for that licensing period. No additional license fee shall be due under these circumstances.

606.06 A manufacturer-distributor is not considered licensed until such time it has physical possession of the printed license issued by the Department.

606.06A A licensed manufacturer-distributor who has had its license lost, stolen, or destroyed must notify the Department as soon as possible of the loss, theft, or destruction. The licensed manufacturer-distributor shall send a written statement to the Department signed by an owner, partner, limited liability company member, or corporate officer confirming the loss, theft, or destruction of the license. A duplicate license will be issued. No additional fee is required under such circumstances.

606.06B A manufacturer-distributor who no longer desires to be licensed shall notify the Department, in writing, of its intention to cancel its license. Such notification shall be signed by an owner, partner, limited liability company member, or corporate officer of the manufacturer-distributor. A notification of cancellation shall be accompanied by the original license issued by the Department.

606.07 All manufacturer-distributor licenses shall expire on September 30 of every odd-numbered year and may be renewed biennially. Applications for renewal of a manufacturer-

distributor license shall be submitted to the Department on the prescribed form at least 45 days prior to the expiration date of the license. License fees are due with the application. A manufacturer-distributor's license may not be transferred under any circumstance including change of ownership.

606.08 A licensed manufacturer-distributor, or any person having a substantial interest therein, is prohibited from holding any other licenses issued pursuant to the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska County and City Lottery Act, except as a manufacturer or distributor of bingo equipment and supplies or as a manufacturer or distributor of pickle card units and punchboards.

606.09 No individual, partner in a partnership, limited liability company member, or officer, director, 10 percent or more stockholder or equity holder of a corporation licensed as a manufacturer-distributor, or any employee or agent or spouse thereof shall play in any lottery conducted by any county, city, or village. No individual, partner in a partnership, limited liability company member, or officer, director, 10 percent or more stockholder or equity holder of a corporation licensed as a manufacturer-distributor, or any employee or agent or spouse thereof shall participate in the conduct or operation of any lottery conducted by any county, city, or village, or any other kind of authorized gambling activity regulated under Chapter 9 of the Nebraska Reissue Revised Statutes, except to the exclusive extent of his or her statutory duties as a licensed manufacturer-distributor of lottery equipment and supplies, as a licensed manufacturer or distributor of bingo equipment and supplies, or as a licensed manufacturer or distributor of pickle card units and punchboards.

606.09A Notwithstanding the limitations of Reg-35-606.09, a licensed manufacturer-distributor may sell, lease, or otherwise provide lottery equipment to a county, city, village, or lottery operator where any financial agreement associated therewith is based upon a percentage of the gross proceeds or amount wagered. Such agreement is not considered participation in the conduct or operation of the lottery.

606.10 Any person licensed as a manufacturer or distributor of bingo equipment and supplies and any person licensed as a manufacturer or distributor of pickle card units and punchboards may apply for a license as a manufacturer-distributor of lottery equipment and supplies by filing the application form and paying the license fee.

606.11 No member of the governing board or governing official of a county, city, or village which is operating a lottery pursuant to the Nebraska County and City Lottery Act shall have a substantial interest in any person licensed as a manufacturer-distributor.

606.12 No individual, partner in a partnership, member in a limited liability company, officer or director of a

corporation, or any individual with a substantial interest in a sole proprietorship, partnership, limited liability company, or corporation which is applying for or holding a lottery operator license shall be connected with or interested in, directly or indirectly, any person, partnership, firm, corporation, or other party licensed as a manufacturer-distributor of lottery equipment and supplies, as a manufacturer or distributor of bingo equipment and supplies, or as a manufacturer or distributor of pickle card units and punchboards.

606.13 A licensed manufacturer-distributor shall not sell, lease, or otherwise provide lottery equipment or supplies to anyone in Nebraska other than a county, city, or village licensed to conduct a lottery, a licensed lottery operator, or another licensed manufacturer-distributor of lottery equipment and supplies. Prior to selling, leasing, or otherwise providing lottery equipment and supplies to any authorized person, a licensed manufacturer-distributor shall obtain proof of licensing from the party seeking to obtain the equipment or supplies or verify that such person has a valid license by contacting the Department.

606.14 No licensed manufacturer-distributor shall purchase, lease, or otherwise obtain lottery equipment and supplies for use in this state from anyone other than another licensed manufacturer-distributor of lottery equipment and supplies in Nebraska.

606.15 A licensed manufacturer-distributor shall issue an invoice for each purchase, return, or exchange of lottery equipment and supplies by a county, city, or village licensed to conduct a lottery, a licensed lottery operator, or another licensed manufacturer-distributor. Every such invoice shall contain at a minimum the following information:

606.15A The name and complete address of the purchaser;

606.15B The individual placing the order or making the purchase on behalf of the county, city, or village, the lottery operator, or the manufacturer-distributor;

606.15C The date of the transaction;

606.15D A description of the lottery equipment and/or supplies sold, returned, or exchanged including when applicable the brand name, model number, and serial number of each item;

606.15E The total quantity of each type of lottery equipment and/or supplies sold, returned, or exchanged;

606.15F The price of each type of lottery equipment and/or supplies sold, returned, or exchanged and the extended total price based upon the total quantity of each item; and

606.15G The manner of delivery or shipment, including the name, address, and telephone number of the

individual or business shipping the lottery equipment and supplies.

606.16 A manufacturer-distributor leasing or otherwise providing lottery equipment and supplies to a county, city, or village licensed to conduct a lottery, a licensed lottery operator, or another licensed manufacturer-distributor shall provide the party obtaining the equipment or supplies with a written agreement setting forth all of the terms and conditions of the lease or other arrangement. Such written agreement shall identify the following:

606.16A The name and complete address of the lessee;

606.16B The term of the lease or other arrangement;

606.16C A description of the lottery equipment and supplies included in the lease or other arrangement, including when applicable the brand name, model number, and serial number of each item;

606.16D The total quantity of each type of lottery equipment and supplies provided by the lease or other arrangement; and

606.16E The total dollar amount of the lease or other arrangement and corresponding payment or other terms.

*(Sections 9-616, 9-619, 9-632, 9-633, 9-638, 9-639, 9-640, 9-641, and 9-642, R.R.S. 1997. Section 77-2701.13, R.R.S. 2003. Sections 9-1, 104, 9-620, and 77-2703, R.S. Supp., 2004. November 13, 2005.)*

#### REG-35-607 CONSTRUCTION STANDARDS FOR TRADITIONAL DRAWING LOTTERY TICKETS

607.01 All tickets shall be constructed of the same material and be of the same size, shape, weight, and thickness.

607.02 Each ticket shall bear a unique number from a set of sequential numbers, which does not repeat within the complete pool of tickets.

607.03 Each ticket shall be constructed with:

607.03A A detachable stub which shall bear the same sequential number as its accompanying ticket; and

607.03B Blank spaces to be filled in with the purchaser's name, complete address, and telephone number.

607.04 Each ticket shall be imprinted with the following information:

607.04A The name of each city, county or village conducting or jointly conducting the lottery;

607.04B The cost per ticket;

607.04C The major prize(s) to be awarded;

607.04D The intended date of the drawing to determine the winner(s); and

607.04E If applicable, whether the purchaser is required to be present at the drawing in order to win a prize.

607.05 A sample of the proposed ticket shall be submitted to the Department, by the county, city, village, or licensed lottery operator for approval prior to any sale of such tickets.

*(Sections 9-607, 9-619, 9-620, 9-636, and 9-651, R.S.Supp., 1989. December 22, 1990.)*

#### REG-35-608 CONDUCT OF THE GAME - TRADITIONAL TICKET DRAWING LOTTERY

608.01 A county, city, or village which authorizes the conduct of a traditional ticket drawing lottery shall establish the limitations, if any, on the playing of the lottery conducted by that county, city, or village by:

608.01A Any member of the governing board, a governing official, or the immediate family of such member or official;

608.01B Any lottery operator or his or her immediate family; and

608.01C Any person(s) having ownership interest in the authorized lottery location(s) or any employee thereof.

608.01D For purposes of this regulation, immediate family shall mean spouse, children, grandchildren, brother, sister, parents, father-in-law or mother-in-law.

608.02 Tickets meeting the minimum standards as set forth in Regulation 35-607 are not required to be purchased through a licensed lottery manufacturer-distributor and may, for example, be supplied through a local printer; however, such tickets are subject to approval by the Department.

608.03 The drawing date to determine the winner(s) may not exceed the expiration date of the county, city or village's lottery license issued by the Department.

608.03A If the drawing to determine the winner(s) is to be held after the expiration date of its current license, the county, city, or village must renew their license each consecutive licensing period up to and including the date of the drawing.

608.04 Each ticket stub shall be completed with the name, complete address and telephone number of the purchaser.

608.05 Tickets which have not been sold to participants are not eligible for the drawing to determine the winner:

608.05A All unsold tickets and stubs of eligible tickets shall be returned to the county, city, or village and accounted for prior to the drawing to determine the winner(s).

608.05B A county, city or village may not include any unsold stubs in the drawing.

608.05C Any unsold tickets returned to the county, city, or village shall be securely stored until destroyed. Prior to

their destruction, a record shall be made of the sequential numbers of the tickets to be destroyed.

608.06 Winners shall be determined by a random drawing of all the ticket stubs sold which the ticket seller(s) have retained and returned to the county, city, or village as eligible for the drawing.

608.07 The drawing shall be physically conducted by an individual at least 19 years of age and witnessed by at least two governing officials or board members.

*(Sections 9-607, 9-619, and 9-620, R.S.Supp., 1989. December 22, 1990.)*

REG-35-609 REPEALED.

*(Section 9-607, R.S. Supp., 1991. November 12, 2002.)*

REG-35-610 REPEALED.

*(Section 9-607, R.S. Supp., 1991. November 12, 2002.)*

REG-35-611 REPEALED.

*(Section 9-607, R.S. Supp., 1991. November 12, 2002.)*

REG-35-612 REPEALED.

*(Section 9-607, R.S. Supp., 1991. November 12, 2002.)*

REG-35-613 CONDUCT OF THE GAME - KENO

613.01 **Age Restrictions.** Individuals under the age of 19 cannot play or participate in any way in the game of keno.

613.01A Any ticket purchased by an individual under the age of 19 or by the agent of the individual is void.

613.01B A winning ticket presented by an individual under the age of 19 or by the agent of the individual will not be paid.

613.02 **Equipment and Wagering Restrictions.** Only computerized keno games may be conducted. Brush or non-computerized games are prohibited. The following restrictions also apply.

613.02A A player cannot close a keno game or initiate the selection of winning numbers.

613.02B No person or licensee, or any employee or agent of a licensee, who accepts keno wagers may extend credit from the keno gross proceeds to players to purchase keno tickets.

613.02C Except as provided below, no person is allowed to purchase any outside ticket or place any wager pursuant to the Nebraska County and City Lottery Act (Act) unless he or she pays for the ticket or wager with cash.

613.02C(1) A lottery operator or sales outlet location may cash a check for a player from the lottery operator's or sales outlet location's personal account (for example, the bar account or business account). The player must receive an equivalent amount of cash, less any applicable check cashing fees, from non-keno

funds, and cash must be given to the keno writer at the time the wager is made. It is not permissible to hold a check and await the outcome of the game.

613.02C(2) A lottery operator, sales outlet location, or county, city, or village cannot cash a check from the keno account, the keno cash drawer, or other keno funds unless the check was issued to the player by the lottery operator, sales outlet location, or county, city, or village for keno winnings.

613.02C(3) Players may use gift certificates redeemable for keno play, free play keno coupons, or similar promotional items if the dollar amount of keno wagers represented by the promotional items is included in the gross proceeds of the lottery.

613.02C(3)(a) The retail value of free keno play is considered a promotional expense of operating the lottery and is subject to the 14% limitation on expenses if reimbursed by the county, city, or village.

613.02C(3)(b) A gift certificate must identify the name of the county, city, village, lottery operator, or sales outlet location issuing the certificate; and indicate that it is redeemable only for keno play. The issuer of the gift certificate is responsible for including cash in the keno bank account deposit for the day it is redeemed equivalent to the face value of the certificate.

613.02D Except as provided in Reg-35-613.02D(1), a keno game cannot be conducted between the hours of 1:00 a.m. and 6:00 a.m.

613.02D(1) If alcoholic liquor is allowed to be sold later than 1:00 a.m. pursuant to a vote under Neb. Rev. Stat. § 53-179(1)(b), a keno game may be conducted within the area affected by the vote until the hour established by the vote.

613.02D(2) Conducting a keno game includes, but is not limited to, selling tickets, paying tickets, voiding tickets, closing the game, or winning number selection.

### 613.03 **Placing and Accepting Wagers.**

613.03A Permissible and Impermissible Wagers. Players may place a wager by marking a paper keno ticket constructed with 80 blocks containing the printed numbers 1 through 80, with their number selections. The marked ticket is known as an inside ticket, and must be presented to a keno writer.

613.03A(1) The inside ticket must contain an area known as the “bet block” which indicates the dollar amount of the wager. Inside tickets may also contain advertising if approved by the sponsoring county, city,

or village. Inside tickets are not required to identify the name of the sponsoring county, city, or village.

613.03A(2) A player may also present an outside ticket for replay, place an oral wager, or place a wager by some other medium in order to accommodate the player and comply with the Americans with Disabilities Act of 1990.

613.03A(3) Quick pick wagers, where numbers are randomly selected by the keno computer system for the player, are permissible if the player has the option to reject the computer number selection.

613.03A(4) Wagers from a player not present at a licensed location of the keno lottery are not allowed.

613.03A(5) Wagers by telephone or any other means of electronic transmission are not allowed unless specifically authorized by the Act or these regulations.

613.03B Documenting the Wager. The keno writer must enter each number selected by the player along with the amount wagered, the number of games to be played, and any other ticket conditioning aspects of the wager.

613.03B(1) If an inside ticket is used to place a wager, it must be retained by the keno writer at the writer station for as long as the county, city, village, or lottery operator requires.

613.03B(2) After a player has placed a wager, an outside ticket must be generated by the keno system and presented to the player. The information on the ticket required by Reg 35 613.03L must be recorded on the keno system transaction log.

613.03B(3) Preprogrammed keno tickets, default wager amounts, and using optical character readers and other technologies approved by the Department for entering players’ wagers are permissible.

613.03C Advisory Statement. A statement advising players to check their tickets for accuracy, and stating the consequence of a ticket being generated in error and not corrected before the start of a game, must be legibly posted at each location where keno is played, printed on the outside ticket, or printed on the schedule of prize payouts. The statement must include the requirement that all winnings are computed and paid according to the outside ticket.

613.03D Void Tickets. If an outside ticket is voided, the information pertaining to the voided wager must be entered by the keno writer into the keno system, and the system and attached to the outside ticket to document the transaction.

613.03D(1) Void tickets which have not been issued and recorded by the keno system (manual voids) are not permissible, unless written procedures have been established by the county, city, village, or lottery

operator regarding the circumstances under which a manual void ticket is permitted.

613.03D(2) The required record keeping for manual void tickets includes:

613.03D(2)(a) The outside ticket, if available, must have the word “VOID” written on it;

613.03D(2)(b) The keno writer’s signature;

613.03D(2)(c) Documentation of the refund of any wager; and

613.03D(2)(d) Documentation of the circumstances which required a manual void.

613.03E Unexpected Game Delays. If any of the lottery equipment breaks down prior to selecting the winning numbers and completion of the game will be delayed until the next business day, players will be refunded the amount wagered on any games not completed the time they present their outside tickets.

613.03F Closing the Game. Once the required time interval has elapsed, the game can be closed. A “close game” command must be entered on the keno system and the corresponding message displayed on all keno display boards, writer stations, and video display monitors. No outside tickets may be written or voided after a game has been closed and the winning number selection process has begun, except for tickets voided in accordance with Reg-35-613.03D. Outside tickets may be written or voided for future games after the current game has been closed.

613.03F(1) Controls must exist to prevent writing or voiding outside tickets for a game which has been closed. These controls must be identical for all satellite locations.

613.03F(2) Keno display boards or video display monitors used at satellite locations must have a countdown timer to warn players of the amount of time remaining before a game is closed.

613.03G Five-Minute Rule. At least five minutes must elapse between the random selection of winning numbers for each keno game. The five-minute interval is measured from game closing to game closing as recorded on the transaction log.

613.03H Prize Schedule. The potential payout for each different type of wager must be made known to the players prior to selecting numbers. This may be done by posting the potential payouts in a manner clearly visible to the players or through a printed schedule that is available at each location where keno is played. The requirements for progressive keno games are provided in Reg 35 613.09.

613.03I Wagering Limits. No outside ticket, including a way-ticket, may be purchased representing a wager of over

\$100. A multirace ticket, however, may be purchased for an amount over \$100 if the wager for each game included in the ticket does not exceed \$100.

613.03J Time Limit for Redemption. A statement indicating any time restriction for redeeming a winning outside ticket must be visibly posted at each location where keno is played or printed on the outside ticket or on the schedule of prize payouts.

613.03K Invalid Wins. Any outside ticket identified as a winning ticket by the keno system, which is subsequently determined by the county, city, village, or lottery operator to be a losing ticket or a winning ticket of a lesser amount, is not a valid claim in the original amount against the county, city, village, or lottery operator. If the outside ticket is actually a losing ticket, the claim is invalid. If the outside ticket is a win of a lesser amount than originally identified, the claim for the larger win is not valid, but the claim is valid for the verified winning amount. All these instances must be reported to the Department by the end of the next business day following the date of the determination.

613.03L Information Required on Each Ticket. Each outside ticket must contain the following information:

613.03L(1) The name of the sponsoring county, city, or village;

613.03L(2) The current day’s date and time;

613.03L(3) The numbers chosen by the player;

613.03L(4) The ticket serial number;

613.03L(5) The dollar amount and conditioning of the wager;

613.03L(6) When a location has multiple stations, the station number where the outside ticket was generated;

613.03L(7) A reference to the applicable pay tables where multiple pay tables are offered;

613.03L(8) For a quick pick ticket, a designation that it is a quick pick ticket, for example, QP;

613.03L(9) The game number. For a multirace ticket, the first game number and last game number; and

613.03L(10) For a replay ticket, the serial number of the ticket replayed.

613.03L(11) An outside ticket may contain additional information regarding game rules or instructions which a county, city, or village and the lottery operator have agreed upon. This information cannot contradict any provision of the Act or any regulation adopted pursuant to the Act.

613.03M Draw Ticket. If the number selection is made by a manual ball draw method using an electrically-operated

blower device, a draw ticket must be prepared for each game by a licensed lottery worker who is not the licensed lottery worker calling the game numbers. Regardless of the method of selecting the winning numbers, the keno system must be capable of printing a draw ticket.

613.03N Winnings of \$1,500 or More. Any ticket, whether a single race or a multirace ticket, with net winnings of \$1,500 or more must be paid by check and not in cash.

613.03N(1) If multiple players are involved on the same winning ticket and the net winnings are \$1,500 or more, net winnings must be issued to a single payee by check and not in cash.

613.03N(2) If the player requests, a portion not exceeding 10% of the winnings may be paid in cash.

**613.04 Manual Ball Draw Procedures.** When numbers are selected by a manual ball draw method using an electrically-operated blower device, selecting and verifying the winning numbers must:

613.04A The keno balls must be randomly selected by a licensed lottery worker, designated as the “caller,” who operates the keno ball blower and rabbit ears. The caller, or another licensed lottery worker, must enter the numbers of the keno balls randomly selected into the keno system which simultaneously displays the corresponding numbers on the keno display boards and video display monitors as the game results. The keno system must document and record the following on the transaction log: the date; the game number; the time the game was opened and closed; the numbers which were drawn in chronological sequence; and the method of selecting the winning numbers.

613.04B In addition to the licensed lottery worker who calls the keno ball numbers, a different licensed lottery worker designated as the “marker” must manually record the keno ball numbers, as they are drawn, on a draw ticket.

613.04B(1) The number of the game being drawn must be recorded on the draw ticket and given to the keno manager. The keno manager must compare the winning numbers selected by the electrically-operated blower device with the numbers entered into the keno system and initial or sign the draw ticket as evidence of his or her review.

613.04B(2) After the keno manager confirms that the winning numbers were entered correctly into the keno system, the keno manager must enter the appropriate command into the system to confirm the validity of the winning numbers selected and compute the game results.

613.04B(2)(a) Game results must then be displayed as “official” or “results” on all keno display boards and video display monitors.

613.04B(2)(b) If the keno manager determines an error occurred in entering the winning numbers into the keno system after the game results have been displayed as “official” or “results,” the keno manager must edit the ball draw as described below:

613.04B(2)(b)(i) Each winning number entered in error must be crossed out on the keno display boards or video display monitors;

613.04B(2)(b)(ii) The corrected winning numbers must then be highlighted on the keno display boards or video display monitors; and

613.04B(2)(b)(iii) All edited ball draws must be recorded on an exception log of the keno system, identifying the keno manager who edited the ball draw and made the corresponding changes.

613.04B(3) A minimum of three licensed lottery workers, one of whom is the keno manager, are required to perform the manual ball draw procedures.

613.04B(4) The Department may authorize alternative procedures for verifying a manual ball draw provided that a minimum of three licensed lottery workers perform the procedures. A county, city, village, or lottery operator desiring to deviate from the prescribed procedures must submit a written request to the Department seeking authorization to deviate from the prescribed procedures. The request must include a description of the alternative procedures proposed. The Department will review the request and issue its written determination to the county, city, village, or lottery operator.

613.04B(5) Each lottery operator is required to establish a written policy regarding the procedures to be followed when a keno ball breaks or cracks during the ball draw, or when a keno ball is inadvertently left in the throat or rabbit ears from the previous game.

613.04B(5)(a) The policy must be approved by the sponsoring county, city, or village and be posted conspicuously for the players or printed on the schedule of prize payouts.

613.04B(5)(b) The policy must include a requirement that when a ball draw irregularity is detected, it must be verbally announced at the main location and refunds must be offered to any player for amounts wagered on the game.

613.04B(5)(c) A copy of the approved policy must be filed with the Department prior to its use.

613.04C Video Recording Requirements. A camera must be used to videotape or digitally record (recording) all of the following prior to, during, and subsequent to the calling of a game, respectively:

613.04C(1) Empty rabbit ears or receptacle;

613.04C(2) Date, time, and game number;

613.04C(3) Throat of the rabbit ears and receptacle; and

613.04C(4) Full rabbit ears or receptacle holding the keno balls selected with the date, time, and game number. The picture of the rabbit ears or receptacle on the recording must provide a legible identification of the numbers on the keno balls drawn. If a split image screen is used in order to accomplish the required views, each track must be capable of being independently played in a full-screen format.

613.04D The game number referred to in Reg-35-613.04(C) (2) is not required to be recorded if it can be determined by comparing the date and time display on the recording to the date and time of the game recorded on the keno system transaction log.

613.04E Recordings must be retained for three months or until the time the keno compliance procedure relating to the review of the recordings is completed, whichever is later. Recording media may be reused once the keno compliance procedure has been completed.

613.04F The keno manager is required to inspect new and used keno balls prior to use at the beginning of each day. The keno balls must be cleaned regularly to insure proper operation of the ball draw equipment.

613.04F(1) Back-up keno ball inventories must be maintained in a locked storage cabinet to prevent unauthorized access.

613.04F(2) A county, city, village, or lottery operator must establish written procedures for changing keno ball sets and replacing damaged keno balls to ensure that all 80 numbered keno balls are in the receptacle and available for random selection. If games are conducted with less than the required 80 numbered keno balls or with duplicate keno balls in the receptacle, players must be offered a refund of the amount wagered for each affected game played upon presentation of the outside ticket.

**613.05 Random Number Generator Selection Device Procedures.** All random number generators must reside on a PROM or EPROM secured in the logic board of the computer, or otherwise digitally stored in a verifiable manner in the keno system. The numbers selected by the random number generator for each game must be stored in the keno system's memory and be capable of being printed on a draw ticket with no manual input of the numbers required.

613.05A The use of a "black box" random number generator as a peripheral device to the keno system is permissible. A black box random number generator is subject to all regulatory requirements for a random number generator which resides in the keno system.

613.05B A camera system is not required if a random number generator approved by the Department is used for selecting winning numbers.

**613.06 Verifying Winning Tickets.** Winning outside tickets must be verified prior to the payout and paid in the following manner:

613.06A Procedures must be established to preclude paying outside tickets previously paid, unclaimed winning tickets after a specified period of time, voided tickets, and tickets which have not been issued.

613.06B The serial number, or a number indexed to the serial number, of an outside ticket presented for payment must be entered into the keno system by the keno writer and the payment amount generated by the system given to the player. Using an electronic bar code scanner to scan a bar code printed on an outside ticket which includes the serial number of the ticket is a permissible method of entering the ticket serial number into the keno system.

613.06C All payments must be supported by the outside ticket and a pay ticket generated by the keno system, unless the Department has authorized the county, city, village, or sales outlet location to eliminate pay tickets.

613.06C(1) The Department may authorize the payment of winnings without an outside ticket when circumstances exist to warrant payment. A request for payment without an outside ticket must be submitted by the keno lottery operator in writing to the Department for approval. No payment will be authorized without the approval of the sponsoring county, city, or village.

613.06D Unless the Department has authorized the county, city, village, lottery operator, or sales outlet location to eliminate pay tickets, a manual report or exception log must be maintained to document any winnings paid on outside tickets which were not authorized by the keno system and are not supported by a pay ticket generated by the system.

613.06E Winning outside tickets of \$1,500 to \$2,999.99 require the approval of the lottery operator or keno manager. Evidence of this approval includes the keno manager's signature on the pay ticket, or an alternative method approved by the Department. Nothing in this regulation precludes a county, city, village, lottery operator, or sales outlet location from requiring lottery operator or keno manager approval of winning tickets of less than \$1,500.

613.06F Net winnings of \$1,500 or more on a single keno game require that the player provide proper identification.

613.06G Winning tickets of \$3,000 or more require the approval of the lottery operator or a keno manager. This approval may be evidenced by the keno manager's signature on the pay ticket or in another manner approved by the Department to document that:

613.06G(1) In the case of a manual ball draw method of selecting winning numbers, a review of the recording of rabbit ears or receptacle to verify the legitimacy of the draw and the accuracy of the draw ticket was performed;

613.06G(2) The winning outside ticket was compared to the transaction log or proof of win generated by the keno system; and

613.06G(3) The outside ticket was regraded using the payout schedule and draw information.

613.06H Winning tickets of \$10,000 or more are subject to all of the requirements found in Reg-35-613.06G and notification of the win to a county, city, or village official or county, city, or village employee serving as the governing official designee. The notification must be made no later than the next business day following the day the outside ticket was verified as a winner by the keno system.

613.06I A county, city, village, or lottery operator cannot deviate from the winning ticket verification procedures prescribed in this regulation unless otherwise approved in writing by the Department.

**613.07 Security Standards and Controls.** Access to the area where the keno lottery equipment operates must be restricted to the lottery operator, its employees or agents, sales outlet location employees or agents, authorized equipment service personnel, and employees or agents of the sponsoring county, city, or village. Law enforcement officers or agents or representatives of the Department must be allowed access to any restricted keno areas upon showing official identification.

613.07A Access to the keno system must be adequately restricted.

613.07B The keno system processor and "black box" random number generator must be secured and accessible only to authorized personnel. Keno ball sets must be stored in a secure area. Any keys needed to access this area must be maintained only by management personnel of the lottery operator or sales outlet.

613.07C Keno number display boards and video display monitors must be inspected periodically throughout the day by keno personnel to ensure that game information is being displayed correctly.

613.07D The lottery operator or sales outlet location must:

617.07D(1) Assign the keno manager, authorized licensed lottery workers, and the manufacturer-distributor personnel computer system access codes or passwords which allow them to approve and perform specific functions on the keno system; and

617.07D(2) Assign each keno writer a personal identification number (PIN), to be used only by that keno writer to perform his or her duties.

613.07E Access to the pay tables and system configuration options is limited to keno managers, representatives of the lottery operator, or representatives of the manufacturer-distributor. An exception log must be produced by the keno system to document all access to the pay tables and system configuration options, as well as all occurrences of unauthorized attempts to access restricted functions on the system.

613.07E(1) Access codes or passwords must be changed periodically to prevent unauthorized personnel from performing restricted functions.

613.07E (2) Any revisions or modifications of the keno system software must be performed by an authorized representative of the licensed manufacturer-distributor. Changes to prize pay tables can only be made in the manner prescribed in Reg-35-614.05.

613.07E (3) All ticket processing, game results, pay information, or any other information required by these regulations to be entered on the transaction log may be kept on paper or on digital, electronic, magnetic, optical, or any other recording medium approved by the county, city, or village and the Department, so long as the transaction log remains capable of review and printing.

613.07E (3)(a) A procedure for making the transaction log available for keno compliance procedures must be submitted by the lottery operator, in writing, to the Department. The transaction log must be retained for a minimum of three years and be secured in an area other than the area where the keno game is conducted.

613.07E (3)(b) A copy of the transaction log must be forwarded to management personnel of the lottery operator and the sponsoring county, city, or village for use in the keno compliance procedures.

613.07E (4) A keno system which allows for copying game information to a medium other than paper must be designed so that copying is a required system function when running end-of-day reports. The system must notify the user if the copying function

is not completed satisfactorily and require the user to continue performing the copy function until it is completed properly.

**613.08 Keno Tournaments and Leagues Prohibited.** Keno tournaments, where multiple players pay an entry fee to play multiple keno games and where cash prizes are awarded from the pool of entry fees based on the player's total score are prohibited. Keno leagues played in a similar fashion as keno tournaments are also prohibited.

**613.09 Progressive Keno Games.** Progressive keno games are keno games with a jackpot prize that increases if the jackpot has not been won in the previous game. The jackpot may increase by a predetermined percentage or amount as each game is played, each wager is made, or otherwise, in a manner approved by the Department. Progressive keno games are permitted if the information describing how the game will be conducted and any jackpot limitations have been previously filed by the lottery operator with, and approved in writing by, the Department.

613.09A Unless otherwise authorized in writing by the Department, the jackpot prize at the beginning of the day, any prize limits, and the amount the progressive jackpot is advanced must be visibly posted and made known to the players prior to the start of each game.

613.09B If two or more outside tickets are verified as jackpot winners, the full jackpot prize amount will be divided equally among the winning outside tickets.

613.09C The jackpot amount must be available to winning players by the end of the business day following the date that the winning transaction is verified. Verification must be completed no later than the third business day following the day the outside ticket is declared as a winner by the keno system.

613.09D The jackpot in a progressive keno game cannot be paid by annuity or any installment method. The jackpot may be insured by a county, city, village, or lottery operator if the Department has previously approved the arrangement in writing. Any premium expense incurred by the county, city, village, or lottery operator in insuring the jackpot is considered an expense of operating the lottery and is subject to the 14% expense limitation if paid for by the county, city, or village.

613.09E The progressive jackpot cannot be reduced to a lesser amount unless:

613.09E(1) A player wins the posted amount;

613.09E(2) An adjustment is necessary to prevent the posted amount from exceeding the published maximum amount of the progressive jackpot;

613.09E(3) There was a system malfunction. When this occurs, an explanation must be entered as part of the system record; or

613.09E(4) There is a player dispute as governed in Reg-35-613.09H.

613.09F Once a progressive jackpot amount is posted, that amount may not be decreased except as allowed by Reg-35-613.09E, and must remain until won or discontinued as provided in Reg-35-613.09G. The progressive jackpot amount is the responsibility of the county, city, or village if the operation of the progressive keno game ceases for any reason, including a change of lottery operator.

613.09G The Department may authorize a county, city, or village to discontinue a progressive keno game upon written request from the county, city, or village subject to the following requirements:

613.09G(1) The county, city, or village must conduct a public hearing on discontinuing its progressive keno game and discuss its intentions for using any accumulated progressive jackpot funds. If it is a joint lottery conducted pursuant to an interlocal cooperation agreement, the joint entity created pursuant to the agreement may conduct the public hearing in lieu of each county, city, or village which is a party to the agreement;

613.09G(1)(a) A copy of the public hearing notice must be posted in a visible location at each keno site; and

613.09G(1)(b) Once the public hearing has been held and the governing board of the county, city, village, or joint entity has reached a decision, a copy of the resolution that was adopted must be filed with the Department.

613.09G(2) The procedures specified in Reg-35-613.09G(1) do not apply to discontinuing a progressive jackpot which is not paid from a specific set-aside of lottery funds, and instead is paid from the overall prize fund.

613.09H If there is a player dispute over paying a progressive jackpot, the county, city, village, lottery operator, or sales outlet location (whoever is conducting the game) must:

613.09H(1) Reduce the progressive jackpot to its base amount and continue operating the game; and

613.09H(2) Deposit the disputed progressive jackpot amount into an escrow account until an investigation into the dispute by the Department has been completed and a decision is issued by the Department.

613.09I If a player dispute is resolved by the Department in favor of the county, city, village, lottery operator, or sales outlet location, the progressive jackpot must be returned to the accumulated amount at the time of the dispute, less the base figure amount.

**613.10 Standards for Conduct at a Satellite Location.**

When keno is conducted at a satellite location, the following requirements apply:

613.10A A keno writer at a satellite location must enter each number selected by the player, the amount wagered, and the total numbers played into the writer station of the keno system. An outside ticket must be generated by the system and given back to the player.

613.10B Any inside ticket presented by the player must be kept by the keno writer at the satellite location for the period of time required by the county, city, village, or lottery operator.

613.10C When the game at the main location is closed, the game at the satellite location must simultaneously close.

613.10D At a satellite location, winning outside tickets for amounts up to \$1,499.99 may be verified and paid by the keno writer. Nothing in this regulation precludes a county, city, village, lottery operator, or sales outlet location from requiring lottery operator or keno manager approval of winning tickets of less than \$1,500.

613.10D(1) Wins of \$1,500 or more must be presented for payment at the main location of the keno game or the office of the lottery operator, unless an alternative method of verification is approved by the Department. The same verification procedures must be applied to outside tickets purchased at both the satellite location and the main location.

613.10D(2) The Department may authorize a larger amount to be paid at a satellite location based upon a written request from the county, city, village, or lottery operator if all of the winning ticket verification procedures required by these regulations are followed. The request must include the exact procedures to be followed by the satellite location to insure compliance with the verification requirements in these regulations. If the request is made by a lottery operator, the approval of the county, city, or village is also required.

613.10E If reports are printed and produced from the keno system at the satellite location, they must be limited to the activity at that satellite location and cannot include information for the entire satellite configuration.

613.10F At a satellite location, the standards for game play, maintenance, checkout, and shift statistics must be the same as for the main location.

**613.11 Prize Fund Requirements.** Every county, city, village, or lottery operator conducting a lottery must have sufficient funds available to pay every winning ticket by the end of the business day following the date that the winning tickets are verified. Verification must be completed no later than

the third business day following the day the outside ticket is declared a winner by the keno system. Prizes must be paid in full to the winning player and cannot be paid over a period of time or through an annuity. The prize funds must be insured or guaranteed by monies deposited into an insured account maintained by a financial institution, an irrevocable letter of credit issued by a financial institution, or other security approved in writing by the Department.

613.11A If an irrevocable letter of credit is used to secure the prize funds, a copy must be provided to the Department and is subject to the Department's approval. An irrevocable letter of credit issued by the financial institution must name the county, city, or village as the beneficiary.

613.11B Prizes may be insured by a county, city, village, or lottery operator if the Department has previously approved the arrangement in writing. Any premium expense incurred by the county, city, village, or lottery operator is considered an expense of operating the lottery and is subject to the 14% expense limitation if paid for by the county, city, or village.

613.11C The county, city, or village must be able to draw on the insured deposit, irrevocable letter of credit, or insurance as needed. If the account, letter of credit, or insurance is drawn on and the remaining amount is less than the top prize offered, keno cannot resume play until the account, letter of credit, or insurance is replenished to an amount at least equal to the top prize offered.

613.11D If two or more outside tickets are verified as winning the jackpot prize on the same game, the full jackpot prize amount is divided equally among the winning tickets subject to the aggregate prize payout limit per game. The aggregate prize payout limit must be legibly posted at each keno location and printed on the schedule of prize payouts.

613.11E If two or more outside tickets are verified as winning the jackpot prizes in different games associated through an interlocal agreement or different games within the same county, city, or village, the full jackpot amount as well as other prizes may be apportioned among all the winning tickets. The amount apportioned among the winning tickets is subject to the aggregate prize payout limit applicable to all participating games for a given day. The aggregate prize payout limit must be legibly posted at each keno location and printed on the schedule of prize payouts.

613.11F All unclaimed prizes are the property of the county, city, or village. The total value of unclaimed prizes must be taken into account in computing the overall prize payout percentage of the keno activity.

*(Neb. Rev. Stat. §§ 9-605, 9-606, 9-607, 9-619, 9-620, 9-637, 9-645, 9-646, 9-646.01, 9-647, and 9-651. December 27, 2015.)*

## REG-35-614 KENO EQUIPMENT MAINTENANCE

614.01 An effective maintenance plan must be established to service keno equipment, including computer program updates, hardware servicing, and keno number selection equipment.

614.02 With the exception of routine maintenance, all keno equipment maintenance must be performed by persons other than the lottery operator and its employees. Routine maintenance shall include:

- 614.02A Cleaning of keno balls;
- 614.02B Clearing of ticket printer paper jams;
- 614.02C Changing printer heads and cutter bars; and
- 614.02D Changing paper tape, adding paper to the ticket printer or aligning the paper on the ticket printer.

614.03 Nonroutine maintenance must be performed by the manufacturer's service personnel or other service personnel authorized by the manufacturer. Nonroutine maintenance shall include:

- 614.03A Software updates or modifications;
- 614.03B Removal or replacement of PROMS or EPROMS;
- 614.03C Removal or replacement of logic boards; and
- 614.03D Any other maintenance of a technical nature.

614.04 A manufacturer may service the keno equipment on a "pull and replacement basis." Under such circumstances, a lottery operator or its employees would be allowed to remove a logic board, PROM or EPROM, and return it to the manufacturer for repair and exchange it for a replacement board, PROM or EPROM. Upon receipt and installation of the replacement board, PROM or EPROM, the lottery operator must submit a written report of the replacement to the Department within twenty-four hours. The report must include the serial number of the replacement board, PROM or EPROM. The lottery operator must maintain a written record of all access to the logic board area of the equipment. Such record shall include the date, the name of the person accessing the area, and the reason for any access.

614.05 If the computerized keno system allows the lottery operator to update or modify the prize pay tables, such updates may only be performed by the keno manager. Modification of the pay tables includes the pre-programming of special prize payouts conducted periodically by the lottery operator. Any time the pay tables are updated or modified, the lottery operator must notify the Department of the changes within twenty-four hours. The system must be capable of maintaining a log of all updates to the prize pay tables or a manual list must be retained by the lottery operator including the date, the name of the person updating the prize pay tables, and the changes made.

If updates or modifications to the prize pay tables require the entire replacement of PROMS or EPROMS, such updates may only be performed by the manufacturer's service personnel, other service personnel authorized by the manufacturer, or on a "pull and replacement" basis as explained in Reg-35-614.04. The lottery operator must notify the Department of the changes within twenty-four hours.

614.06 A county, city, or village or lottery operator shall maintain a record of all nonroutine maintenance as identified in Reg-35-614.03 performed by the manufacturer's service personnel or other personnel authorized by the manufacturer including equipment malfunctions and irregularities. Such record shall include the identification of any down time experienced in the operation of the lottery attributable to equipment malfunctions or irregularities. This information shall be available for inspection by the Department or the sponsoring county, city, or village upon request.

614.06A Irregularities with any number selection device (i.e., random number generator, electronic blower device) must be reported to the Department and the sponsoring county, city, or village immediately.

*(Sections 9-619 and 9-620, R.S. Supp., 1989. December 22, 1990.)*

## REG-35-615 KENO CHECKOUT STANDARDS

### 615.01 Keno Writer Banks.

615.01A Every lottery operator is accountable for the starting amount located in each keno writer's bank. Each keno writer bank must contain a starting amount established in writing by the lottery operator and maintained under lock and key.

615.01B As keno writers are assigned banks, they must count and verify that the bank contains the starting amount prior to beginning their shift. The amount must be verified by the keno writer coming on duty at the beginning of the next shift and by the keno manager. The arriving and departing keno writers or management personnel must verify the starting amount in the bank and prepare a checkout sheet containing the following information:

- 615.01B(1) Day and shift;
- 615.01B(2) Count of cash;
- 615.01B(3) Bank over/short;
- 615.01B(4) Bank starting amount; and
- 615.01B(5) The signature of the departing and arriving keno writers and management personnel.

615.01C When a keno writer is unable to pay a player's winnings from his or her bank, he or she may obtain cash from the keno manager's bank. The keno manager must enter the amount of fill and the keno writer's personal identification number (PIN) into the keno system. The

keno system must generate a fill ticket which is verified and signed by both the keno writer and the keno manager. The fill is then credited to that particular keno writer who retains the completed fill ticket until the close of the shift or day when it is turned in with the keno writer's cash.

615.01C(1) If keno writer fills are not recorded on the keno system, the following procedure is required:

615.01C(1)(a) The keno writer notifies the keno manager that additional cash is needed in the keno writer's bank;

615.01C(1)(b) The keno manager completes a two-part "fill slip" with the date and total fill completed on the form;

615.01C(1)(c) The keno manager obtains the required cash and verifies the amount with the keno writer. Both the keno manager and keno writer sign the "fill slip"; and

615.01C(1)(d) The cash and one copy of the "fill slip" are given to the keno writer. The other copy is retained by the keno manager. At the end of the shift or day, the keno writer turns in the "fill slip" with the remaining cash in the keno writer's bank.

615.01D When a keno writer accumulates excess cash in his or her bank, he or she may turn in cash to the keno manager's bank. A cash turn-in slip must be prepared and signed by the keno writer and the keno manager. The cash turn-in is credited to that particular keno writer who retains the completed cash turn-in slip until the close of his or her shift when it is turned in with the keno writer's cash.

615.01E Each keno writer must segregate his or her starting amount bank from cash taken in during his or her shift. The excess cash, paid (if applicable), void, and fill tickets, and cash turn-in slips must be turned over to the keno manager at the end of the shift. The cash turn-in must be verified by the keno manager who must record the amount on the keno turn-in summary. In addition, each keno writer must sign in ink next to the corresponding entry on the keno daily summary.

615.01F The cash turn-in is listed on a cash turn-in slip. The keno manager places the cash and the cash turn-in slip in the keno manager's bank or transports the cash and cash turn-in slip along with the various keno reports and tickets to a secured area. The cash turn-in must be recorded.

615.01G As an alternative for sales outlet locations or satellite locations, the management personnel at the sales outlet location or satellite location may perform the keno writer checks required by this regulation.

## 615.02 Keno Manager's Bank.

615.02A If the lottery operator chooses to use a keno manager bank in addition to the keno writer's bank, the lottery operator is also responsible for the starting amount of the keno manager's bank. If a keno manager's bank is used, a checkout sheet must be prepared at the beginning of the day with the following information:

615.02A(1) Date and shift;

615.02A(2) Bank starting amount;

615.02A(3) Count of cash; and

615.02A(4) The signature of the keno manager.

615.02B The keno manager may need to order additional cash from the lottery operator to pay a large winning ticket. When this occurs, the keno manager enters the amount of the fill and his or her PIN into the keno system. A fill ticket must be generated which is verified and signed by both the keno manager and the lottery operator. The fill is then credited to the keno manager's bank and the completed fill ticket retained until it is turned in with the keno manager's cash at the end of the shift or the end of the day.

615.02B(1) If keno manager fills are not recorded on the keno system, the following procedure is required:

615.02B(1)(a) The keno manager notifies the lottery operator that additional cash is needed in the keno manager's bank;

615.02B(1)(b) The lottery operator completes a two-part "fill slip" with the date and total fill completed on the form;

615.02B(1)(c) The lottery operator obtains the required cash and verifies the amount with the keno manager. Both the lottery operator and keno manager sign the "fill slip"; and

615.02B(1)(d) The cash and one copy of the "fill slip" are given to the keno manager. The other copy is retained by the lottery operator. At the end of the shift or day, the keno manager turns in the "fill slip" with the remaining cash in the keno manager's bank.

615.02C If the keno manager changes during the day, the arriving and departing keno managers must verify the starting amount in the keno manager's bank and record the following information on the checkout sheet:

615.02C(1) Date and time;

615.02C(2) Bank starting amount;

615.02C(3) Count of cash;

615.02C(4) Total keno writer fills by the departing keno manager;

615.02C(5) Total cash turn-ins received by the departing keno manager;

615.02C(6) Total keno manager pays on winning tickets;

615.02C(7) Total keno manager fills by the lottery operator;

615.02C(8) Bank over and short; and

615.02C(9) The signatures of the departing and arriving keno managers.

#### 615.03 End of Shift or End of Day Checkout.

615.03A Once the last game has been completed for a shift or for the day, the keno manager or the keno manager's designee, must perform the close of shift or day procedures on the keno system. The completed shift or day report must be recorded on the transaction log and show for each keno station or keno writer the following information:

615.03A(1) Date and time;

615.03A(2) Beginning cash balance;

615.03A(3) Total dollars wagered on tickets written;

615.03A(4) Total keno writer fills;

615.03A(5) Total keno writer pays on winning tickets;

615.03A(6) Total number and value of voided tickets;

615.03A(7) Total number and value of coupons redeemed;

615.03A(8) Total cash turn-in;

615.03A(9) Ending cash balance; and

615.03A(10) Net per station or keno writer.

615.03B If a keno manager's bank is used, a similar report must be recorded on the transaction log for the keno manager's bank showing the following information:

615.03B(1) Date and time;

615.03B(2) Beginning cash balance;

615.03B(3) Total keno writer fills;

615.03B(4) Total cash turn-in from keno writers;

615.03B(5) Total keno manager pays on winning tickets;

615.03B(6) Total keno manager bank fills;

615.03B(7) Ending cash balance; and

615.03B(8) Net per keno manager.

615.03C The information required in Reg-35-615.03B must be recorded on the transaction log.

615.03D A cash summary report (count sheet) must be prepared at the conclusion of the shift or the day on a form approved by the Department and must include the following information:

615.03D(1) Total value of voided tickets;

615.03D(2) Net write (total dollars wagered less the value of voided tickets);

615.03D(3) Total value of wins paid;

615.03D(4) Total hold (net write less wins paid);

615.03D(5) Total value of wins paid by check and the value of coupons redeemed;

615.03D(6) The calculated deposit amount and the actual amount deposited;

615.03D(7) The date of the deposit;

615.03D(8) The difference between the calculated deposit and the actual deposit, and an explanation of any overage or shortage;

615.03D(9) The value of unclaimed wins; and

615.03D(10) The signatures of all individuals who prepared the cash summary report.

615.03E The cash turn-in for the shift or day must be deposited into a bank account of the county, city, village, or the lottery operator and be made within a commercially reasonable time frame, but in no event later than four business days following the day the cash was collected. At the option of the lottery operator, a sales outlet location or satellite location may directly deposit the cash into the bank account of the county, city, village, or the lottery operator.

*(Neb. Rev. Stat. §§ 9-619 and 9-620. December 27, 2015.)*

#### REG-35-616 KENO COMPLIANCE PROCEDURES

616.01 On an annual basis, a county, city, or village shall, at a minimum, perform the compliance procedures prescribed by the Department of its keno lottery activity. The compliance procedures shall cover the fiscal year of the county, city, or village unless otherwise authorized by the Department.

616.01A In the case of a joint lottery conducted pursuant to an interlocal cooperation agreement as provided for in Neb. Rev. Stat. § 9-625, the compliance procedures shall be performed by each county, city or village which is a party to the agreement and cover the fiscal year of each such county, city, or village or be performed by any joint entity created pursuant to the agreement on behalf of each such county, city, or village and cover the fiscal year of such entity.

616.01B The keno compliance procedures required by Reg-35-616.01 through 35-616.03 are the responsibility of the county, city, or village and shall be performed by the county, city, or village or by a person which has contracted with the county, city, or village.

616.01B(1) In the case of a joint lottery conducted pursuant to an interlocal cooperation agreement, the keno compliance procedures may be performed by a

joint entity created pursuant to the agreement or by a person which has contracted with such joint entity.

616.01C The lottery operator shall not perform the compliance procedures nor shall the lottery operator contract for the performance of the procedures on behalf of the county, city, or village.

616.01C(1) In the case of a joint lottery conducted pursuant to an interlocal cooperation agreement, the lottery operator shall not perform the compliance procedures nor shall the lottery operator contract for the performance of the procedures on behalf of any county, city, or village which is a party to the agreement or on behalf of any joint entity created pursuant to the agreement.

616.01D Any costs incurred by a county, city, or village in the performance of the annual compliance procedures shall be considered an audit and legal expense of operating the lottery as defined in Neb. Rev. Stat. § 9-629(4).

616.01E A county, city, or village or, in the case of a joint lottery, any joint entity created pursuant to an interlocal cooperation agreement may require a lottery operator to pay for any costs incurred in the performance of the annual compliance procedures.

616.02 Such analysis shall be performed in accordance with the compliance procedures established by the Department unless otherwise authorized by the Department. A county, city, or village may submit a written request to the Department to obtain authorization to deviate from the compliance procedures prescribed by the Department. Such request shall include a description of the alternative procedures proposed.

616.02A In the case of a joint lottery conducted pursuant to an interlocal cooperation agreement, a joint entity created pursuant to the agreement may submit the request on behalf of each county, city, or village which is a party to the agreement and desires to deviate from the compliance procedures prescribed by the Department. Such request shall include a description of the alternative procedures proposed.

616.02B Documentation such as a log, checklist, or other similar materials shall be maintained evidencing the performance of all keno compliance procedures.

616.03 Management personnel from both the county, city, or village and the lottery operator shall review keno compliance exceptions, and shall perform and document investigations into unresolved exceptions. A report outlining the findings from the performance of the compliance procedures or alternative procedures approved by the Department shall be submitted by the county, city, or village to the Department within 90 days of the end of the fiscal year of the county, city, or village. In the event a county, city, or village cancels its license or allows

such license to expire prior to the end of the reporting period, a final report shall be filed with the Department within 90 days of the date the license was canceled or expired.

616.03A In the case of a joint lottery conducted pursuant to an interlocal cooperation agreement, any joint entity created pursuant to the agreement and the lottery operator shall review keno compliance exceptions, and shall perform and document investigations into any unresolved exceptions. The joint entity may submit the report outlining the findings from the performance of the compliance procedures or alternative procedures approved by the Department. The report shall be filed with the Department within 90 days of the end of the fiscal year of the joint entity. A copy of the report shall be provided to each county, city, or village which is a party to the agreement. In the event any county, city, or village which is a party to the agreement cancels its license or allows such license to expire prior to the end of the reporting period of the joint entity, a final report for such county, city, or village shall be filed with the Department within 90 days of the date the license was canceled or expired.

*(Section 9-619, R.R.S. 1997. Section 9-620, R.S. Supp., 2004. November 13, 2005.)*

#### REG-35-617 LOTTERY EQUIPMENT

617.01 A manufacturer-distributor shall not offer or market in Nebraska any type of lottery equipment for use in a lottery conducted pursuant to the Nebraska County and City Lottery Act unless it has been approved by the Department. Approval of lottery equipment will be based upon, but not be limited to, its conformance with the requirements contained in the Nebraska County and City Lottery Act, County and City Lottery Regulations, and test criteria established by the Department.

617.01A Lottery equipment subject to approval includes all proprietary devices, machines, and parts used in the manufacture or maintenance of equipment which is used in and is an integral part of the conduct of the lottery. Lottery equipment does not include any associated equipment, that is, all proprietary devices, machines, and parts which do not directly affect the outcome of the lottery or are not an integral part of any system that monitors the operation of the lottery.

617.01A(1) For the purpose of this regulation, lottery equipment includes, but is not limited to:

617.01A(1)(a) Keno balls;

617.01A(1)(b) Keno ball selection devices including electrically operated blower machines, automated ball draw systems, and other electronic selection devices;

617.01A(1)(c) Random number generators (internal and external); and

617.01A(1)(d) Keno systems.

617.01A(2) For the purpose of this regulation, lottery equipment does not include, but is not limited to:

617.01A(2)(a) Keno display boards and monitors;

617.01A(2)(b) Rabbit ears used in conjunction with electrically operated blower machines;

617.01A(2)(c) Magnetic, electronic, and digital storage media (including, but not limited to, floppy disks, magnetic tape, CD-ROM, USB flash drives) and other supply items used with the lottery equipment which do not directly affect the outcome of the game;

617.01A(2)(d) Video and digital recording equipment required for ball draw methods of winning number selection; and

617.01A(2)(e) Security cameras and systems.

617.01B The Department shall have the authority to request the testing and approval of any lottery equipment at any time if deemed necessary in order to insure fairness to the public and maintain the integrity of the lottery activity. This includes any equipment previously designated by this regulation to be excluded from the definition of lottery equipment.

617.01C A manufacturer of lottery equipment is responsible for obtaining approval of lottery equipment for use in Nebraska. Lottery equipment may not be submitted for approval until a manufacturer-distributor's license has been obtained from the Department. Any sole proprietorship, partnership, limited liability company, or corporation which has obtained a manufacturer-distributor's license who only distributes lottery equipment is not required to apply for and obtain approval of lottery equipment. However, such licensee must verify that the necessary approvals have been obtained by the manufacturer before such equipment can be marketed in Nebraska. Lottery equipment verification shall be requested in writing from the Department.

617.01D The Department may require that the manufacturer-distributor use the services of an independent testing laboratory which has contracted with the Department to test and examine lottery equipment.

617.01E The costs of any testing, examination, and analysis of lottery equipment, including the time and material required and any special testing equipment needed, shall be the responsibility of the manufacturer-distributor seeking approval of the lottery equipment.

617.02 Requests for approval of lottery equipment must be made and processed in such manner and using such forms as the Department may prescribe. A separate request shall be submitted by the manufacturer-distributor to the Department or its independent testing laboratory for each type or system of lottery equipment to be marketed in Nebraska. Such request shall be on company letterhead and include, at a minimum, the following:

617.02A The name and complete address of the manufacturer-distributor seeking approval of the lottery equipment;

617.02B The manufacturer-distributor's Nebraska Identification Number and license number issued by the Department;

617.02C The name, title, and telephone number of an employee of the manufacturer-distributor who will serve as the main point of contact for the Department during evaluation of the lottery equipment and who is authorized to discuss the lottery equipment with the Department or its independent testing laboratory;

617.02D The items requested for certification. In the case of software, the manufacturer-distributor shall include identification numbers and revision levels, if applicable. In the case of proprietary hardware, the manufacturer-distributor shall indicate the manufacturer, model, and part and revision number of the associated components of hardware.

617.02E Unless otherwise authorized by the Department or its independent testing laboratory, one working model of the machine and associated equipment transported to the location designated for testing, examination, and analysis. Each item of lottery equipment supplied by a manufacturer-distributor to a lottery location in Nebraska shall be functionally identical to the equipment tested and certified;

617.02F The complete address of other non-Nebraska locations where the equipment is currently in use or is installed;

617.02G If deemed necessary by the Department or its independent testing laboratory, each submission of hardware shall contain the following, if applicable:

617.02G(1) Server, Database, Front End Controller, and Ancillary Stations to include but not limited to: Writer Station functionality; Callers Desk/ Ball Draw functionality; System Configuration Parameters functionality; and Accounting/Reporting functionality;

617.02G(2) Monitors, keyboards, mouse, printers, etc., to support the items listed above;

617.02G(3) A supply of blank outside ticket stock to facilitate testing;

617.02G(4) Uninterruptible Power Supply (UPS) for critical components;

617.02G(5) All accompanying technical documents, manuals, and schematics shall be submitted. In addition, the following items shall be provided:

617.02G(5)(a) If applicable, all UL, CSA, EC, AS3100, etc., or equivalent certification. This certification information may be supplied at a later date;

617.02G(5)(b) Any other proprietary equipment that may be used in the field in conjunction with the submission, if necessary to test the requirements set forth;

617.02G(5)(c) Accompanying software; and

617.02G(5)(d) If the manufacturer-distributor has specialized equipment and/or software which is needed by the test laboratory to test the submitted system, such as load/game simulators or test data files, then the specialized equipment and/or software and all appropriate operation and user manuals for the equipment and/or software shall be included with the submission.

617.02G(6) Such other information deemed necessary by the Department.

617.02H If deemed necessary by the Department or its independent testing laboratory, the following software documentation, if applicable:

617.02H(1) A complete, comprehensive, and technically accurate description and explanation in both technical and layman's terms of the manner in which the software operates;

617.02H(2) Two sets of all EPROMs, CD-ROMs, or other storage media which contain identical contents. This includes all program executables, system component firmware, bin files, etc.;

617.02H(3) Source Code, a Link Map, and Symbol Table for all primary software executables. In addition, if requested, explanation of all non-volatile RAM on any system device with the non-volatile RAM locations described. The following items shall be contained within all submitted source code or related modules:

617.02H(3)(a) Module Name;

617.02H(3)(b) Brief description of module function; and

617.02H(3)(c) Edit History, including who modified it, when, and why. All source code

submitted shall be commented in an informative and useful manner. All source code submitted shall be correct, complete, and able to be compiled.

617.02H(4) All user manuals in both hard and soft copy format to include a general overview of the system from a component level, software and hardware setup and integration, and system block diagrams and flow charts for the communication program, if required;

617.02H(5) If not included in the user manuals, a connectivity manual for all associated peripheral devices or remote sales or monitoring units;

617.02H(6) If not included in the user manuals, provide example reports for each standard report capable of being generated on the system with a formula summary detailing all reporting calculations including data types involved, mathematical operations performed, and field limit;

617.02H(7) If not included in the user manuals, a list of all supported communication protocols specifying version, if applicable;

617.02H(8) If utilizing a software verification algorithm, provide a description of the algorithm, theoretical basis of the algorithm, results of any analyses or tests to demonstrate that the algorithm is suitable for the intended application, rules for selection of algorithm coefficients or "seeds," and means of setting the algorithm coefficients or "seeds;"

617.02H(9) On the primary system software components submitted and subsequently placed in the field, each program shall be uniquely identified and either display version information at all times or utilize a user accessible function. For EPROM based firmware, the identification label shall be placed over the UV window to avoid erasure or alteration of the program.

617.02H(10) Where a system requires the use of defined user roles with associated passwords or personal identification numbers (PIN), a default list of all users and passwords or PINs must be submitted, including a method to access the database.

617.02I A description of all testing criteria, if performed, and the results of the tests for the following:

617.02I(1) Random number generator;

617.02I(2) Electromechanical interference;

617.02I(3) Radio frequency interference;

617.02I(4) FCC standards;

- 617.02I(5) A.C. line noise;
- 617.02I(6) Static electricity; and
- 617.02I(7) Extreme temperature conditions.

617.03 The testing, examination, and analysis of lottery equipment may include entire dismantling of the equipment and may result in damage or destruction to one or more systems or components of the equipment. Once submitted, the lottery equipment may not be returned to the manufacturer-distributor unless otherwise authorized by the Department.

617.04 Upon the completion of the testing, examination, and analysis of the lottery equipment, the Department or its independent testing laboratory shall provide the manufacturer-distributor with a report containing the findings, conclusions, and results of the tests. The report may contain recommendations for modifications to bring the lottery equipment into compliance with statutory and regulatory requirements. Prior to approving any lottery equipment, the Department may require a field test of the equipment for a period of up to 60 days. The equipment shall be field tested in a location in Nebraska where an approved and licensed lottery activity is being conducted. During the field test, the manufacturer-distributor shall not make any modifications to the lottery equipment unless previously approved by the Department.

617.04A The Department may order the termination of the test period, if it is determined that the manufacturer-distributor or the lottery location has not complied with the terms and conditions of the field testing procedure or the lottery equipment fails to meet the performance standards contained in these regulations.

617.04B If the test period is terminated due to the lottery location's failure to comply with the terms and conditions of the field testing procedure, the Department may order the test to be conducted at another lottery location.

617.04C A manufacturer-distributor may object to the termination of test period by filing a written objection with the Department. The filing of an objection shall not stay the termination of the test. If the Department fails to order the resumption of the field test within 60 days of the written objection, the objection will be deemed denied. If the Department sustains the objection, the field test may be resumed under terms approved or required by the Department.

617.05 Final approval or disapproval of the lottery equipment shall be made by the Department either upon the completion of the testing, examination, and analysis of the equipment by the Department or its independent testing laboratory or upon the completion of the field test, if required. Such determination shall be in writing and state the reasons for any disapproval. A manufacturer-distributor may appeal a

disapproval determination of the Department provided such appeal is in writing and is filed with the Department within 30 days of the service of notice to the manufacturer-distributor of the Department's disapproval of the lottery equipment. The appeal shall set forth the basis for reconsideration of the disapproval including any applicable statutory or regulatory cites in support of reconsideration.

617.06 A manufacturer-distributor may not change the operational functions of previously approved lottery equipment for use in Nebraska unless the following conditions are met:

617.06A A request for modification to existing lottery equipment is made, on company letterhead, to the Department or its independent testing laboratory that contains information relating to the type of change, reason for change, and all documentation required in Reg-35-617.02 unless such documentation has not changed.

617.06A(1) Modifications to previously approved hardware shall include:

617.06A(1)(a) Identification of the individual items being submitted (including part number);

617.06A(1)(b) A complete set of schematics, diagrams, data sheets, etc., describing the modification along with the reason for the change(s) for any manufacturer-distributor designed and built component; and

617.06A(1)(c) The updated or new hardware, a description and the method of connection to the original system or hardware components.

617.06A(2) Modifications to previously approved software shall include a description of the software change(s) and modules affected, and new source code for the entire program, if applicable.

617.06B In emergency cases, when a change is deemed necessary to prevent cheating or malfunction, temporary verbal approval may be requested prior to submitting a formal request for approval of a modification to existing lottery equipment. Any temporary approval must be followed within 15 days by a formal written request noting that temporary approval was given and include all documentation required in Reg-35-617.02.

617.06C All regulatory requirements that apply to the initial approval of lottery equipment shall also apply to a request for approval of a modification to existing lottery equipment unless waived in writing by the Department. The Department may also require a field test of any modification to existing lottery equipment in the same manner as may be required for an initial approval of lottery equipment.

617.06D The Department may authorize a field test of modifications to previously approved lottery equipment in advance of formal testing by its independent testing laboratory to determine whether a proposed modification resolves a problem intended to be corrected by the modification. The Department shall specify in its authorization the location(s) to be included in the field test and the duration of the field test. Upon satisfactory completion of the field test, the modification shall be submitted to the independent testing laboratory for formal testing and approval.

617.07 All lottery equipment placed in a lottery location must conform to the exact specifications of the lottery equipment tested and approved by the Department. Prior to the installation of any lottery equipment in a lottery establishment, the manufacturer-distributor shall provide the Department the following:

617.07A The serial number(s) of the lottery equipment to be installed;

617.07B The model number(s) of the lottery equipment to be installed;

617.07C The location(s) of the lottery establishment(s) where the lottery equipment will be installed; and

617.07D With respect to software, the version and release number.

617.08 A manufacturer-distributor shall provide similar information for all associated lottery equipment installed at a lottery location even though such equipment may not be subject to testing and approval by the Department.

617.09 Any replacements of lottery equipment at a lottery location shall be communicated to the Department by the manufacturer-distributor or lottery operator. Verbal notice shall be given to the Department within 24 hours of the installation. Written confirmation shall be provided within ten days of the installation and include the information required in Reg-35-617.07 and an explanation of the reason(s) for replacement of the lottery equipment.

617.10 A manufacturer-distributor or its authorized service personnel shall not alter the operation of approved and installed lottery equipment and shall maintain the equipment in the manner and condition approved by the Department. The manufacturer-distributor or its authorized service personnel shall maintain a record of all nonroutine maintenance of the lottery equipment and any required replacement parts. This record may be requested by the Department at any time. For the purpose of this regulation, the definition of nonroutine maintenance in Reg-35-614.03 shall apply.

617.11 The Department shall have discretionary authority to conditionally approve lottery equipment subject to the following:

617.11A Final approval of the lottery equipment is contingent upon the satisfactory testing, examination, and analysis of the equipment as set forth in Reg-35-617.02.

617.11B Conditional or final approval may be withdrawn by the Department upon a determination that the lottery equipment does not conform to the statutory and regulatory requirements for lottery equipment and test criteria established by the Department, including new or revised requirements that differ from those in effect at the time conditional or final approval was granted.

617.11C Conditional approval may be granted only upon receipt by the Department or its independent testing laboratory of the information prescribed in Reg-35-617.02. No business other than a licensed manufacturer-distributor may request conditional approval of lottery equipment.

617.12 If the Department subsequently determines that lottery equipment previously granted conditional approval does not meet the statutory and regulatory requirements, the manufacturer-distributor shall immediately, upon receipt of the Department's notice of disapproval, remove the lottery equipment from any and all lottery locations wherein such equipment has been installed.

617.12A If new rules are adopted which cause previously approved or conditionally approved equipment to no longer be in compliance with statutory and regulatory requirements, the Department may allow up to 120 days for the manufacturer-distributor to modify the equipment and bring the equipment into compliance. Under these circumstances, the Department shall have discretionary authority to allow the continued use of the lottery equipment while such modifications are being made.

617.12A(1) Notwithstanding the requirements of Reg-35-617.12A, any lottery equipment which has been approved for use in Nebraska prior to the effective date of these regulations and which is no longer in compliance with the statutory and regulatory requirements for lottery equipment or the test criteria established by the Department may, with the approval of the Department, continue to be used until such time as a modification is otherwise required by the manufacturer-distributor. In conjunction with such modification, the manufacturer-distributor shall include all technical changes identified by the Department which are necessary in order for the lottery equipment to be compliant.

617.13 Technical Standards for Lottery Equipment.

617.13A Hardware Requirements.

617.13A(1) All electrical and mechanical parts and design principles shall follow acceptable

industrial codes and standards in both design and manufacture.

617.13A(2) Logic boards and software EPROMs must be in a locked or sealed area within the machine, or in a separate machine. No access to this area is allowed by individuals other than the manufacturer-distributor's service personnel, other service personnel authorized by the manufacturer-distributor, or as provided for in Reg-35-614.04. Any unauthorized tampering or entrance into the logic area is prohibited.

617.13A(3) All EPROMs must have unique serial numbers that may be used to identify the EPROM for approval and inspection purposes. All logic boards must have unique serial numbers or model numbers for approval or inspection purposes.

617.13A(4) A machine must have a nonremovable identification label externally attached to the machine which shall include the name of the manufacturer-distributor, the serial number of the machine, the model or make of the machine, and any other information required by the Department.

#### 617.13B Safety Requirements.

617.13B(1) Lottery equipment must not present a physical, mechanical, electrical, or fire hazard when used in its intended mode of operation. The device must be designed in such a manner that the operator or public is not exposed to any safety hazards.

#### 617.13C Machine Protection and Integrity.

617.13C(1) A surge protector that feeds all power to the equipment must be installed. A uninterruptible power supply (UPS) must also be installed to insure the retention of all game data during power fluctuations and loss. The UPS must be in a state of charge during normal operation of the equipment.

617.13C(2) The operation of the lottery equipment must be unaffected by influences from outside including, but not limited to, electro-magnetic interference, electro-static interference, and radio frequency interference.

617.13C(3) All computer functions and programs must be secured in a locked and protective housing.

617.13C(4) The design of the lottery equipment shall ensure that there are no readily accessible game function related points which would allow any input and that there is no access to input or output circuits unless it is necessary for the proper operation of the equipment. No switches or other controlling devices

may be added to the machine that would cause the machine to operate in a manner other than in which it is designed to play.

617.13C(5) The random number generator and random selection process must be impervious to influences from outside the device including, but not limited to, electro-magnetic interference, electro-static interference, and radio frequency interference. The lottery equipment must use appropriate communication protocols to protect the random number generator and random selection process from influence by associated equipment which is conducting data communications with the lottery equipment.

617.13C(5)(a) Lottery equipment which is used in a satellite configuration with on-line communications capability between the main location and satellite locations must include appropriate communication protocols to safeguard the integrity of the information transmitted between sites, prevent unauthorized interception and use of transmitted data, and access to the computer and computer software via electronic communications equipment. Encryption systems, message authentication, and network access control systems are methods of protecting transmitted data. An application for approval of lottery equipment shall include a complete, comprehensive, and technically accurate description and explanation in both technical and layman's terms of the manner in which the system communicates between the main location and the satellite locations.

617.13C(6) Lottery equipment must be capable of detecting and recording errors in the system such as a disk drive error or a communications problem including date and time of each occurrence. Lottery equipment must be capable of continuing the current game with all current game features after a machine malfunction or communication error is cleared and corrected.

#### 617.13D Software Requirements.

617.13D(1) The logic of the hardware or software may not interfere with the approved random number generator software.

617.13D(2) Machine programs shall be capable of detecting corruption and shall provide an error message due to failure of the program storage media and cause the machine to cease play until corrected.

617.13D(3) All programs residing in the equipment must be contained in a storage media which is not alterable through any use of the circuitry or programming of the machine itself.

#### 617.13E Retention of Game Data.

617.13E(1) Lottery equipment shall be capable of retaining the information required in Reg-35-613, 35-615, and 35-622. This data may be retained electronically or mechanically or any combination thereof.

617.13E(2) No lottery equipment shall have a mechanism whereby an error will cause the game data to automatically clear. Game data must be maintained at all times, regardless of whether the machine is being supplied with power.

617.13E(3) Game data must be stored in such a way as to prevent loss of the data when replacing parts or modules during normal maintenance.

617.13E(4) All keno systems shall incorporate the use of fault tolerant technology or an alternative method approved by the Department to insure the retention of game data in the event of hard drive failure or network failure.

#### 617.13F Random Number Generator.

617.13F(1) If number selection is by random number generator, each possible combination of numbers which produce winning or losing game outcomes must be available for random selection at the initiation of each game. The random selection process must not produce any patterns of game outcomes, or be dependent upon any previous number selections or game outcomes, the amount wagered, or upon the style or method of play. At a minimum, the random values produced by the random number generator shall pass the 95 percent confidence level for the following tests:

617.13F(2) Each number position must satisfy the 95 percent confidence level using the standard chi-squared analysis. "Chi-squared analysis" is the sum of the squares of the difference between the expected result and the observed result. "Number position" means first number drawn, second number drawn in sequential order, up to the 20th number drawn.

617.13F(3) Each number position does not produce a significant statistic with regard to producing patterns of occurrences. Each number position will be considered random if it meets the 95 percent confidence level with regard to the "runs test" or any similar pattern testing statistic. The "runs test" is a

mathematical statistic that determines the existence of recurring patterns within a set of data.

617.13F(4) Each number position is independently chosen without regard to any other number drawn within that game play. This test is the "correlation test." Each pair of number positions is considered random if the pair meets the 95 percent confidence level using standard correlation analysis.

617.13F(5) Each number position is independently chosen without reference to the same number position in the previous game. This test is the "serial correlation test." Each number position is considered random if it meets the 95 percent confidence level using the standard serial correlation analysis.

#### 617.13G Printer.

617.13G(1) The numbers that the player selects shall be displayed on a printed ticket. The ticket must display all of the information required in Reg-35-613.

617.13G(2) Printer mechanisms shall have a paper sensing device that upon sensing a "paper low" condition will allow the printer to finish printing the ticket and then prevent further ticket writing.

617.13G(3) A keno system must recognize a printer power loss occurrence and cease play until power has been restored to the printer and the printer is capable of producing a valid ticket.

617.13G(4) Printed game data or shift data must be printed in ink and on paper stock that will remain legible throughout the retention period required by the Department. The use of thermal printers is permissible subject to the same requirements for record retention.

#### 617.13H Keno Balls.

617.13H(1) If keno balls are used for number selection, two entire sets of the balls shall be submitted to the Department by the manufacturer-distributor for testing. All keno balls shall be essentially the same in size, shape, weight, balance, and all other characteristics so that at all times during the number selection process, each ball possesses the capacity for equal agitation with any other ball within the receptacle.

*(Sections 9-607, 9-613, 9-619, and 9-635, R.R.S. 1997. Section 9-620, R.S.Supp., 2004. November 13, 2005.)*

#### REG-35-618 SALES OUTLET LOCATIONS

618.01 Any individual, sole proprietorship, partnership, limited liability company, corporation, nonprofit organization, or

nonprofit corporation that has contracted with a lottery operator to allow a lottery to be conducted at their location on behalf of a county, city, or village must apply for and obtain a sales outlet location license from the Department. A sales outlet location license is required for a satellite location which is connected to the main location and an independent location running a separate lottery. This includes any business which only provides space to the county, city, village, or lottery operator for a satellite location or an independent location, even if the leased space is only a portion of the business location and is staffed by the county, city, village, or lottery operator.

618.01A In the case of a joint lottery conducted pursuant to an interlocal cooperation agreement in which each county, city, or village operates an independent game location, a sales outlet location license is required of each business location for the county, city, or village in which the independent game is located.

618.01B In the case of a joint lottery conducted pursuant to an interlocal cooperation agreement in which each county, city, or village operates a satellite location, a sales outlet location license is required of each business location for each county, city, or village included in the joint lottery activity.

618.01C If a lottery operator leases a portion of a business location to operate keno as a satellite location or an independent location, the business location must obtain a sales outlet location license. Notwithstanding the provisions of this regulation, any individual, sole proprietorship, partnership, limited liability company, corporation, nonprofit organization, or nonprofit corporation which leases space to a lottery operator to allow a lottery to be conducted at their location on behalf of a county, city, or village whose only business involvement at the location is a landlord and tenant relationship with the lottery operator is not required to apply for and obtain a sales outlet location license from the Department.

618.02 Although the lottery operator has overall responsibility for the daily operation of the lottery, many of the specific functions or tasks associated with the lottery are often performed by the sales outlet location. These functions or tasks may include, but are not limited to, maintenance of the lottery location, staffing, record keeping, conduct of the lottery, prize payments to winners, and providing or leasing space to the lottery operator, all as specified in the written agreement between the lottery operator and the sales outlet location.

618.02A A sales outlet location is selected by the lottery operator to conduct the lottery on behalf of the county, city, or village. A written contract commonly referred to as a site location agreement or location lease is executed by the lottery operator and the sales outlet location setting forth the obligations and responsibilities of both parties.

618.02B The sales outlet location must also be approved by the governing body of the county, city, or village in accordance with the county, city, or village's previously adopted sales outlet location qualification standards. The license is unique to the individuals involved in the location and the county, city, or village's approval is to be based on the individual owners and/or officers, not solely the address or trade name of the location.

618.02B(1) The county, city, or village shall provide a copy of the sales outlet location qualification standards to the Department within 30 days of their adoption. Should the standards be revised after initial adoption, a copy of the revised standards is to be provided the Department along with copies of the county, city, or village approval of each existing sales outlet location based on the newly adopted standards.

618.02B(2) The county, city, or village approval of each sales outlet location shall be provided to the Department by the county, city, or village within 30 days of such approval.

618.03 No individual, sole proprietorship, partnership, limited liability company, corporation, nonprofit association, or nonprofit corporation shall conduct a lottery as a sales outlet location without having first obtained a sales outlet location's license from the Department. Such license shall be applied for using the Nebraska Schedule II - County/City Sales Outlet Location Application, Form 50G. In addition to the information required on the application form, each applicant shall provide the following:

618.03A Two completed fingerprint cards for each individual who has an ownership interest, either directly or indirectly, in the applicant. If a sole proprietorship, by the individual owner and spouse. If a partnership, by each partner and spouse and any officer or director of the partnership. If a limited liability company, by each member and spouse. If a corporation, by each officer and spouse and each individual who owns 10 percent or more of the debt or equity of the corporation. If a nonprofit organization or nonprofit corporation, by the manager.

618.03A(1) Completion of the two fingerprint cards by a spouse may be waived if such individual has no proprietary interest, directly or indirectly, in the operation or profit derived from the activities of his or her spouse as a corporate stockholder, corporate debt holder, corporate officer, corporate director, limited liability company member, or partner of a sales outlet location. An Affidavit by Spouse for Waiver of Fingerprinting and/or Personal History Record for Charitable Gaming License Application must be completed, notarized, and submitted for each individual.

618.03A(2) The fingerprinting requirement for an applicant may be waived if the Nebraska Liquor Control Commission has received fingerprint reports on the applicant within the past two years of the filing date of the Schedule II or if the license issued by the Nebraska Liquor Control Commission has been continuously maintained since documented fingerprints were filed to obtain such license.

618.03A(3) The fingerprinting requirement shall be waived for any debt holder of the applicant which is a financial institution organized or chartered under the laws of Nebraska, any other state, or the United States relating to banks, savings institutions, trust companies, savings and loan associations, credit unions, and installment loan licensees, or similar associations organized under the laws of this state which are subject to supervision by the Department of Banking and Finance.

618.03A(4) Two sets of fingerprints on cards supplied by the Department and the required processing fees must be submitted to the Nebraska State Patrol.

618.03B A copy of the county, city, or village approval of the sales outlet location based on the adopted sales outlet location qualification standards.

618.03C A copy of the current contract or lease between the lottery operator and the sales outlet location.

618.04 The Department must be informed within 30 days after the licensee learns of any inaccuracies or makes any changes in the information supplied by the licensee in its most recent filing with the Department. Changes that will not require a new license to be issued can be reported by filing an amended application and identifying only the information to be changed. All requests for changes must be signed by an owner, partner, limited liability company member, corporate officer, or individual authorized by Power of Attorney on file with the Department and by a representative of the county, city, or village.

618.05 A sales outlet location is not considered licensed until such time it has physical possession of the printed license issued by the Department.

618.05A The current original sales outlet location's license(s) issued by the Department must be prominently posted at the licensed location. A reproduced copy of the license shall not be substituted for the original(s).

618.05A(1) A sales outlet location whose license has been lost, stolen, or destroyed must notify the Department as soon as possible. A duplicate license for the sales outlet location will be issued.

618.05A(2) A sales outlet location which is no longer under contract with the lottery operator or is no longer approved by

the county, city, or village for which it is licensed or which no longer desires to be licensed shall notify the Department, in writing, of its intention to cancel the license. Such notification must be accompanied by the original license. In the event that a sales outlet location's license is suspended, canceled, or revoked, the sales outlet shall surrender physical possession of its license immediately upon receipt of the order of suspension, cancellation or revocation. In the case of suspension, the Department shall return the license to the county, city, or village 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 County and City Lottery Act.

618.05A(3) If a licensee has successfully appealed an order of suspension, revocation, or cancellation, the Department shall return the license which had been surrendered to the Department.

618.06 All sales outlet location licenses shall expire on May 31 of every even-numbered year and may be renewed biennially.

618.06A Applications for renewal of a sales outlet location license shall be submitted to the Department on the prescribed form at least 60 days prior to the expiration date of the license.

618.07 A sales outlet location's license may not be transferred under any circumstance including change of ownership. If a change of ownership occurs, a new sales outlet location's license must be applied for and include a copy of the county, city, or village's approval of the new ownership of the sales outlet location and the new sales outlet location's contract with the lottery operator.

618.07A The following changes of ownership are to be reported by the county, city, or village, lottery operator, or sales outlet location when they occur:

618.07A(1) For a partnership, whenever a new partner is added to the partnership. If the same partnership continues in existence, an amended application is to be filed. Otherwise, a new application is to be submitted.

618.07A(2) For a limited liability company, whenever a new member is added to the limited liability company. If the same limited liability company continues in existence, an amended application is to be filed. Otherwise, a new application is to be submitted.

618.07A(3) For a corporation, whenever a change of ownership of shareholders or equity holders in the corporation results in any person becoming a holder directly or indirectly of 10 percent or more of any class of stock or equity interest in the corporation who did not hold such interest prior to the change in ownership and the same corporation continues in

existence, an amended application is to be filed. Otherwise, a new application is to be submitted.

618.07A(4) For a nonprofit organization or nonprofit corporation, when any changes are made in the manager or officers. Since the same nonprofit organization or nonprofit corporation continues in existence, an amended application is to be filed.

618.07B When a change of ownership of a business licensed as a sales outlet location is anticipated, the current owner of the sales outlet location may designate the party purchasing the business as his or her agent. In order to be designated as an agent, the following criteria must be satisfied:

618.07B(1) A Nebraska Schedule II - County/City Lottery Sales Outlet Location Application, Form 50G, must be on file with the Department;

618.07B(2) A Temporary Agency Agreement on a form prescribed by the Department must be filed with the Nebraska Schedule II;

618.07B(2)(a) The Temporary Agency Agreement must be approved by the Department and a copy returned to the sales outlet for posting with the current sales outlet license.

618.07B(2)(b) A Temporary Agency Agreement is not effective without the Department's approval.

618.07B(3) Throughout the duration of the temporary agency agreement, the designated agent may operate the lottery using the current sales outlet's license with the licensed sales outlet fully responsible to the county, city, or village and to the state for the proper operation of the lottery until such time as the new sales outlet location is licensed;

618.07B(4) Temporary agency agreements for sales outlet locations may not exceed 120 days;

618.07C The following are changes to a sales outlet location licensee that are to be reported promptly:

618.07C(1) For a sole proprietorship, the death of the owner or the owner's spouse, or the marriage or divorce of the owner.

618.07C(2) For a partnership, the death of one or more of the partners or partner's spouse, or the marriage or divorce of one or more of the partners.

618.07C(3) For a limited liability company, the death of one or more of the members or member's spouse, or the marriage or divorce of one or more of the members.

618.07C(4) For a corporation, the death of an officer or director, or the marriage or divorce of an existing officer or director of the corporation.

618.07C(5) For a nonprofit organization or nonprofit corporation, any change in manager, officers, or directors of the nonprofit.

618.07D To report these other changes, the licensee or licensee's representative is to provide:

618.07D(1) In the case of death, if applicable, a copy of the court appointment of the Personal Representative, executor, administrator, or trustee.

618.07D(1)(a) The Personal Representative, executor, administrator, or trustee appointment will be valid for a sales outlet location license for a period not to exceed the shorter of (1) the expiration of the existing sales outlet location license, (2) the expiration of the existing site location agreement or location lease, or (3) one year.

618.07D(1)(b) A revised expiration date may be requested in writing with adequate documentation to indicate why the ownership of the licensed business could not change hands within the specified period. The prior written approval of such revision by the Department is required.

618.07D(2) In the case of marriage, the spouse's name, social security number, address, and date of birth are to be provided with the applicable pair of fingerprint cards or the Affidavit by Spouse for Waiver of Fingerprinting and/or Personal History Record for Charitable Gaming License Application. If fingerprints are required, the fingerprint cards and the required processing fees must be submitted to the Nebraska State Patrol.

618.07D(3) In the case of divorce, a copy of the decree and property settlement agreement or other legal documentation showing the deletion of the spouse's name from the business holding the sales outlet location license.

618.08 A business licensed as a sales outlet location may apply for and obtain licenses to conduct other activities pursuant to the Nebraska Bingo Act and the Nebraska Pickle Card Lottery Act, subject to the statutory limitations and eligibility criteria of those acts. However, a business licensed as a sales outlet location may not hold a license as a manufacturer or distributor pursuant to the Nebraska Bingo Act or the Nebraska Pickle Card Lottery Act or as a manufacturer-distributor pursuant to the Nebraska County and City Lottery Act. No sole proprietor, partner in a partnership, member in a limited liability company, officer or director of a corporation, or individual with a substantial interest in the person which is applying for or holds a sales outlet location license shall have a substantial interest in any person licensed as a manufacturer or distributor of bingo equipment and supplies, as a manufacturer or distributor

of pickle card units and punchboards, or as a manufacturer-distributor of lottery equipment and supplies.

618.09 All purchases of lottery supplies in Nebraska are subject to the Nebraska sales or use tax. A sales outlet location which purchases lottery supplies from a manufacturer-distributor which is not required to collect the Nebraska sales or use tax must report and pay a use tax to the Department on all such purchases.

618.09A A sales outlet location may not use the sales tax-exempt status of a county, city, or village to avoid the payment of any applicable sales or use tax on the purchase of lottery supplies.

*(Section 77-2704, R.R.S. 2003. Section 9-619, R.R.S. 1997. Sections 9-606.01, 9-620, 9-642.01, and 77-2703, R.S.Supp., 2004. November 13, 2005.)*

### REG-35-619 LOTTERY WORKERS

619.01 Any individual who performs any duties that are within the definition of a lottery worker, must complete a Nebraska Schedule III - County/City Lottery Worker Application, Form 50G.

619.01A Individuals who are required to file a Nebraska Schedule III include, but are not limited to, the following:

619.01A(1) Any individual, except one who acts solely as a keno writer, who performs work directly related to the conduct of a lottery, even though the individual may not be an actual employee of the county, city, village, lottery operator, or sales outlet location;

619.01A(2) Any employee or agent of the county, city, or village who is involved with the record keeping of the lottery activity. Normally, this includes county, city, or village clerks and treasurers, as well as individuals who have administrative responsibilities for the lottery; and

619.01A(3) In the case of lottery operators and sales outlet locations, any individual with an ownership interest if the individual is involved in the day-to-day conduct of the lottery, except individuals acting solely as keno writers.

619.01B The following individuals are not required to file a Nebraska Schedule III:

619.01B(1) Individuals whose sole responsibilities are as keno writers;

619.01B(2) Individuals whose sole responsibilities relate to concession activities or the sale of pickle cards at the location;

619.01B(3) Individuals whose sole responsibilities are as custodial or maintenance personnel at the location;

619.01B(4) Individuals whose sole responsibilities are for security at the location if the security service is provided by a third-party professional security contractor; or

619.01B(5) Individuals with whom the county, city, or village contracts to provide bookkeeping, accounting, or auditing services. This includes outside individuals compiling information for tax returns or reports for the county/city lottery.

619.01C If an individual works or intends to work as a lottery worker for more than one county, city, or village lottery, a separate Nebraska Schedule III must be filed for each county, city, or village unless otherwise authorized by the Department.

619.01D An individual must be at least 19 years of age to be eligible for a lottery worker license.

619.02 A Nebraska Schedule III must be on file with the Department prior to any individual beginning his or her duties as a lottery worker. Once a Nebraska Schedule III is on file with the Department, the individual may begin performing duties as a lottery worker and is considered to be acting under a 120-day probationary license.

619.02A The Nebraska Schedule III will be considered on file with the Department when it has been received by the Department or, if mailed, when it is postmarked. The Nebraska Schedule III will also be considered on file when electronically transmitted to the Department, provided the physical application is received by the Department within 10 days after the date it was electronically transmitted.

619.02A(1) A Nebraska Schedule III that is electronically transmitted but not physically received by the Department within 10 days after the electronic transmission is not considered filed. The county, city, village, authorized representative, or lottery operator is responsible for confirming that the application was actually received by the Department within 10 days. If it was not received within 10 days, the lottery worker applicant must cease performing any duties for the lottery until a Nebraska Schedule III is received by the Department.

619.02A(2) If the tenth day falls on a Saturday, Sunday, or legal holiday, the time period expires on the next business day.

619.02B The Nebraska Schedule III will be considered properly completed if accurate and legible entries are made for all required fields and the required signatures are affixed.

619.02B(1) A governing official of the county, city, or village or an authorized representative of the county, city, or village as defined in Reg-35-600.02B must sign the Nebraska Schedule III, signifying that the

governing official or authorized representative has examined the completed Nebraska Schedule III and approved the Nebraska Schedule III for submission to the Department.

619.02B(2) All information requested on the Nebraska Schedule III must be properly completed.

619.02C An incomplete Nebraska Schedule III will be returned to the county, city, village, or authorized representative of the county, city, or village. If the Nebraska Schedule III is returned, the lottery worker applicant cannot perform any duties for the lottery until a properly completed Nebraska Schedule III is received by the Department.

619.03 In addition to the information required on the Nebraska Schedule III, an applicant who is designated as a keno manager or who has the authority to verify winning number selection by an electrically-operated blower machine must be fingerprinted for criminal background investigation purposes. Lottery workers licensed as of July 20, 2002 are not required to be fingerprinted as long as they remain actively licensed.

619.03A The fingerprinting requirement for an applicant may be waived if the Nebraska Liquor Control Commission has received fingerprint reports on the applicant within the two years preceding the filing date of the Nebraska Schedule III, or if the license issued by the Nebraska Liquor Control Commission has been continuously maintained since documented fingerprints were filed to obtain a license.

619.03B The applicant must promptly submit two sets of completed fingerprint cards and the required processing fees to the Department. Blank fingerprint cards are available from the Department.

619.03C The Department must receive the fingerprint reports from the Nebraska State Patrol prior to the expiration of the 120-day probationary license or the lottery worker's application will be denied.

619.04 If a lottery worker license applicant has: (a) been convicted of or forfeited bond upon a charge of, any felony within ten years preceding the date the Nebraska Schedule III is filed; (b) been convicted of or forfeited a bond upon a charge of any felony or misdemeanor involving fraud, theft, or any gambling activity at any time; (c) willfully failed to make required payments or reports; or (d) filed false reports with a governmental agency at any level; the applicant must furnish the Department the following information for each incident to the extent that it is available to the applicant:

619.04A The date and place each incident occurred;

619.04B The court case or docket number under which it is filed;

619.04C The original charge and ultimate disposition of the matter; and

619.04D A description of the events which are the subject of the incident.

619.05 If the Department determines that a false or incorrect response has been made on the Nebraska Schedule III to the questions regarding prior criminal activities, the applicant may be disqualified from being a lottery worker for falsifying information on the Nebraska Schedule III.

619.06 Once a Nebraska Schedule III has been filed with the Department, the applicant will be granted a probationary license to perform work directly related to the conduct of a lottery.

619.06A A probationary license is valid for a period of 120 days from the date the Nebraska Schedule III is filed with the Department, unless:

619.06A(1) The applicant is subsequently disqualified;

619.06A(2) The Department returns the Nebraska Schedule III because it is incomplete; or

619.06A(3) The license application is denied by the Department.

619.06B If a notice of disqualification or the notice of intent to deny a license has not been issued by the Department prior to the expiration of the probationary period, the applicant is considered licensed to perform work directly related to the conduct of a lottery

619.06B(1) Notice of the Department's intent to deny will be sent to the applicant, the county, city, or village, the lottery operator, and, if applicable, the sales outlet location. The individual may continue performing his or her duties for the lottery until the denial becomes final.

619.06B(2) Notice of an applicant's disqualification will be sent to the applicant, the county, city, or village, the lottery operator, and, if applicable, the sales outlet location. Upon receiving the notification of disqualification, the individual must cease working with the lottery immediately.

619.07 Every lottery worker licensee must keep the information on the Nebraska Schedule III filed with the Department current. All changes must be reported on a Nebraska Schedule III, marked "Report Changes", and signed by the lottery worker licensee and a governing official or authorized representative of the county, city, or village.

619.07A The report must be made within 30 days after the lottery worker licensee learns of any inaccuracies or has any changes in the information supplied by the lottery worker licensee in his or her most recent application filed with the Department. Reportable changes include, but are not limited to: a new surname; a new street or mailing address; new duties; any new conviction; bond forfeiture; guilty plea; or nolo contendere plea to any felony or to any felony or misdemeanor involving fraud, theft, or any gambling activity; willful failure to make

required payments or reports; or filing false reports to a governmental agency at any level.

619.07B If an individual licensed as a lottery worker is no longer working for the county, city, village, or lottery operator for which the license was obtained, or for any sales outlet location with which the county, city, village, or lottery operator contracts, the license is no longer valid. This may be reported to the Department by the county, city, village, or lottery operator on a Nebraska Schedule III marked "Inactive." The signature of the lottery worker licensee is not required.

619.07B(1) Seasonal, periodic, or emergency workers may maintain a valid license although not actively working on a regular basis. Once it is known that an individual will not return to work, the Nebraska Schedule III marked "Inactive" may be filed.

619.08 All lottery worker licenses expire on May 31 of every odd-numbered year and may be renewed biennially.

619.08A Applications for renewal of a lottery worker license must be submitted to the Department electronically or on the Nebraska Schedule III at least 60 days prior to the expiration date of the license.

619.08B A lottery worker's license is not transferrable.

619.09 An individual acting as a keno writer or licensed as a lottery worker under the Nebraska County and City Lottery Act cannot be connected with or interested in, directly or indirectly, any individual, sole proprietorship, partnership, limited liability company, corporation, or other party licensed as a distributor, manufacturer, or manufacturer-distributor under Neb. Rev. Stat. §§ 9-255.07, 9-255.09, 9-330, 9-332, or 9-632. (*Neb. Rev. Stat. §§ 9-1,104, 9-603, 9-603.02, 9-605.01, 9-606.01, 9-606.02, 9-615.01, 9-619, 9-620, 9-622, 9-623, 9-631, 9-631.01, and 9-646. December 27, 2015.*)

#### REG-35-620 PRORATION AND REFUND OF LICENSE FEES

620.01 The fees paid pursuant to the Nebraska County and City Lottery Act for any license issued to a county, city, village, or lottery operator 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:

620.01A If a new application for a county, city, village, or lottery operator license is received by the Department for a license which will become effective on or after June 1 of the second year of the biennial licensing period, the applicable license fee shall be one-half of the biennial fee.

620.01B If a new application for a county, city, village, or lottery operator license is received by the Department for a license which will become effective prior to June 1 of the second year of the biennial licensing period, no proration of the license fee shall be allowed.

620.01C In the event a license application for a county, city, village, or lottery operator 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 June 1 of the second year of the biennial licensing period.

620.01D In the event a license application for a county, city, village, or lottery operator 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.

620.02 The fees paid pursuant to the Nebraska County and City Lottery Act for any license issued to a manufacturer-distributor 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:

620.02A If a new application for a manufacturer-distributor license 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.

620.02B If a new application for a manufacturer-distributor license 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.

620.02C In the event a license application for a manufacturer-distributor 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.

620.02D In the event a license application for a manufacturer-distributor 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.

620.02E The Department may apply the portion of any manufacturer-distributor's license fee to be refunded to any amount owed by the licensee or applicant with respect to a background investigation or facility inspection conducted by the Department.

620.03 No license fee paid pursuant to the Nebraska County and City Lottery Act may be refunded for any portion of the licensing period in which a license was not used unless otherwise authorized by the Department.

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

*(Sections 9-602, 9-603.01, 9-604.01, 9-614, 9-616, 9-617, 9-618, 9-619, 9-630, and 9-632, R.R.S. 1997. Sections 9-603, 9-606.01, 9-620, and 9-631, R.S.Supp., 2002. November 12, 2002.)*

#### REG-35-621 AUTOMATED BALL DRAW SYSTEM

621.01 For the purposes of this regulation, the following definitions apply:

621.01A Automated ball draw system means a mechanical and electronic system consisting of machine readable keno balls, an electronic blower device, ball calling unit, glass bowl, control unit, and vision system which:

621.01A(1) Selects the winning numbers for the keno game after the keno operator informs the keno system to begin a new game;

621.01A(2) Reads the number of the keno ball by use of the vision system; and

621.01A(3) Electronically transmits the number to the keno system as if the keno operator had manually entered the number into the system after confirmation by the vision system of the ball number read.

621.01B No Read condition means the automated ball draw system is unable to read the number of the keno ball.

621.01C Misread condition means the automated ball draw system reads the number of the keno ball incorrectly. The number of the ball selected as it appears in the ball calling unit is not the same as the number of the ball transmitted electronically to the keno system.

621.01D Keno management personnel means management or administrative personnel of the lottery operator other than an on-site shift manager or shift supervisor in charge of the daily operation of the keno game.

621.01E Selected ball means the keno ball selected by the automated ball draw system for a particular wheel position in a particular game. A keno ball is selected when the number of the ball has been electronically transmitted to and recorded by the keno system and the wheel has advanced to the next empty position.

621.02 An automated ball draw system and related keno system software may be sold, leased, rented, or otherwise provided in Nebraska only by a licensed manufacturer-distributor of lottery equipment. Unless otherwise authorized by the Department, no automated ball draw system and related keno system software may be sold, leased, rented, or otherwise provided

in this state for use in a keno lottery conducted pursuant to the Nebraska County and City Lottery Act unless and until the automated ball draw system and related keno system software has been approved by the Department. Approval is based on conformance with the written requirements of this regulation and any other test criteria established by the Department for the testing and evaluation of these types of systems.

621.03 A licensed manufacturer-distributor seeking approval of an automated ball draw system and related keno system software must adhere to the requirements of County and City Lottery Reg-35-617 relating to the submission of lottery equipment for testing and approval.

621.04 The vision system consisting of a computer, monitor, and camera may be used only for system set up, monitoring of system performance, and system adjustments and may not perform any functions related to the conduct of the keno lottery except for reading the numbers of the keno balls and electronic transmission of the numbers read either directly or through an approved interface unit to a keno system approved for use in Nebraska.

621.04A The vision system may be maintained only by the manufacturer-distributor of the automated ball draw system or its authorized representative, and operated only by the keno manager on duty.

621.04B The camera which reads the numbers of the keno balls must be secured in a locked box or by other means approved by the Department and accessed solely for system set up, adjustments, and required system maintenance by an authorized representative of the licensed manufacturer-distributor of the automated ball draw system or an authorized representative of the lottery operator or sponsoring county, city, or village. The key for a locked box arrangement must be secured by management personnel when not in use.

621.04C The keno balls used in conjunction with the automated ball draw system must be supplied by the licensed manufacturer-distributor of the automated ball draw system and approved for use by the Department. The keno balls may be supplied by another licensed manufacturer-distributor of lottery equipment if the keno balls meet the specifications of the licensed manufacturer-distributor of the automated ball draw system and have been approved for use by the Department.

621.05 In addition to the technical standards for lottery equipment prescribed in County and City Lottery Reg-35-617.13, all keno systems which communicate directly or through an approved interface unit with an automated ball draw system must include the following characteristics:

621.05A The use of an automated ball draw system for winning number selection must be an option in the system configuration menu which can be enabled only by the

licensed manufacturer-distributor of the keno system, its authorized representative, or keno management personnel with appropriate password authorization.

621.05B All access to the system configuration menu to enable or disable the automated ball draw system must be recorded on the system exception log.

621.05C When the blower is activated on the automated ball draw system, it must send a message to the keno system and receive an acknowledgment which is recorded on the transaction log or system exception log. The transaction log must also reflect that winning number selection for the game was performed by an automated ball draw system.

621.05D All numbers selected must be sent to the keno system and recorded on the transaction log for the current game number. If there are not any No Read conditions detected during the winning number selection process, the keno system must verify that no two numbers are the same. If 20 unique numbers are reported, the system records the draw as official and calculates the game results in the same manner as any other method of winning number selection.

621.05E If a No Read condition occurs during the winning number selection process or duplicate numbers are supplied to the system, the system must alert the operator of the condition and require the operator to intervene and make the appropriate corrections to the draw before the game is declared official. All No Read conditions and duplicate number occurrences which require operator intervention must be recorded on the transaction log or system exception log and summarized in an end of day report. The system must be capable of maintaining a cumulative record of these occurrences for periodic audit purposes;

621.05F Operator intervention to correct a No Read condition may only be performed with authorized password access and is limited to keno managers.

621.05G If operator intervention is required to correct a No Read condition, only the numbers not read or duplicate numbers can be changed. The keno system may not allow valid numbers to be changed. All corrections performed by the keno manager must be recorded on the transaction log or system exception log reflecting the ball position not read, the ball number entered, and the user identification number of the individual who made the change; for example, "Ball position 4 manually entered as number 36 by 999."

621.05H The edit ball draw feature of the keno system must be disabled when using an automated ball draw system for winning number selection.

621.05I If the automated ball draw system malfunctions due to component failure prior to the completion of the draw, the ball draw is invalid and the game must be redrawn after the malfunction has been remedied. All these occurrences must be recorded on the transaction log or system exception log with a notation that the game was redrawn. The operator may initiate a redraw of a game only with authorized password access by the keno manager.

621.05J If the keno system powers down or otherwise fails prior to the completion of the draw, the automated ball draw system must continue to send the numbers selected to the keno system until the keno system acknowledges receipt of the information. The keno system must be capable of resuming the winning number selection process from the point when the power went down or the system failed. The keno system must be equipped with an uninterrupted power source (UPS) to minimize the occurrence of power fluctuations or power loss. The UPS must meet the minimum specifications recommended by the licensed manufacturer-distributor of the keno system and must be of sufficient run time to enable the completion of the ball draw process during power fluctuations or power losses of short duration.

621.05K If the automated ball draw system powers down or otherwise fails prior to the completion of the draw and it drops all or any of the balls previously selected, the ball draw is invalid and the game must be redrawn after power has been restored to the system or the system is rendered operable again. For the operator to initiate a redraw of a game authorized password access by the keno manager is required. If the system is designed so that none of the balls previously selected are dropped, the ball draw can resume from the point when the power down or system failure occurred. All automated ball draw system interruptions must be recorded on the transaction log or system exception log. The automated ball draw system must be equipped with an UPS to minimize the occurrence of power fluctuations or power loss. The UPS must meet the minimum specifications recommended by the licensed manufacturer-distributor of the automated ball draw system and be of sufficient run time to enable the completion of the ball draw process during power fluctuations or power losses of short duration.

621.06 When winning numbers are selected using an automated ball draw system, number selection and verification must be conducted in the following manner:

621.06A After the keno manager informs the keno system to begin a new game, the ball numbers must be randomly selected by the automated ball draw system and electronically transmitted to the keno system either directly or through an approved interface unit.

621.06B Only one individual must be on duty when winning number selection is performed by use of an automated ball draw system. However, this individual must have at least keno manager responsibility.

621.06C Cameras must be used to videotape or digitally record the following prior to, during, and after calling a game, respectively:

621.06C(1) Empty ball calling unit;

621.06C(2) Date and time;

621.06C(3) Game number;

621.06C(4) Ball calling unit throat;

621.06C(5) The entire wheel and all ball numbers selected or each wheel position and each individual ball number selected; and

621.06C(6) The immediate work area where the automated ball draw system is located.

621.06D The videotape or the digital recording of the ball calling unit throat and each occupied wheel position must provide a legible identification of the numbers on the balls drawn. If a split image screen is used to accomplish the required views, each track must be capable of independent play in a full screen format.

621.06E If the game number can be determined by comparing the date and time display on the videotape or the digital recording to the date and time of the game recorded on the keno system transaction log the game number need not be videotaped or digitally recorded.

621.06F Videotapes or digital recordings must be retained for at least three months or until the keno compliance procedures are completed, whichever is later.

621.06G All security camera systems used in conjunction with an automated ball draw system must be inspected and approved by the Department prior to the use of the automated ball draw system.

621.06H The automated ball draw system must be configured by the licensed manufacturer-distributor of the system or by the licensed manufacturer-distributor of the keno system to render it inoperable when the video or digital recording device malfunctions or the video or digital recording device is out of recording capacity . These safeguards must be inspected and approved by the Department prior to the use of the automated ball draw system.

621.06I If a No Read condition occurs during the winning number selection process or duplicate numbers are supplied to the system, the keno system will alert the

individual on duty and he or she, or another keno manager, must access the system with appropriate password authorization to make the appropriate corrections to the draw before the game is declared official. The individual on duty, or another keno manager, must determine the corrections to be made by visual observation of the wheel positions in the ball calling unit.

621.06J All No Read conditions and duplicate number occurrences which required operator intervention to correct must be reviewed by keno management personnel daily to insure that the corrections made were appropriate. This review may not be performed by the individuals on duty for the day or time being evaluated. This review must be accomplished by reviewing the video or digital recording of the applicable game's draw and determining that the corrections made were appropriate. Any discrepancies noted must be communicated immediately to the Department and the sponsoring county, city, or village. Telephone, fax, e-mail, or written communications are acceptable. This review may be performed at a location other than the location where the ball draw occurred. A written record of the daily review must be maintained by keno management personnel and include the game numbers reviewed, the results of the review, and the signatures of the individuals who performed the review.

621.06K If a Misread condition is detected during or after the completion of the draw but prior to closing the next game, the Department and the sponsoring county, city, or village must be notified immediately of the occurrence by telephone. The Department will determine the corrective action to be taken.

621.06L If the automated ball draw system malfunctions due to component failure prior to the completion of the draw, the ball draw is invalid and the game must be redrawn after the malfunction has been remedied. The keno manager must announce to players at the main location that a problem has been encountered during the ball draw and provide players the opportunity to request a refund of any single race tickets they have purchased for that game. Players with active multirace tickets may quit the race, be paid any accumulated winnings, and be refunded the amount wagered for games not played. All these occurrences must be recorded on the transaction log or system exception log with a notation that the game was redrawn. The keno manager may initiate a redraw of a game only after the problem has been corrected and all requested refunds and accumulated winnings on multirace tickets have been paid.

621.06L(1) If the problem which caused the failure of the automated ball draw system cannot be immediately remedied, the keno manager must

announce to players at the main location that a problem has been encountered during the ball draw and provide players the opportunity to request a refund of any single race tickets they have purchased for that game. Players with active multirace tickets may quit the race, be paid any accumulated winnings, and be refunded the amount wagered for games not played. The keno game may be resumed with the approval of the sponsoring county, city, or village with an alternative method of winning number selection, either random number generator or manual ball draw. This circumstance is an emergency situation which must be reported to the Department within 24 hours of its occurrence. The change in the method of winning number selection must be performed in the system configuration menu by the licensed manufacturer-distributor of the keno system, its authorized representative, or keno management personnel with appropriate password authorization and must be recorded on the system exception log.

621.06L(2) Once the problem with the automated ball draw system has been corrected, the keno game may resume using the automated ball draw system. The automated ball draw method of winning number selection will be reactivated in the manner prescribed in this regulation.

621.06M If the automated ball draw system powers down prior to the completion of the draw and it drops all or any of the balls previously selected, the ball draw is invalid and the game must be redrawn after power has been restored to the system. The keno manager must announce to players at the main location that a problem has been encountered during the ball draw and provide players the opportunity to request a refund of any single race tickets they have purchased for that game. Players with active multirace tickets may quit the race, be paid any accumulated winnings, and be refunded the amount wagered for games not played. All these occurrences must be recorded on the transaction log or system exception log with a notation that the game was redrawn. The keno manager may initiate a redraw of a game only after the problem has been corrected and all requested refunds and accumulated winnings on multirace tickets have been paid. If the system is designed so that none of the balls previously selected are dropped, the ball draw can resume from the point when the power down or system failure occurred.

621.06N If a ball splits in half during a ball draw selection process and one-half of the ball is selected or both halves are selected, the ball draw is invalid and the game must be redrawn after the damaged ball has been replaced.

The keno manager must announce to players at the main location that a problem has been encountered during the ball draw and provide players the opportunity to request a refund of any single race tickets they have purchased for that game. Players with active multirace tickets may quit the race, be paid any accumulated winnings, and be refunded the amount wagered for games not played. The keno manager may initiate a redraw of a game only after the problem has been corrected and all requested refunds and accumulated winnings on multirace tickets have been paid. All these occurrences must be recorded on the transaction log or system exception log with a notation that the game was redrawn.

621.06O All winning ticket verifications must be performed in accordance with the requirements of County and City Lottery Reg-35-613.06.

621.06P A county, city, village, or lottery operator using an automated ball draw system for winning number selection may not deviate from the operational procedures in this regulation unless otherwise authorized by the Department based upon a written request from the county, city, village, or lottery operator describing the alternative procedures. A request made by a lottery operator must have the concurrence of the county, city, or village prior to submission to the Department.

621.07 To minimize the occurrence of No Read and Misread conditions, the keno manager:

621.07A Must inspect all keno balls for cleanliness and defects prior to use at the beginning of each day. Cracked balls and any balls on which the optical coding or numbers have been worn off must be replaced. The keno balls must be waxed periodically according to directions provided by the licensed manufacturer-distributor of the automated ball draw system. Back-up keno ball inventories must be maintained in a locked storage cabinet to prevent unauthorized access.

621.07B Must inspect and clean the ball calling unit periodically according to directions provided by the manufacturer-distributor of the automated ball draw system.

621.07C Must clean the glass lens on the camera inside the ball calling unit periodically according to directions provided by the manufacturer-distributor of the automated ball draw system.

621.08 A county, city, village, or lottery operator using an automated ball draw system for winning number selection must adhere to all other requirements of County and City Lottery Reg-35-614 relating to the maintenance of lottery equipment.

*(Sections 9-606.02, 9-607, 9-613, 9-619, 9-620, 9-635, and 9-640, R.R.S. 2007. November 6, 2010.)*

REG-35-622 RECORD KEEPING AND REPORTING  
REQUIREMENTS - KENO LOTTERY

622.01 In the case of a keno lottery, unless otherwise stated in these regulations, records shall be retained and disposed of by the county, city, or village as provided for in Schedule 59 - County/City Lottery Records approved by the Records Management Division of the Secretary of State's office.

622.02 In the case of a keno lottery conducted by a county, city, or village, the following information shall be reported to the Department on a quarterly basis:

622.02A The gross proceeds of the keno lottery for the reporting quarter;

622.02B The value of prizes paid for the reporting quarter;

622.02C Lottery operator commission(s) paid or incurred by the county, city, or village for the reporting quarter;

622.02D State lottery taxes paid or incurred by the county, city, or village for the reporting quarter;

622.02E State license fees paid or incurred by the county, city, or village for the reporting quarter;

622.02F Audit and legal expenses as defined in Neb. Rev. Stat. § 9-629(4) paid or incurred by the county, city, or village for the reporting quarter;

622.02G An itemized listing of all other expenses paid or incurred by the county, city, or village in the operation of the keno lottery for the reporting quarter (not the lottery operator's expenses); and

622.02H An itemized listing of disbursements made by the county, city, or village for community betterment purposes for the reporting quarter.

622.02I The report shall be prepared on a form prescribed by the Department and accompany the quarterly tax return prescribed in Neb. Rev. Stat. § 9-648 of the Nebraska County and City Lottery Act.

622.02I(1) A county, city, or village may submit a written request to the Department to obtain authorization to deviate from the quarterly report format prescribed in this regulation. Such request shall include a description of the alternative format proposed.

622.03 In the case of a keno lottery, the county, city, or village shall:

622.03A Ensure that adequate documentation of all pertinent keno information is generated by the keno system and that such documentation is restricted to authorized personnel. This documentation shall include, but not be limited to:

622.03A(1) Ticket information including date, ticket serial number, conditioning of the ticket, writer station

number, game number, and amount of wager;

622.03A(2) Prize payout information including date, time, ticket serial number, amount, etc.;

622.03A(3) Game information including game number, ball draw, date and time, etc.;

622.03A(4) Daily summary information including write (handle), wins, wins paid, voids, net handle;

622.03A(5) System exception information including manual voids, late pays, pays not authorized by the keno system, and appropriate system parameter information (changes in pay tables, ball draw edits, unauthorized access, etc.); and

622.03A(6) Employee duty list which includes employee name, employee user identification number or personal identification number, and authorized system functions.

622.03B Ensure that records are maintained which include write (handle), wins, wins paid, voids, and net handle by individual writer and writer station for each shift;

622.03C Ensure that records are maintained which include at a minimum write (handle), wins, wins paid, voids, and net handle for:

622.03C(1) Each shift (if applicable);

622.03C(2) Each day;

622.03C(3) Month-to-date; and

622.03C(4) Year-to-date;

622.03D Ensure that management from both the county, city, or village and the lottery operator review on a monthly basis cash overages or shortages in excess of \$25.00 per keno writer per shift/day and investigate and notify the Department immediately of any such overages or shortages which are not attributable to accounting or system errors and warrant further investigation by the Department. Such investigations shall be documented and maintained for inspection by the Department; and

622.03E Ensure that the gross proceeds of the lottery less prizes paid in cash are deposited into a separate bank account of the county, city, village, lottery operator or sales outlet location within a commercially reasonable time frame. The county, city, or village shall notify the Department immediately of any instances of noncompliance with this requirement.

622.03E(1) In determining whether a deposit is made within a commercially reasonable time frame, consideration shall be given to the proximity of the financial institution where such bank account is maintained. If the financial institution is located in

the same community where the lottery is conducted, a commercially reasonable time frame for a deposit to be made is within three business days of the date such amount was realized. If the financial institution is not located in the same community, a commercially reasonable time frame for a deposit to be made is within five business days of the date such amount was realized.

622.04 In the case of a keno lottery, each county, city, or village shall file with the Department an annual report of its keno lottery activity. The annual report shall be on a form prescribed by the Department unless otherwise authorized by the Department. A county, city, or village may submit a written request to the Department to obtain authorization to deviate from the annual report format prescribed in this regulation. Such request shall include a description of the alternative format proposed.

622.04A The annual report shall cover the fiscal year of the county, city, or village and be filed with the Department within 90 days of the end of the period covered by the report. In the event a county, city, or village cancels its license or allows such license to expire prior to the end of the reporting period, a final report shall be filed with the Department within 90 days of the date the license was canceled or expired. The annual report shall include at a minimum the following information:

622.04A(1) The gross proceeds of the keno lottery including receipts from any required admission costs and the retail value of any free play coupons accepted or redeemed;

622.04A(2) The total value of prizes paid;

622.04A(3) Lottery operator commissions, audit and legal expenses, and any other disbursements or expenses incurred by the county, city, or village relating to the operation of the lottery;

622.04A(4) State lottery taxes, federal wagering excise taxes, and state license fees paid or incurred;

622.04A(5) A summary of each keno operations bank account maintained by the lottery operator for lottery proceeds including the name and complete address of the financial institution where such account is maintained, the account number, the beginning and ending account balances for the reporting period, total deposits to the account and disbursements made from the account during the reporting period, and total interest earned during the reporting period.

622.04A(5)(a) The keno operations bank account information shall also include:

622.04A(5)(a)(i) The amount of cash on hand or deposits in transit as of the beginning of the reporting period;

622.04A(5)(a)(ii) The amount of cash on hand or deposits in transit as of the end of the reporting period;

622.04A(5)(a)(iii) Prizes paid by check and withdrawals from the keno operations bank account for keno manager or keno writer bank fills made during the reporting period;

622.04A(5)(a)(iv) The balance in the prize reserve account as of the end of the reporting period;

622.04A(5)(a)(v) The balance in the community betterment account as of the end of the reporting period; and

622.04A(5)(a)(vi) Deposits made to the keno operations bank account other than daily lottery proceeds (i.e., transfers from the prize reserve account, community betterment account, or any other account).

622.04A(6) The annual report shall be signed by the preparer and a governing official of the county, city, or village and made available for public inspection by the residents of the county, city, or village.

622.05 In the case of a keno lottery conducted by a county, city, or village, the results of the performance of the annual compliance procedures shall be submitted to the Department as prescribed in Reg-35-616.

622.06 Each licensed manufacturer-distributor shall maintain complete and detailed records relating to the quantity and types of lottery equipment or supplies sold to any county, city, village, licensed lottery operator, or licensed manufacturer-distributor including, but not limited to:

622.06A The name and address of any county, city, village, licensed lottery operator, licensed manufacturer-distributor, or any other purchaser located in Nebraska purchasing lottery equipment or supplies;

622.06B Relative to each sale, the quantity and type of lottery equipment or supplies sold; and

622.06C Any other information concerning lottery equipment or supplies sold which the Department deems necessary.

*(Sections 9-619, 9-638, 9-641, and 9-650, R.R.S. 1997. Section 9-620, R.S. Supp., 2004. November 13, 2005.)*