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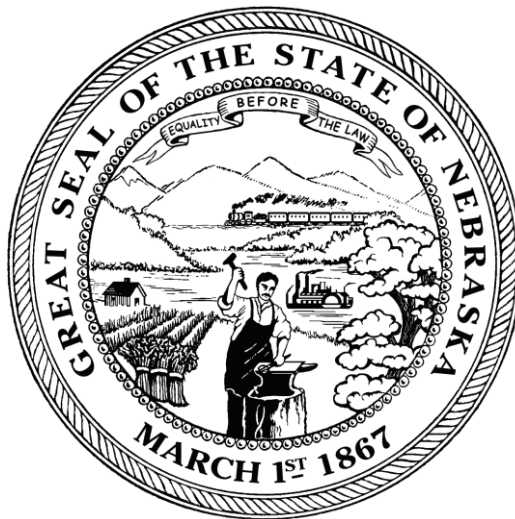


REVISED STATUTES OF NEBRASKA

2019 SUPPLEMENT

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BY THE
REVISOR OF STATUTES

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Revisor of Statutes

For the benefit of the
State of Nebraska

CHAPTER 53

LIQUORS

Article.

1. Nebraska Liquor Control Act.
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ARTICLE 1

NEBRASKA LIQUOR CONTROL ACT

(a) GENERAL PROVISIONS

Section

- 53-103.13. Farm winery, defined.
- (d) LICENSES; ISSUANCE AND REVOCATION
- 53-123.11. Farm winery license; rights of licensee; removal of unsealed bottle of wine; conditions.
- 53-123.13. Farm winery; waiver of requirement; when; conditions.
- 53-124.11. Special designated license; issuance; procedure; fee.
- 53-124.13. Catering license; special designated license; application; procedure; proceeds; violation; penalty.
- (i) PROHIBITED ACTS
- 53-168.06. General prohibition; exceptions.
- (k) PROSECUTION AND ENFORCEMENT
- 53-1,121. Law enforcement officer; intoxicated person; removal; civil protective custody; procedure; Department of Health and Human Services; limit on licensure actions.

(a) GENERAL PROVISIONS

53-103.13 Farm winery, defined.

Farm winery means any enterprise which produces and sells wines produced from grapes, other fruit, or other suitable agricultural products of which at least sixty percent of the finished product is grown in this state or which meets the requirements of section 53-123.13.

Source: Laws 2010, LB861, § 21; Laws 2019, LB592, § 1.
Effective date September 1, 2019.

(d) LICENSES; ISSUANCE AND REVOCATION

53-123.11 Farm winery license; rights of licensee; removal of unsealed bottle of wine; conditions.

(1) A farm winery license shall entitle the holder to:

(a) Sell wines produced at the farm winery onsite at wholesale and retail and to sell wines produced at the farm winery at off-premises sites holding the appropriate retail license;

(b) Sell wines produced at the farm winery at retail for consumption on the premises;

(c) Permit a customer to remove one unsealed bottle of wine for consumption off the premises. The licensee or his or her agent shall (i) securely reseal such bottle and place the bottle in a bag designed so that it is visibly apparent that the resealed bottle of wine has not been opened or tampered with and (ii) provide a dated receipt to the customer and attach to such bag a copy of the dated receipt for the resealed bottle of wine. If the resealed bottle of wine is transported in a motor vehicle, it must be placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk;

(d) Ship wines produced at the farm winery by common carrier and sold at retail to recipients in and outside the State of Nebraska, if the output of such farm winery for each calendar year as reported to the commission by December 31 of each year does not exceed thirty thousand gallons. In the event such amount exceeds thirty thousand gallons, the farm winery shall be required to use a licensed wholesaler to distribute its wines for the following calendar year, except that this requirement shall not apply to wines produced and sold onsite at the farm winery pursuant to subdivision (1)(a) of this section;

(e) Allow sampling and sale of the wine at the farm winery and at four branch outlets in the state in reasonable amounts;

(f) Sell wines produced at the farm winery to other Nebraska farm winery licensees, in bulk, bottled, labeled, or unlabeled, in accordance with 27 C.F.R. 24.308, 27 C.F.R. 24.309, and 27 C.F.R. 24.314, as such regulations existed on January 1, 2008;

(g) Purchase distilled spirits from licensed microdistilleries in Nebraska, in bulk or bottled, made entirely from Nebraska-licensed farm winery wine to be used in the production of fortified wine at the purchasing licensed farm winery; and

(h) Store and warehouse products produced at the farm winery in a designated, secure, offsite storage facility if the holder of the farm winery license notifies the commission of the location of the facility and maintains, at the farm winery and at the facility, a separate perpetual inventory of the product stored at the facility. Consumption of alcoholic liquor at the facility is strictly prohibited.

(2) No farm winery shall manufacture wine in excess of fifty thousand gallons per year.

(3) A farm winery may manufacture and sell hard cider on its licensed premises. A farm winery shall not otherwise distribute the hard cider it manufactures except by sale to a wholesaler licensed under the Nebraska Liquor Control Act.

(4) A holder of a farm winery license may obtain a special designated license pursuant to section 53-124.11.

(5) A holder of a farm winery license may obtain an annual catering license pursuant to section 53-124.12.

Source: Laws 1985, LB 279, § 5; Laws 1991, LB 344, § 23; Laws 1997, LB 479, § 1; Laws 2003, LB 536, § 3; Laws 2006, LB 562, § 3;

Laws 2008, LB1103, § 2; Laws 2010, LB861, § 52; Laws 2015, LB330, § 12; Laws 2019, LB592, § 2.

Effective date September 1, 2019.

53-123.13 Farm winery; waiver of requirement; when; conditions.

(1) If the operator of a farm winery is unable to produce or purchase sixty percent of the grapes, fruit, or other suitable agricultural products used in the farm winery from within the state due to natural disaster which causes substantial loss to the Nebraska-grown crop, such operator may petition the commission to waive the sixty-percent requirement prescribed in section 53-103.13 for one year.

(2) It shall be within the discretion of the commission to waive the sixty-percent requirement taking into consideration the availability of products used in farm wineries in this area and the ability of such operator to produce wine from products that are abundant within the state.

(3) If the operator of a farm winery is granted a waiver, any product purchased as concentrated juice from grapes or other fruits from outside of Nebraska, when reconstituted from concentrate, may not exceed in total volume along with other products purchased the total percentage allowed by the waiver.

(4) Any product purchased under the waiver or as part of the forty percent of allowable product purchased that is not Nebraska-grown for the production of wine shall not exceed the forty percent volume allowed under state law if made from concentrated grapes or other fruit, when reconstituted. The concentrate shall not be reduced to less than twenty-two degrees Brix in accordance with 27 C.F.R. 24.180.

Source: Laws 1985, LB 279, § 6; Laws 1986, LB 871, § 2; Laws 1989, LB 441, § 5; Laws 1991, LB 344, § 24; Laws 1994, LB 859, § 5; Laws 2004, LB 485, § 13; Laws 2008, LB1103, § 3; Laws 2010, LB861, § 54; Laws 2019, LB592, § 3.

Effective date September 1, 2019.

53-124.11 Special designated license; issuance; procedure; fee.

(1) The commission may issue a special designated license for sale or consumption of alcoholic liquor at a designated location to a retail licensee, a craft brewery licensee, a microdistillery licensee, a farm winery licensee, the holder of a manufacturer's license issued pursuant to subsection (2) of section 53-123.01, a municipal corporation, a fine arts museum incorporated as a nonprofit corporation, a religious nonprofit corporation which has been exempted from the payment of federal income taxes, a political organization which has been exempted from the payment of federal income taxes, or any other nonprofit corporation the purpose of which is fraternal, charitable, or public service and which has been exempted from the payment of federal income taxes, under conditions specified in this section. The applicant shall demonstrate meeting the requirements of this subsection.

(2) No retail licensee, craft brewery licensee, microdistillery licensee, farm winery licensee, holder of a manufacturer's license issued pursuant to subsection (2) of section 53-123.01, organization, or corporation enumerated in subsection (1) of this section may be issued a special designated license under this section for more than six calendar days in any one calendar year. Only one

special designated license shall be required for any application for two or more consecutive days. This subsection shall not apply to any holder of a catering license.

(3) Except for any special designated license issued to a holder of a catering license, there shall be a fee of forty dollars for each day identified in the special designated license. Such fee shall be submitted with the application for the special designated license, collected by the commission, and remitted to the State Treasurer for credit to the General Fund. The applicant shall be exempt from the provisions of the Nebraska Liquor Control Act requiring an application or renewal fee and the provisions of the act requiring the expiration of forty-five days from the time the application is received by the commission prior to the issuance of a license, if granted by the commission. The retail licensees, craft brewery licensees, microdistillery licensees, farm winery licensees, holders of manufacturer's licenses issued pursuant to subsection (2) of section 53-123.01, municipal corporations, organizations, and nonprofit corporations enumerated in subsection (1) of this section seeking a special designated license shall file an application on such forms as the commission may prescribe. Such forms shall contain, along with other information as required by the commission, (a) the name of the applicant, (b) the premises for which a special designated license is requested, identified by street and number if practicable and, if not, by some other appropriate description which definitely locates the premises, (c) the name of the owner or lessee of the premises for which the special designated license is requested, (d) sufficient evidence that the holder of the special designated license, if issued, will carry on the activities and business authorized by the license for himself, herself, or itself and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (e) a statement of the type of activity to be carried on during the time period for which a special designated license is requested, and (f) sufficient evidence that the activity will be supervised by persons or managers who are agents of and directly responsible to the holder of the special designated license.

(4) No special designated license provided for by this section shall be issued by the commission without the approval of the local governing body. The local governing body may establish criteria for approving or denying a special designated license. The local governing body may designate an agent to determine whether a special designated license is to be approved or denied. Such agent shall follow criteria established by the local governing body in making his or her determination. The determination of the agent shall be considered the determination of the local governing body unless otherwise provided by the local governing body. For purposes of this section, the local governing body shall be the city or village within which the premises for which the special designated license is requested are located or, if such premises are not within the corporate limits of a city or village, then the local governing body shall be the county within which the premises for which the special designated license is requested are located.

(5) If the applicant meets the requirements of this section, a special designated license shall be granted and issued by the commission for use by the holder of the special designated license. All statutory provisions and rules and regulations of the commission that apply to a retail licensee shall apply to the holder of a special designated license with the exception of such statutory provisions and rules and regulations of the commission so designated by the commission

and stated upon the issued special designated license, except that the commission may not designate exemption of sections 53-180 to 53-180.07. The decision of the commission shall be final. If the applicant does not qualify for a special designated license, the application shall be denied by the commission.

(6) A special designated license issued by the commission shall be mailed or delivered electronically to the city, village, or county clerk who shall deliver such license to the licensee upon receipt of any fee or tax imposed by such city, village, or county.

Source: Laws 1983, LB 213, § 9; Laws 1988, LB 490, § 5; Laws 1991, LB 344, § 27; Laws 1994, LB 1292, § 4; Laws 1996, LB 750, § 7; Laws 2000, LB 973, § 4; Laws 2006, LB 562, § 4; Laws 2007, LB549, § 8; Laws 2010, LB861, § 58; Laws 2016, LB1105, § 17; Laws 2019, LB56, § 1.
Effective date September 1, 2019.

53-124.13 Catering licensee; special designated license; application; procedure; proceeds; violation; penalty.

(1) The holder of a catering license may deliver, sell, or dispense alcoholic liquor, including beer, for consumption at premises designated in a special designated license issued pursuant to section 53-124.11.

(2) The holder of the catering license shall file an application seeking a special designated license for the event. The application shall be filed at least twenty-one days prior to the event for which the special designated license is requested unless the local governing body has established an expedited process for such applications, in which case the application shall be filed at least twelve days prior to the event. In addition to the information required by subsection (3) of section 53-124.11, the applicant shall inform the commission of (a) the time of the event, (b) the name of the person or organization requesting the applicant's services, (c) the opening and closing dates of the event, and (d) any other information the commission or local governing body deems necessary. A holder of a catering license shall not cater an event unless such licensee receives a special designated license for the event.

(3) If the organization for which the holder of a catering license is catering is a nonprofit organization exempted from the payment of federal income taxes, such organization may share with such licensee a part or all of the proceeds from the sale of any alcoholic liquor sold and dispensed pursuant to this section.

(4) For purposes of this section, local governing body means the governing body of the city or village in which the event will be held or, if the event will not be held within the corporate limits of a city or village, the governing body of the county in which such event will be held.

(5) Only the holder of a special designated license or employees of such licensee may dispense alcoholic liquor at the event which is being catered. Violation of any provision of this section or section 53-124.12 or any rules or regulations adopted and promulgated pursuant to such sections occurring during an event being catered by such licensee may be cause to revoke, cancel, or suspend the class of retail license issued under section 53-124 held by such licensee.

Source: Laws 1988, LB 490, § 2; Laws 1991, LB 344, § 29; Laws 2010, LB861, § 60; Laws 2019, LB56, § 2.
Effective date September 1, 2019.

(i) PROHIBITED ACTS

53-168.06 General prohibition; exceptions.

No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish, or possess any alcoholic liquor for beverage purposes except as specifically provided in the Nebraska Liquor Control Act. Nothing in the act shall prevent:

(1) The possession of alcoholic liquor legally obtained as provided in the act for the personal use of the possessor and his or her family and guests;

(2) The making, transport, and delivery of wine, cider, beer, mead, perry, or other alcoholic liquor by a person from fruits, vegetables, honey, or grains, or the product thereof, by simple fermentation and without distillation, (a) if made solely for the use of the maker and his or her family and guests if such alcoholic liquor is not sold or offered for sale, or (b) if made without a permit for an exhibition, festival, or tasting competition, including exhibitions, festivals, or tasting competitions that are for nonprofit organizations such as fundraising events, legally conducted under the act, if such alcoholic liquor is not sold or offered for sale. Alcoholic liquor served pursuant to this subdivision (b) shall clearly be identified as alcoholic liquor that was manufactured under an exception to the rules and regulations of the commission by signage, and the location of the manufacturer shall be available upon request. Free or reduced admission to the exhibition, festival, or tasting competition shall not be considered a sale of the alcoholic liquor;

(3) Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians;

(4) The possession and dispensation of alcoholic liquor by an authorized representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual, or ceremony;

(5) Persons who are sixteen years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

(6) Persons who are sixteen years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

(7) Persons who are sixteen years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment;

(8) Persons who are sixteen years old or older from completing a transaction for the sale of alcoholic liquor in the course of their employment if they are not handling or serving alcoholic liquor; or

(9) Persons who are nineteen years old or older from serving or selling alcoholic liquor in the course of their employment.

Source: Laws 1935, c. 116, § 1, p. 374; C.S.Supp.,1941, § 53-301; R.S. 1943, § 53-102; Laws 1971, LB 666, § 1; Laws 1978, LB 386, § 2; Laws 1980, LB 221, § 1; Laws 1985, LB 359, § 1; R.S.1943,

(1988), § 53-102; Laws 1991, LB 344, § 52; Laws 1995, LB 874, § 2; Laws 2001, LB 114, § 3; Laws 2016, LB1105, § 24; Laws 2019, LB235, § 1.

Effective date September 1, 2019.

(k) PROSECUTION AND ENFORCEMENT

53-1,121 Law enforcement officer; intoxicated person; removal; civil protective custody; procedure; Department of Health and Human Services; limit on licensure actions.

(1) City police, county sheriffs, officers of the Nebraska State Patrol, and any other such law enforcement officer with power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his or her home or to place such person in any hospital, clinic, or mental health substance use treatment center or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances for longer than twenty-four hours.

(2) The placement of such person in civil protective custody shall be recorded at the facility or jail to which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

(3) The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions.

(4) The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(5) The Department of Health and Human Services shall not deny issuance or renewal of a license under the Health Care Facility Licensure Act to a mental health substance use treatment center on the basis that the mental health substance use treatment center utilizes locked rooms to provide civil protective custody services if the mental health substance use treatment center is otherwise in compliance with the applicable rules and regulations of the department and if a person placed into civil protective custody in the mental health substance use treatment center is not kept in a locked room after such person is no longer a danger to himself or herself or other patients or staff of the mental health substance use treatment center.

(6) For purposes of this section:

(a) Mental health substance use treatment center has the same meaning as in section 71-423;

(b) Public property means any public right-of-way, street, highway, alley, park, or other state, county, or municipally owned property; and

(c) Quasi-public property means and includes private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

Source: Laws 1979, LB 376, § 2; Laws 1981, LB 87, § 1; Laws 2019, LB200, § 1.

Effective date September 1, 2019.

Cross References

Health Care Facility Licensure Act, see section 71-401.

ARTICLE 3

NEBRASKA GRAPE AND WINERY BOARD

Section

53-302. Board; officers; terms; expenses.

53-302 Board; officers; terms; expenses.

(1) Within thirty days after the appointment of the initial members of the Nebraska Grape and Winery Board, such board shall conduct its first regular meeting. During that meeting, the board members shall elect from among themselves, by majority vote, a chairperson, vice-chairperson, secretary, and treasurer, all to serve for terms of one year from the date of election. Subsequent board meetings shall take place at least once every six months and at such times as called by the chairperson or by any three board members.

(2) Each board member shall serve for a term of three years, except that at the expiration of the terms of the members in 2021, the Governor shall appoint one member for a term of one year, two members for a term of two years, and two members for a term of three years, and their successors shall be appointed for a term of three years. Upon completion of a term, a member may, at the Governor's discretion, be reappointed.

(3) All voting board members shall be reimbursed for their actual and necessary expenses, as provided for in sections 81-1174 to 81-1177, while attending meetings of the board or while engaged in the performance of official responsibilities as determined by the board.

(4) A board member shall be removable by the Governor for cause. The board member shall first be given a written copy of the charges against him or her and also an opportunity to be heard publicly. In addition to all other causes, the failure of a board member to continue to meet any of the requirements for eligibility set out in section 53-301 shall be deemed sufficient cause for removal from office.

Source: Laws 2000, LB 477, § 2; Laws 2019, LB75, § 1.

Effective date September 1, 2019.

ARTICLE 5

NEBRASKA CRAFT BREWERY BOARD

Section

53-502. Nebraska Craft Brewery Board; meetings; members; terms; expenses; removal; procedure.

53-502 Nebraska Craft Brewery Board; meetings; members; terms; expenses; removal; procedure.

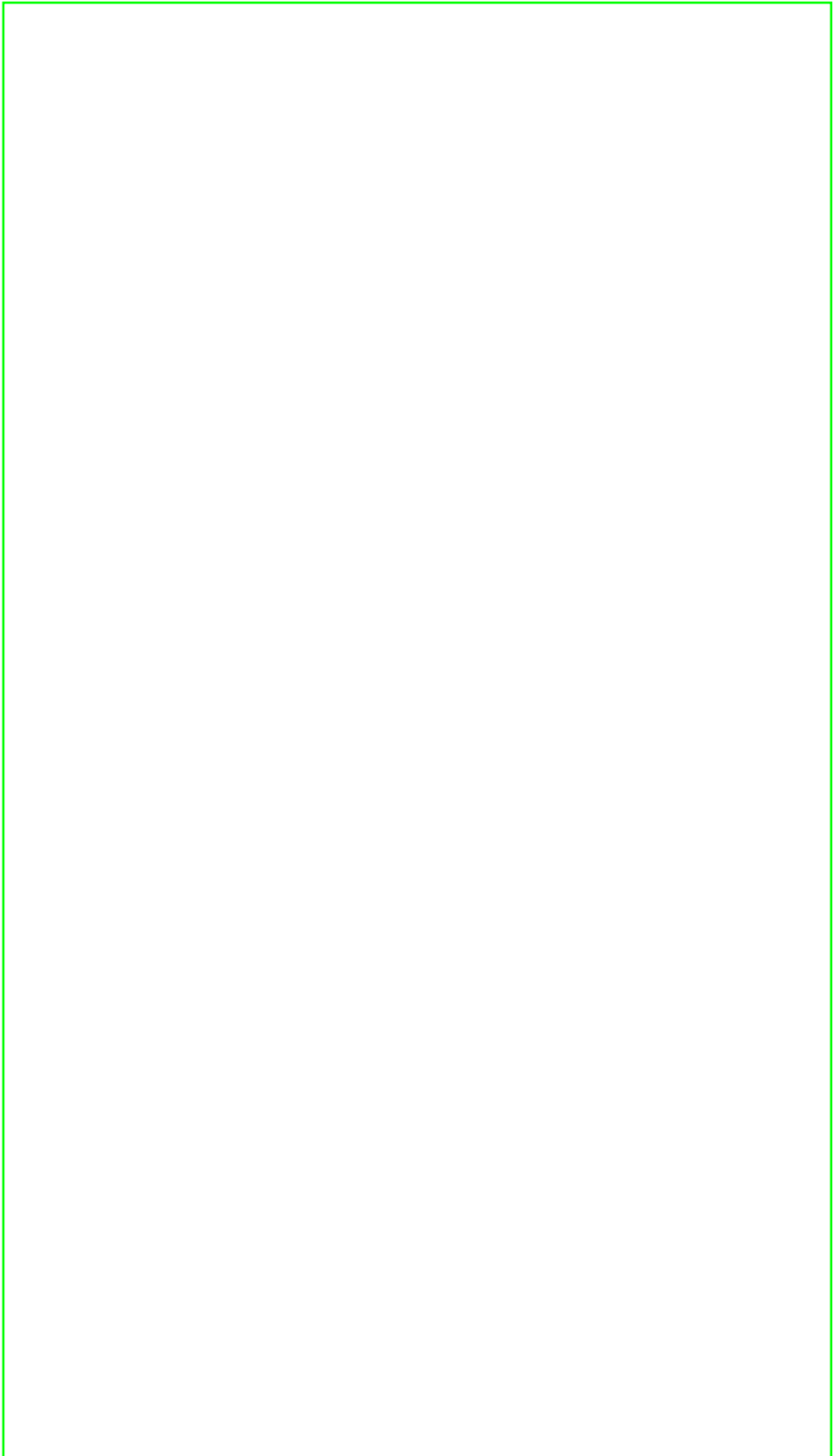
(1) Within thirty days after the appointment of the initial members of the Nebraska Craft Brewery Board, such board shall conduct its first regular meeting. During that meeting, the board members shall elect from among themselves, by majority vote, a chairperson, vice-chairperson, secretary, and treasurer, all to serve for terms of one year from the date of election. Subsequent board meetings shall take place at least once every six months and at such times as called by the chairperson or by any three board members.

(2) Each member shall serve for a term of three years, except that at the expiration of the terms of the members in 2022, the Governor shall appoint two members for a term of one year, two members for a term of two years, and three members for a term of three years, and their successors shall be appointed for a term of three years. Upon completion of a term, a member may, at the Governor's discretion, be reappointed.

(3) All voting members of the board shall be reimbursed for their actual and necessary expenses incurred while engaged in the performance of official responsibilities as members of such board pursuant to sections 81-1174 to 81-1177.

(4) A member may be removed by the Governor for cause. The member shall first be given a written copy of the charges against him or her and also an opportunity to be heard publicly. If a member moves out of Nebraska, that shall be deemed sufficient cause for removal from office.

Source: Laws 2016, LB1105, § 2; Laws 2019, LB624, § 1.
Effective date September 1, 2019.



CHAPTER 54

LIVESTOCK

Article.

1. Livestock Brand Act. 54-192.
7. Protection of Health.
 - (a) General Powers and Duties of Department of Agriculture. 54-703.
 - (d) General Provisions. 54-744.01.
24. Livestock Waste Management Act. 54-2417 to 54-2429.

ARTICLE 1

LIVESTOCK BRAND ACT

Section

54-192. Nebraska Brand Committee; employees; executive director; duties; chief investigator; brand recorder; grievance procedure.

54-192 Nebraska Brand Committee; employees; executive director; duties; chief investigator; brand recorder; grievance procedure.

(1) The Nebraska Brand Committee shall employ such employees as may be necessary to properly carry out the Livestock Brand Act and section 54-415, fix the salaries of such employees, and make such expenditures as are necessary to properly carry out such act and section. Employees of the brand committee shall receive mileage computed at the rate provided in section 81-1176. The brand committee shall select and designate a location or locations where the brand committee shall keep and maintain an office and where records of the brand inspection and investigation proceedings, transactions, communications, brand registrations, and official acts shall be kept.

(2) The brand committee shall employ an executive director who shall be the brand committee head for administrative purposes. The executive director shall keep a record of all proceedings, transactions, communications, and official acts of the brand committee, shall be custodian of all records of the brand committee, and shall perform such other duties as may be required by the brand committee. The executive director shall call a meeting at the direction of the chairperson of the brand committee, or in his or her absence the vice-chairperson, or upon the written request of two or more members of the brand committee. The executive director shall have supervisory authority to direct and control all full-time and part-time employees of the brand committee. This authority allows the executive director to hire employees as are needed on an interim basis subject to approval or confirmation by the brand committee for regular employment. The executive director may place employees on probation and may discharge an employee.

(3) The brand committee shall employ a chief investigator who shall report to the executive director. The chief investigator shall meet the qualifications of an investigator as defined in section 54-182. Under the direction of the executive director, the chief investigator shall be chief of field operations and supervise brand committee investigators and inspectors.

(4) The brand committee shall employ a brand recorder who shall be responsible for the processing of all applications for new livestock brands, the transfer of ownership of existing livestock brands, the maintenance of accurate and permanent records relating to livestock brands, and such other duties as may be required by the brand committee.

(5) If any employee of the brand committee after having been disciplined, placed on probation, or having had his or her services terminated desires to have a hearing before the entire brand committee, such a hearing shall be granted as soon as is practicable and convenient for all persons concerned. The request for such a hearing shall be made in writing by the employee alleging the grievance and shall be directed to the executive director. After hearing all testimony surrounding the grievance of such employee, the brand committee, at its discretion, may approve, rescind, nullify, or amend all actions as previously taken by the executive director.

Source: Laws 1999, LB 778, § 23; Laws 2007, LB422, § 2; Laws 2017, LB600, § 4; Laws 2019, LB660, § 1.
Effective date March 22, 2019.

ARTICLE 7

PROTECTION OF HEALTH

(a) GENERAL POWERS AND DUTIES OF DEPARTMENT OF AGRICULTURE

Section

54-703. Prevention of diseases; enforcement; inspections; rules and regulations.

(d) GENERAL PROVISIONS

54-744.01. Dead animals; carcasses; disposal facilities; registration; when.

(a) GENERAL POWERS AND DUTIES OF DEPARTMENT OF AGRICULTURE

54-703 Prevention of diseases; enforcement; inspections; rules and regulations.

(1) The Department of Agriculture and all inspectors and persons appointed and authorized to assist in the work of the department shall enforce the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753.05 and 54-797 to 54-7,103 as designated.

(2) The department and any officer, agent, employee, or appointee of the department shall have the right to enter upon the premises of any person who has, or is suspected of having, any animal thereon, including any premises where the carcass or carcasses of dead livestock may be found or where a facility for the disposal or storage of dead livestock is located, for the purpose of making any and all inspections, examinations, tests, and treatments of such animal, to inspect livestock carcass disposal practices, and to declare, carry out, and enforce any and all quarantines.

(3) The department, in consultation with the Department of Environment and Energy and the Department of Health and Human Services, may adopt and promulgate rules and regulations reflecting best management practices for the burial of carcasses of dead livestock.

(4) The Department of Agriculture may further adopt and promulgate such rules and regulations as are necessary to promptly and efficiently enforce and

effectuate the general purpose and provisions of sections 54-701 to 54-753.05 and 54-797 to 54-7,103.

Source: Laws 1927, c. 12, art. I, § 3, p. 81; C.S.1929, § 54-903; R.S.1943, § 54-703; Laws 1993, LB 267, § 4; Laws 2001, LB 438, § 4; Laws 2006, LB 856, § 18; Laws 2007, LB296, § 224; Laws 2014, LB884, § 6; Laws 2019, LB302, § 55.

Operative date July 1, 2019.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

(d) GENERAL PROVISIONS

54-744.01 Dead animals; carcasses; disposal facilities; registration; when.

(1) Livestock carcasses may be disposed of in a research or demonstration facility for innovative livestock disposal methods registered with the Department of Agriculture, except that a research or demonstration facility of liquefaction shall not be registered under this section and liquefaction shall not be permitted as a method of livestock disposal. The registration of a facility under this section shall contain a description of the facility, the location and proposed duration of the research or demonstration, and a description of the method of disposal to be utilized. The department may register up to five such research or demonstration facilities conducted in conjunction with private livestock operations which meet all of the following conditions:

(a) The project is designed and conducted by one or more research faculty of the University of Nebraska;

(b) The project does not duplicate other research or demonstration projects;

(c) The project sponsors submit annual reports on the project and a final report at the conclusion of the project;

(d) The project employs adequate safeguards against disease transmission or environmental contamination; and

(e) The project meets any other conditions deemed prudent by the director.

(2) It is the intent of the Legislature that the department register at least one research or demonstration facility for innovative livestock disposal methods which shall be located upon the premises of an animal feeding operation as defined in section 54-2417. Before registering such facility, the department shall first consult with the Department of Environment and Energy and the Department of Health and Human Services. The Department of Agriculture may revoke the registration of the facility at any time if the director has reason to believe that the facility no longer meets the conditions for registration.

(3) Only the carcasses of livestock that have died upon the animal feeding operation premises where a research or demonstration facility for innovative livestock disposal methods is located may be disposed of at such facility. Carcasses from other locations shall not be transported to such facility for disposal.

(4) A facility registered under this section is exempt from the requirements for disposal of solid waste under the Integrated Solid Waste Management Act.

Source: Laws 2001, LB 438, § 20; Laws 2004, LB 916, § 4; Laws 2007, LB296, § 225; Laws 2019, LB302, § 56.

Operative date July 1, 2019.

Integrated Solid Waste Management Act, see section 13-2001.

ARTICLE 24

LIVESTOCK WASTE MANAGEMENT ACT

Section

54-2417. Terms, defined.

54-2421. Cold water class A streams; designation.

54-2429. National Pollutant Discharge Elimination System permit; construction and operating permit; application; approval from Department of Natural Resources; Department of Environment and Energy; powers; applicability of Engineers and Architects Regulation Act.

54-2417 Terms, defined.

For purposes of the Livestock Waste Management Act:

(1) Animal feeding operation means a location where beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the location. Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of livestock waste. Animal feeding operation does not include aquaculture as defined in section 2-3804.01;

(2) Best management practices means schedules of activities, prohibitions, maintenance procedures, and other management practices found to be the most effective methods based on the best available technology achievable for specific sites to prevent or reduce the discharge of pollutants to waters of the state and control odor where appropriate. Best management practices also includes operating procedures and practices to control site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage;

(3) Construct means the initiation of physical onsite activities;

(4) Construction and operating permit means the state permit to construct and operate a livestock waste control facility, including conditions imposed on the livestock waste control facility and the associated animal feeding operation;

(5) Construction approval means an approval issued prior to December 1, 2006, by the department allowing construction of a livestock waste control facility;

(6) Council means the Environmental Quality Council;

(7) Department means the Department of Environment and Energy;

(8) Discharge means the spilling, leaking, pumping, pouring, emitting, emptying, or dumping of pollutants into any waters of the state or in a place which will likely reach waters of the state;

(9) Existing livestock waste control facility means a livestock waste control facility in existence prior to April 15, 1998, that does not hold a permit and which has requested an inspection prior to January 1, 2000;

(10) Livestock waste control facility means any structure or combination of structures utilized to control livestock waste at an animal feeding operation

until it can be used, recycled, or disposed of in an environmentally acceptable manner. Such structures include, but are not limited to, diversion terraces, holding ponds, debris basins, liquid manure storage pits, lagoons, and other such devices utilized to control livestock waste;

(11) Major modification means an expansion or increase to the lot area or feeding area; change in the location of the animal feeding operation; change in the methods of waste treatment, waste storage, or land application of waste; increase in the number of animals; change in animal species; or change in the size or location of the livestock waste control facility;

(12) National Pollutant Discharge Elimination System permit means either a general permit or an individual permit issued by the department pursuant to subsection (11) of section 81-1505. A general permit authorizes categories of disposal practices or livestock waste control facilities and covers a geographic area corresponding to existing geographic or political boundaries, though it may exclude specified areas from coverage. General permits are limited to the same or similar types of animal feeding operations or livestock waste control facilities which require the same or similar monitoring and, in the opinion of the Director of Environment and Energy, are more appropriately controlled under a general permit than under an individual permit;

(13) New animal feeding operation means an animal feeding operation constructed after July 16, 2004;

(14) New livestock waste control facility means any livestock waste control facility for which a construction permit, an operating permit, a National Pollutant Discharge Elimination System permit, a construction approval, or a construction and operating permit, or an application therefor, is submitted on or after April 15, 1998;

(15) Operating permit means a permit issued prior to December 1, 2006, by the department after the completion of the livestock waste control facility in accordance with the construction approval and the submittal of a completed certification form to the department;

(16) Person has the same meaning as in section 81-1502; and

(17) Waters of the state has the same meaning as in section 81-1502.

Source: Laws 1998, LB 1209, § 2; Laws 1999, LB 870, § 5; R.S.Supp., 2002, § 54-2402; Laws 2004, LB 916, § 6; Laws 2006, LB 975, § 2; Laws 2009, LB56, § 1; Laws 2019, LB302, § 57.

Operative date July 1, 2019.

54-2421 Cold water class A streams; designation.

A map delineating segments and watershed boundaries for cold water class A streams, as designated prior to May 25, 1999, and prepared by the Department of Environment and Energy and the Department of Natural Resources, shall be maintained by the Department of Environment and Energy and used by the department for determinations made concerning cold water class A streams and stream watersheds under the Livestock Waste Management Act unless changed by the council. Beginning on May 25, 1999, the council may designate and may redesignate previously designated waters of this state as cold water class A streams for purposes of the act based on the determination by the council that the waters provide or could provide habitat of sufficient water

volume or flow, water quality, substrate composition, and water temperature capable of maintaining year-round populations of cold water biota, including reproduction of a salmonoid (trout) population. The council shall not designate or redesignate a stream as a cold water class A stream unless the stream has supported the reproduction of a salmonoid (trout) population within the previous five years. The department shall revise and maintain the cold water class A stream and stream watershed map to incorporate all designations and redesignations of the council.

Source: Laws 1999, LB 822, § 9; Laws 2000, LB 900, § 242; R.S.Supp.,2002, § 54-2404.02; Laws 2004, LB 916, § 10; Laws 2019, LB302, § 58.

Operative date July 1, 2019.

54-2429 National Pollutant Discharge Elimination System permit; construction and operating permit; application; approval from Department of Natural Resources; Department of Environment and Energy; powers; applicability of Engineers and Architects Regulation Act.

(1) An applicant for a National Pollutant Discharge Elimination System permit or a construction and operating permit under the Environmental Protection Act or the Livestock Waste Management Act shall, before issuance by the Department of Environment and Energy, obtain any necessary approvals from the Department of Natural Resources under the Safety of Dams and Reservoirs Act and certify such approvals to the Department of Environment and Energy. The Department of Environment and Energy, with the concurrence of the Department of Natural Resources, may require the applicant to obtain approval from the Department of Natural Resources for any dam, holding pond, or lagoon structure which would not otherwise require approval under the Safety of Dams and Reservoirs Act but which in the event of a failure could result in a significant discharge into waters of the state and have a significant impact on the environment. The Department of Environment and Energy may provide for the payment of such costs of the Department of Natural Resources with revenue generated under section 54-2428.

(2) An applicant required to obtain a National Pollutant Discharge Elimination System permit is subject to the requirements of the Engineers and Architects Regulation Act.

(3) An applicant who has a large concentrated animal feeding operation, as defined in 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004, and who is required to obtain a construction and operating permit is subject to the requirements of the Engineers and Architects Regulation Act.

(4) An applicant who has a small or medium animal feeding operation, as defined in 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004, and who is required to obtain a construction and operating permit, but not required to obtain a National Pollutant Discharge Elimination System permit, is exempt from the Engineers and Architects Regulation Act.

(5) The department may require an engineering evaluation or assessment performed by a licensed professional engineer for a livestock waste control facility if after an inspection: (a) The department determines that the facility has (i) visible signs of structural breakage below the permanent pool, (ii) signs of discharge or proven discharge due to structural weakness, (iii) improper maintenance, or (iv) inadequate capacity; or (b) the department has reason to

believe that an animal feeding operation with a livestock waste control facility has violated or threatens to violate the Environmental Protection Act, the Livestock Waste Management Act, or any rules or regulations adopted and promulgated under such acts. Animal feeding operations not required to have a permit under the Environmental Protection Act, the Livestock Waste Management Act, or the rules and regulations adopted and promulgated pursuant to such acts are exempt from the Engineers and Architects Regulation Act.

Source: Laws 1998, LB 1209, § 12; Laws 1999, LB 870, § 13; Laws 2000, LB 900, § 243; Laws 2003, LB 619, § 16; R.S.Supp.,2003, § 54-2412; Laws 2004, LB 916, § 18; Laws 2005, LB 335, § 80; Laws 2006, LB 975, § 11; Laws 2007, LB313, § 1; Laws 2019, LB302, § 59.

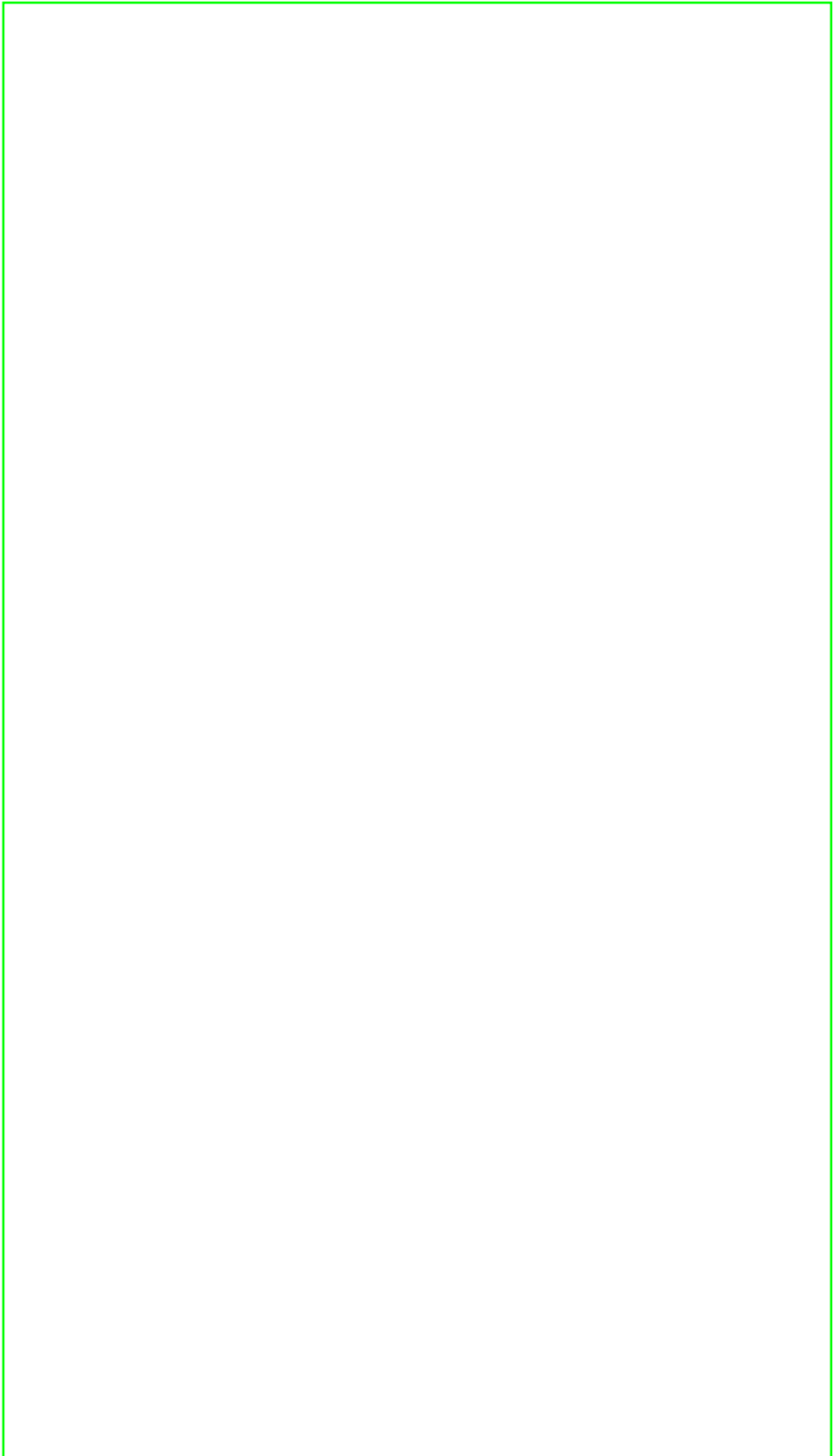
Operative date July 1, 2019.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

Environmental Protection Act, see section 81-1532.

Safety of Dams and Reservoirs Act, see section 46-1601.



CHAPTER 55

MILITIA

Article.

1. Military Code. 55-182, 55-183.
6. Commission on Military and Veteran Affairs. 55-601.

ARTICLE 1

MILITARY CODE

Section

55-182. Nebraska National Guard; rights.

55-183. National Guard; state-sponsored life insurance program; Adjutant General; powers and duties.

55-182 Nebraska National Guard; rights.

The rights of a member of the Nebraska National Guard in the State of Nebraska shall include, but not be limited to, the right to:

- (1) Seek employment with state, county, and local government;
- (2) Not have membership in the Nebraska National Guard impact such member's right to donate to political parties when not on duty status;
- (3) Participate with state, county, or local government in a law enforcement function as prescribed by that government;
- (4) Receive the same protections a law enforcement officer is afforded under section 23-3211 if the member is acting as a law enforcement officer pursuant to subdivision (3) of this section; and
- (5) Protection of such member's personal information as afforded personnel of public bodies pursuant to subdivision (7) of section 84-712.05, if the member is acting as a law enforcement officer pursuant to subdivision (3) of this section.

Source: Laws 2019, LB152, § 1.

Effective date September 1, 2019.

55-183 National Guard; state-sponsored life insurance program; Adjutant General; powers and duties.

(1) For purposes of this section, state-sponsored life insurance program means the life insurance program exclusively offered to all members of the Nebraska National Guard through the National Guard Association of Nebraska pursuant to the federal Veterans' Insurance Act of 1974, Public Law 93-289.

(2) Pursuant to this section, the Adjutant General shall:

- (a) Allow efforts to make the state-sponsored life insurance program available to all members of the Nebraska National Guard;
- (b) Provide an opportunity for members of the Nebraska National Guard to purchase state-sponsored life insurance program products; and
- (c) Allow state-sponsored life insurance program representatives to provide Nebraska National Guard members with state-sponsored life insurance pro-

gram briefings during annual training and inactive duty training periods to educate members on the state-sponsored life insurance program.

Source: Laws 2019, LB223, § 1.

Effective date September 1, 2019.

ARTICLE 6

COMMISSION ON MILITARY AND VETERAN AFFAIRS

Section

55-601. Commission on Military and Veteran Affairs; created; members; terms; vacancy.

55-601 Commission on Military and Veteran Affairs; created; members; terms; vacancy.

(1) The Commission on Military and Veteran Affairs is created. The commission shall consist of the following voting members:

(a) The Director of Economic Development;

(b) The Adjutant General or his or her designee;

(c) The Director of Veterans' Affairs; and

(d) Three residents of the State of Nebraska, one from each congressional district. At least one of the three residents shall have current or prior military experience and at least one shall have a background in business.

(2) The commission shall have the following nonvoting, ex officio members:

(a) The veterans' program coordinator of the Department of Labor;

(b) The chair of the State Committee of Employer Support of the Guard and Reserve;

(c) The commander of the 55th Wing of the Air Combat Command or his or her designee;

(d) The commander of the United States Strategic Command or his or her designee; and

(e) The commander of the 557th Weather Wing of the United States Air Force or his or her designee.

(3) The members of the commission described in subdivision (1)(d) of this section shall be appointed by the Governor. The Governor shall designate the initial terms of the members described in subdivision (1)(d) of this section so that one member serves for a term of two years, one member serves for a term of three years, and one member serves for a term of four years. Succeeding appointments shall be for terms of four years and shall be made in the same manner as the original appointments. The terms of the members shall begin on October 1 of the year in which they are appointed unless appointed to fill a vacancy. Appointments to fill a vacancy, occurring other than by the expiration of a term of office, shall be made for the unexpired term of the member whose office is vacated.

Source: Laws 2016, LB754, § 1; Laws 2019, LB138, § 2.

Effective date September 1, 2019.

CHAPTER 57

MINERALS, OIL, AND GAS

Article.

7. Oil and Gas Severance Tax. 57-705.
14. Major Oil Pipeline Siting Act. 57-1407.
15. Oil Pipeline Projects. 57-1502, 57-1503.

ARTICLE 7

OIL AND GAS SEVERANCE TAX

Section

57-705. Tax; remittance; Severance Tax Fund; Severance Tax Administration Fund; created; use.

57-705 Tax; remittance; Severance Tax Fund; Severance Tax Administration Fund; created; use.

(1) All severance taxes levied by Chapter 57, article 7, shall be paid to the Tax Commissioner. He or she shall remit all such money received to the State Treasurer. All such money received by the State Treasurer shall be credited to a fund to be known as the Severance Tax Fund. An amount equal to one percent of the gross severance tax receipts, excluding those receipts from tax derived from oil and natural gas severed from school lands, credited to the fund shall be credited by the State Treasurer, upon the first day of each month, and shall inure to the Severance Tax Administration Fund to be used for the expenses of administering Chapter 57, article 7. Transfers may be made from the Severance Tax Administration Fund to the General Fund at the direction of the Legislature. The balance of the Severance Tax Fund received from school lands shall be credited by the State Treasurer, upon the first day of each month, and shall inure to the permanent school fund.

(2) Of the balance of the Severance Tax Fund received from other than school lands (a) the Legislature may transfer an amount to be determined by the Legislature through the appropriations process up to three hundred thousand dollars for each year to the State Energy Cash Fund, (b) the Legislature may transfer an amount to be determined by the Legislature through the appropriations process up to thirty thousand dollars for each year to the Public Service Commission for administration of the Municipal Rate Negotiations Revolving Loan Fund, and (c) the remainder shall be credited and inure to the permanent school fund.

(3) The State Treasurer shall transfer two hundred fifty thousand dollars from the Severance Tax Administration Fund to the Department of Revenue Enforcement Fund on July 1, 2009, or as soon thereafter as administratively possible. The State Treasurer shall transfer two hundred fifty thousand dollars from the Severance Tax Administration Fund to the Department of Revenue Enforcement Fund on July 1, 2010, or as soon thereafter as administratively possible.

Source: Laws 1955, c. 219, § 5, p. 612; Laws 1959, c. 261, § 1, p. 899; Laws 1967, c. 351, § 3, p. 933; Laws 1981, LB 257, § 2; Laws 1982, LB 799, § 1; Laws 1983, LB 228, § 4; Laws 1983, LB 607,

§ 2; Laws 1985, LB 126, § 1; Laws 1986, LB 258, § 10; Laws 1989, LB 727, § 2; Laws 1993, LB 5, § 2; Laws 1993, LB 364, § 20; Laws 1993, LB 670, § 1; Laws 2000, LB 1369, § 1; Laws 2003, LB 790, § 58; Laws 2009, LB316, § 15; Laws 2009, First Spec. Sess., LB3, § 32; Laws 2019, LB302, § 60.
Operative date July 1, 2019.

ARTICLE 14

MAJOR OIL PIPELINE SITING ACT

Section

57-1407. Commission; duties; public meetings; agency reports; approval by commission; considerations.

57-1407 Commission; duties; public meetings; agency reports; approval by commission; considerations.

(1) After receipt of an application under section 57-1405, the commission shall:

(a) Within sixty days, schedule a public hearing;

(b) Notify the pipeline carrier of the time, place, and purpose of the public hearing;

(c) Publish a notice of the time, place, and purpose of the public hearing in at least one newspaper of general circulation in each county in which the major oil pipeline is to be constructed; and

(d) Serve notice of the public hearing upon the governing bodies of the counties and municipalities through which the proposed route of the major oil pipeline would be located as specified in subdivision (2)(d) of section 57-1405.

(2) The commission may hold additional public meetings for the purpose of receiving input from the public at locations as close as practicable to the proposed route of the major oil pipeline. The commission shall make the public input part of the record.

(3) If requested by the commission, the following agencies shall file a report with the commission, prior to the hearing on the application, regarding information within the respective agencies' area of expertise relating to the impact of the major oil pipeline on any area within the respective agencies' jurisdiction, including in such report opinions regarding the advisability of approving, denying, or modifying the location of the proposed route of the major oil pipeline: The Department of Environment and Energy, the Department of Natural Resources, the Department of Revenue, the Department of Transportation, the Game and Parks Commission, the Nebraska Oil and Gas Conservation Commission, the Nebraska State Historical Society, the State Fire Marshal, and the Board of Educational Lands and Funds. The agencies may submit a request for reimbursement of reasonable and necessary expenses incurred for any consultants hired pursuant to this subsection.

(4) An application under the Major Oil Pipeline Siting Act shall be approved if the proposed route of the major oil pipeline is determined by the Public Service Commission to be in the public interest. The pipeline carrier shall have the burden to establish that the proposed route of the major oil pipeline would serve the public interest. In determining whether the pipeline carrier has met its burden, the commission shall not evaluate safety considerations, including

the risk or impact of spills or leaks from the major oil pipeline, but the commission shall evaluate:

(a) Whether the pipeline carrier has demonstrated compliance with all applicable state statutes, rules, and regulations and local ordinances;

(b) Evidence of the impact due to intrusion upon natural resources and not due to safety of the proposed route of the major oil pipeline to the natural resources of Nebraska, including evidence regarding the irreversible and irretrievable commitments of land areas and connected natural resources and the depletion of beneficial uses of the natural resources;

(c) Evidence of methods to minimize or mitigate the potential impacts of the major oil pipeline to natural resources;

(d) Evidence regarding the economic and social impacts of the major oil pipeline;

(e) Whether any other utility corridor exists that could feasibly and beneficially be used for the route of the major oil pipeline;

(f) The impact of the major oil pipeline on the orderly development of the area around the proposed route of the major oil pipeline;

(g) The reports of the agencies filed pursuant to subsection (3) of this section; and

(h) The views of the governing bodies of the counties and municipalities in the area around the proposed route of the major oil pipeline.

Source: Laws 2011, First Spec. Sess., LB1, § 8; Laws 2017, LB339, § 180; Laws 2019, LB302, § 61.
Operative date July 1, 2019.

ARTICLE 15

OIL PIPELINE PROJECTS

Section

57-1502. Terms, defined.

57-1503. Evaluation of route; supplemental environmental impact statement; department; powers and duties; pipeline carrier; reimburse cost; submit to Governor; duty; denial; notice to pipeline carrier; documents or records; not withheld from public.

57-1502 Terms, defined.

For purposes of sections 57-1501 to 57-1503:

(1) Department means the Department of Environment and Energy;

(2) Oil pipeline means a pipeline which is larger than eight inches in inside diameter and which is constructed in Nebraska for the transportation of petroleum, or petroleum components, products, or wastes, including crude oil or any fraction of crude oil, within, through, or across Nebraska, but does not include in-field and gathering lines; and

(3) Pipeline carrier means an individual, a company, a corporation, an association, or any other legal entity that engages in owning, operating, or managing an oil pipeline.

Source: Laws 2011, First Spec. Sess., LB4, § 2; Laws 2019, LB302, § 62.
Operative date July 1, 2019.

57-1503 Evaluation of route; supplemental environmental impact statement; department; powers and duties; pipeline carrier; reimburse cost; submit to Governor; duty; denial; notice to pipeline carrier; documents or records; not withheld from public.

(1)(a) The department may:

(i) Evaluate any route for an oil pipeline within, through, or across the state and submitted by a pipeline carrier for the stated purpose of being included in a federal agency's or agencies' National Environmental Policy Act review process. Any such evaluation shall include at least one public hearing, provide opportunities for public review and comment, and include, but not be limited to, an analysis of the environmental, economic, social, and other impacts associated with the proposed route and route alternatives in Nebraska. The department may collaborate with a federal agency or agencies and set forth the responsibilities and schedules that will lead to an effective and timely evaluation; or

(ii) Collaborate with a federal agency or agencies in a review under the National Environmental Policy Act involving a supplemental environmental impact statement for oil pipeline projects within, through, or across the state. Prior to entering into such shared jurisdiction and authority, the department shall collaborate with such agencies to set forth responsibilities and schedules for an effective and timely review process.

(b) A pipeline carrier that has submitted a route for evaluation or review pursuant to subdivision (1)(a) of this section shall reimburse the department for the cost of the evaluation or review within sixty days after notification from the department of the cost. The department shall remit any reimbursement to the State Treasurer for credit to the Environmental Cash Fund.

(2) The department may contract with outside vendors in the process of preparation of a supplemental environmental impact statement or an evaluation conducted under subdivision (1)(a) of this section. The department shall make every reasonable effort to ensure that each vendor has no conflict of interest or relationship to any pipeline carrier that applies for an oil pipeline permit.

(3) In order for the process to be efficient and expeditious, the department's contracts with vendors pursuant to this section for a supplemental environmental impact statement or an evaluation conducted under subdivision (1)(a) of this section shall not be subject to the Nebraska Consultants' Competitive Negotiation Act or sections 73-301 to 73-306 or 73-501 to 73-510.

(4) After the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section is prepared, the department shall submit it to the Governor. Within thirty days after receipt of the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section from the department, the Governor shall indicate, in writing, to the federal agency or agencies involved in the review or any other appropriate federal agency or body as to whether he or she approves any of the routes reviewed in the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section. If the Governor does not approve any of the reviewed routes, he or she shall notify the pipeline carrier that in order to obtain approval of a route in Nebraska the pipeline carrier is required to file an application with the Public Service Commission pursuant to the Major Oil Pipeline Siting Act.

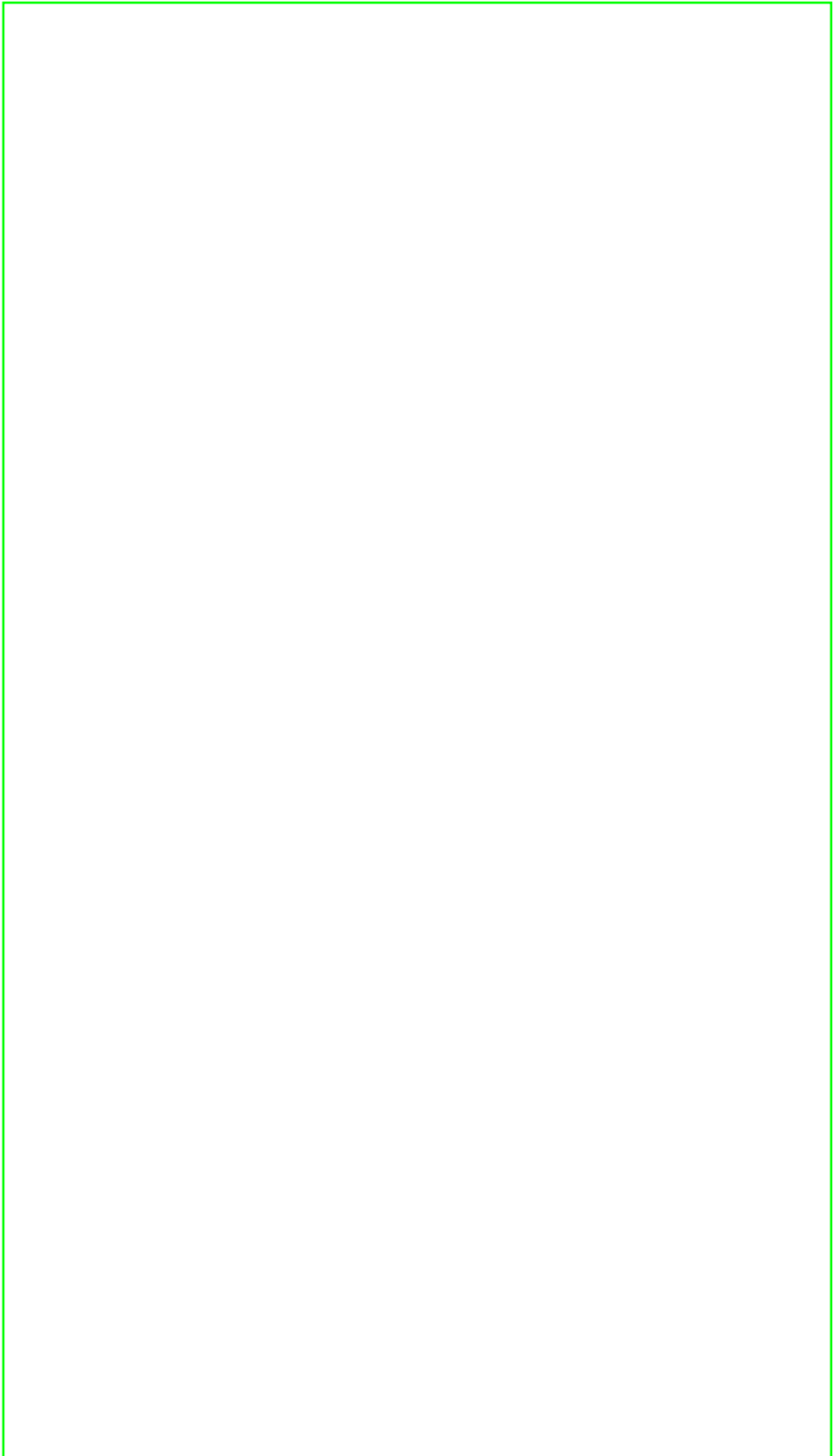
(5) The department shall not withhold any documents or records relating to an oil pipeline from the public unless the documents or records are of the type that can be withheld under section 84-712.05 or unless federal law provides otherwise.

Source: Laws 2011, First Spec. Sess., LB4, § 3; Laws 2012, LB858, § 16; Laws 2012, LB1161, § 7; Laws 2019, LB302, § 63.
Operative date July 1, 2019.

Cross References

Major Oil Pipeline Siting Act, see section 57-1401.

Nebraska Consultants' Competitive Negotiation Act, see section 81-1702.



CHAPTER 58

MONEY AND FINANCING

Article.

2. Nebraska Investment Finance Authority. 58-221.
7. Nebraska Affordable Housing Act. 58-703 to 58-711.
8. Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act. 58-801 to 58-866.

ARTICLE 2

NEBRASKA INVESTMENT FINANCE AUTHORITY

Section

58-221. Residential energy conservation device, defined.

58-221 Residential energy conservation device, defined.

Residential energy conservation device shall mean any prudent means of reducing the demands for conventional fuels or increasing the supply or efficiency of these fuels in residential housing and shall include, but not be limited to:

- (1) Caulking and weather stripping of doors and windows;
- (2) Furnace efficiency modifications, including:
 - (a) Replacement burners, furnaces, heat pumps, or boilers or any combination thereof which, as determined by the Director of Environment and Energy, substantially increases the energy efficiency of the heating system;
 - (b) Any device for modifying flue openings which will increase the energy efficiency of the heating system; and
 - (c) Any electrical or mechanical furnace ignition system which replaces a standing gas pilot light;
- (3) A clock thermostat;
- (4) Ceiling, attic, wall, and floor insulation;
- (5) Water heater insulation;
- (6) Storm windows and doors, multiglazed windows and doors, and heat-absorbed or heat-reflective glazed window and door materials;
- (7) Any device which controls demand of appliances and aids load management;
- (8) Any device to utilize solar energy, biomass, or wind power for any residential energy conservation purpose including heating of water and space heating or cooling; and
- (9) Any other conservation device, renewable energy technology, and specific home improvement necessary to insure the effectiveness of the energy conservation measures as the Director of Environment and Energy by rule or regulation identifies.

Source: Laws 1983, LB 626, § 21; Laws 1991, LB 253, § 24; Laws 2019, LB302, § 64.

Operative date July 1, 2019.

ARTICLE 7

NEBRASKA AFFORDABLE HOUSING ACT

Section

- 58-703. Affordable Housing Trust Fund; created; use.
58-707. Assistance; qualified recipients.
58-708. Department of Economic Development; selection of projects to receive assistance; duties; recapture funds; when.
58-711. Information on status of Affordable Housing Trust Fund; report; contents.

58-703 Affordable Housing Trust Fund; created; use.

The Affordable Housing Trust Fund is created. The fund shall receive money pursuant to section 76-903 and may include revenue from sources recommended by the housing advisory committee established in section 58-704, appropriations from the Legislature, transfers authorized by the Legislature, grants, private contributions, repayment of loans, and all other sources. The Department of Economic Development as part of its comprehensive housing affordability strategy shall administer the Affordable Housing Trust Fund.

Transfers may be made from the Affordable Housing Trust Fund to the General Fund, the Behavioral Health Services Fund, the Lead-Based Paint Hazard Control Cash Fund, the Rural Workforce Housing Investment Fund, and the Site and Building Development Fund at the direction of the Legislature.

The State Treasurer shall transfer fifty-eight thousand one hundred eighty-eight dollars from the Affordable Housing Trust Fund to the General Fund on or before September 15, 2019, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1996, LB 1322, § 13; Laws 1997, LB 864, § 9; Laws 2004, LB 1083, § 100; Laws 2005, LB 40, § 1; Laws 2011, LB388, § 11; Laws 2012, LB969, § 6; Laws 2013, LB199, § 24; Laws 2013, LB214, § 9; Laws 2017, LB518, § 10; Laws 2018, LB945, § 13; Laws 2019, LB86, § 6.

Effective date September 1, 2019.

58-707 Assistance; qualified recipients.

Organizations which may receive assistance under the Nebraska Affordable Housing Act are governmental subdivisions, local housing authorities, community action agencies, community-based or neighborhood-based or reservation-based nonprofit organizations, and for-profit entities working in conjunction with one of the other eligible organizations. For-profit entities that are eligible under this section shall be required to provide, or cause to be provided, matching funds for the eligible activity in an amount determined by the Department of Economic Development, which amount shall be at least equal to ten percent of the amount of assistance provided by the Affordable Housing Trust Fund. Political subdivisions, local housing authorities, community action agencies, and community-based, neighborhood-based, and reservation-based nonprofit organizations shall not be required to provide, or cause to be provided, such matching funds. Nothing in the act shall be construed to allow individuals to receive direct loans from the Affordable Housing Trust Fund.

Source: Laws 1996, LB 1322, § 17; Laws 1997, LB 864, § 10; Laws 2019, LB86, § 7.

Effective date September 1, 2019.

58-708 Department of Economic Development; selection of projects to receive assistance; duties; recapture funds; when.

(1) During each calendar year in which funds are available from the Affordable Housing Trust Fund for use by the Department of Economic Development, the department shall make its best efforts to allocate not less than thirty percent of such funds to each congressional district. The department shall announce a grant and loan application period of at least ninety days duration for all projects. In selecting projects to receive trust fund assistance, the department shall develop a qualified allocation plan and give first priority to financially viable projects that serve the lowest income occupants for the longest period of time. The qualified allocation plan shall:

(a) Set forth selection criteria to be used to determine housing priorities of the housing trust fund which are appropriate to local conditions, including the community's immediate need for affordable housing, proposed increases in home ownership, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund; and

(b) Give first priority in allocating trust fund assistance among selected projects to those projects which are located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97, serve the lowest income occupant, are located in an area that has been declared an extremely blighted area under section 18-2101.02, and are obligated to serve qualified occupants for the longest period of time.

(2) The department shall fund in order of priority as many applications as will utilize available funds less actual administrative costs of the department in administering the program. In administering the program the department may contract for services or directly provide funds to other governmental entities or instrumentalities.

(3) The department may recapture any funds which were allocated to a qualified recipient for an eligible project through an award agreement if such funds were not utilized for eligible costs within the time of performance under the agreement and are therefor no longer obligated to the project. The recaptured funds shall be credited to the Affordable Housing Trust Fund.

Source: Laws 1996, LB 1322, § 18; Laws 2005, LB 40, § 3; Laws 2011, LB388, § 13; Laws 2014, LB800, § 5; Laws 2014, LB906, § 17; Laws 2015, LB457, § 1; Laws 2017, LB217, § 3; Laws 2019, LB86, § 8; Laws 2019, LB87, § 1.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB86, section 8, with LB87, section 1, to reflect all amendments.

Cross References

Enterprise Zone Act, see section 13-2101.01.

58-711 Information on status of Affordable Housing Trust Fund; report; contents.

(1) The Department of Economic Development shall submit, as part of the department's annual status report under section 81-1201.11, the following information regarding the Affordable Housing Trust Fund: (a) The applications funded during the previous calendar year; (b) the applications funded in

previous years; (c) the identity of the organizations receiving funds; (d) the location of each project; (e) the amount of funding provided to each project; (f) the amount of funding leveraged as a result of each project; (g) the number of units of housing created by each project and the occupancy rate; (h) the expected cost of rent or monthly payment of those units; (i) the projected number of new employees and community investment as a result of each project; (j) the amount of revenue deposited into the Affordable Housing Trust Fund pursuant to section 76-903; (k) the total amount of funds for which applications were received during the previous calendar year, the year-end fund balance, and, if all available funds have not been committed, an explanation of the reasons why all such funds have not been so committed; (l) the amount of appropriated funds actually expended by the department for the previous calendar year; (m) the department's current budget for administration of the Nebraska Affordable Housing Act and the department's planned use and distribution of funds, including details on the amount of funds to be expended on projects and the amount of funds to be expended by the department for administrative purposes; and (n) project summaries, including the applicant municipality, project description, grant amount requested, amount and type of matching funds, and reasons for approval or denial for every application seeking funds during the previous calendar year.

(2) The status report shall contain no information that is protected by state or federal confidentiality laws.

Source: Laws 1997, LB 864, § 7; Laws 2011, LB404, § 3; Laws 2013, LB214, § 10; Laws 2019, LB86, § 9.
Effective date September 1, 2019.

ARTICLE 8

NEBRASKA EDUCATIONAL, HEALTH, CULTURAL, AND SOCIAL SERVICES FINANCE AUTHORITY ACT

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58-801 Act, how cited.

Sections 58-801 to 58-866 shall be known and may be cited as the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 2; Laws 1993, LB 465, § 2; R.S.1943, (1994), § 79-2902; Laws 1995, LB 5, § 2; R.S.1943, (2008), § 85-1701; Laws 2013, LB170, § 1; Laws 2019, LB224, § 1. Effective date September 1, 2019.

58-802 Legislative findings.

The Legislature finds and declares that:

(1) For the benefit of the people of the State of Nebraska, the increase of their commerce, welfare, and prosperity, and the fostering, protection, and improvement of their health and living conditions, it is essential that this and future generations of youth be given the greatest opportunity to learn and to fully develop their intellectual and mental capacities and skills and that there be encouraged, promoted, and supported adequate health, social, cultural, and emergency services for the general welfare of, care of, and assistance to the people of the state;

(2) To achieve these ends it is of the utmost importance and in the public interest that private institutions of higher education within the state be provided with appropriate additional means of assisting such youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills, that private health care institutions and private social services institutions within the state be provided with appropriate additional means of caring for and protecting the public health and welfare, and that private cultural institutions within the state be provided with appropriate additional means of assisting with the preservation and promotion of the cultural and artistic enrichment of the people of this state;

(3) It is the purpose of the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act to provide a measure of assistance and an alternative method of enabling private institutions of higher education, private health care institutions, private cultural institutions, and private social services institutions in the state to finance the acquisition, construction, im-

provement, equipment, and renovation of needed educational, health care, cultural, and social services facilities and structures and to refund, refinance, or reimburse outstanding indebtedness incurred by them or advances made by them, including advances from an endowment or any other similar fund, for the acquisition, construction, improvement, equipment, or renovation of needed educational, health care, cultural, and social services facilities and structures;

(4) The financing and refinancing of educational, health care, cultural, and social services facilities, through means other than the appropriation of public funds to private institutions of higher education, private health care institutions, private cultural institutions, and private social services institutions, as described in the act, is a valid public purpose;

(5) The availability of improved access to health profession schools will benefit the people of the State of Nebraska and improve their health, welfare, and living conditions;

(6) The establishment of a health education loan program, with the proceeds of bonds to be used for the purchase or making of loans to students or certain former students of health profession schools, will improve the access to such schools and assist such persons in meeting the expenses incurred in availing themselves of health education opportunities; and

(7) The establishment of a program to assist private institutions of higher education to provide loans to their full-time students pursuing an academic degree will improve access to higher education and contribute to the health, welfare, and living conditions in Nebraska.

Source: Laws 1981, LB 321, § 1; Laws 1983, LB 159, § 1; Laws 1993, LB 465, § 1; R.S.1943, (1994), § 79-2901; Laws 1995, LB 5, § 1; R.S.1943, (2008), § 85-1702; Laws 2013, LB170, § 2; Laws 2019, LB224, § 2.

Effective date September 1, 2019.

58-803 Definitions, where found.

For purposes of the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, unless the context otherwise requires, the definitions found in sections 58-804 to 58-812 shall apply.

Source: Laws 1981, LB 321, § 3; Laws 1983, LB 159, § 14; Laws 1993, LB 465, § 3; R.S.1943, (1994), § 79-2903; Laws 1995, LB 5, § 3; R.S.1943, (2008), § 85-1703; Laws 2013, LB170, § 3; Laws 2019, LB224, § 3.

Effective date September 1, 2019.

58-804 Authority, defined.

Authority means the Nebraska Educational, Health, Cultural, and Social Services Finance Authority created by the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act or any board, body, commission, department, or office succeeding to the principal functions thereof or to whom the powers conferred upon such authority by the act are given by law.

Source: Laws 1981, LB 321, § 4; Laws 1993, LB 465, § 4; R.S.1943, (1994), § 79-2904; Laws 1995, LB 5, § 4; R.S.1943, (2008), § 85-1704; Laws 2013, LB170, § 4; Laws 2019, LB224, § 4.

Effective date September 1, 2019.

58-805 Bonds, defined.

Bonds means bonds, notes, or other obligations of the authority issued under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, including refunding bonds, notwithstanding that the same may be secured by the full faith and credit of an eligible institution or any other lawfully pledged security of an eligible institution.

Source: Laws 1981, LB 321, § 8; Laws 1993, LB 465, § 6; R.S.1943, (1994), § 79-2908; Laws 1995, LB 5, § 5; R.S.1943, (2008), § 85-1705; Laws 2013, LB170, § 5; Laws 2019, LB224, § 5. Effective date September 1, 2019.

58-806 Cost, defined.

Cost as applied to a project or any portion thereof financed under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act means all or any part of the cost of acquisition, construction, improvement, equipment, and renovation of all land, buildings, or structures including the cost of machinery and equipment; finance charges; interest prior to, during, and after completion of such construction for a reasonable period as determined by the authority; reserves for principal and interest; extensions, enlargements, additions, replacements, renovations, and improvements; engineering, financial, and legal services; plans, specifications, studies, surveys, estimates of cost of revenue, administrative expenses, bond issuance costs, and expenses necessary or incidental to determining the feasibility or practicability of constructing the project; and such other expenses as the authority determines may be necessary or incidental to the acquisition, construction, improvement, equipment, and renovation of the project, the financing of such acquisition, construction, improvement, equipment, and renovation, and the placing of the project in operation.

Source: Laws 1981, LB 321, § 7; Laws 1993, LB 465, § 5; R.S.1943, (1994), § 79-2907; Laws 1995, LB 5, § 6; R.S.1943, (2008), § 85-1706; Laws 2013, LB170, § 6; Laws 2019, LB224, § 6. Effective date September 1, 2019.

58-807 Eligible institution, defined.

Eligible institution means a private institution of higher education, a private health care institution, a private cultural institution, or a private social services institution.

Source: Laws 2013, LB170, § 7; Laws 2019, LB224, § 7. Effective date September 1, 2019.

58-807.01 Private cultural institution, defined.

Private cultural institution means any private not-for-profit corporation or institution that (1) has a primary purpose of promoting cultural education or development, such as a museum or related visual arts center, performing arts facility, or facility housing, incubating, developing, or promoting art, music, theater, dance, zoology, botany, natural history, cultural history, or the sciences, (2) is described in section 501(c)(3) of the Internal Revenue Code and is exempt from federal income taxation under section 501(a) of the code, (3) is located within this state and is not owned or controlled by the state or any

municipality, district, or other political subdivision, agency, or instrumentality thereof, and (4) does not violate any state or federal law against discrimination.

Source: Laws 2019, LB224, § 8.

Effective date September 1, 2019.

58-811 Project, defined.

(1) Project means any property located within the state that may be used or will be useful in connection with the instruction, feeding, recreation, or housing of students, the provision of health care services to members of the general public, the provision of cultural services to members of the general public, the provision of social services to members of the general public, the conducting of research, administration, or other work of an eligible institution, or any combination of the foregoing. Project includes, but is not limited to, an academic facility, administrative facility, agricultural facility, assembly hall, assisted-living facility, athletic facility, auditorium, campus, communication facility, congregate care housing, emergency services facility, exhibition hall, health care facility, health service institution, hospital, housing for faculty and other staff, instructional facility, laboratory, library, maintenance facility, medical clinic, medical services facility, museum, nursing or skilled nursing services facility, offices, parking area, personal care services facility, physical educational facility, recreational facility, research facility, senior, retirement, or home care services facility, social services facility, stadium, storage facility, student facility, student health facility, student housing, student union, theatre, or utility facility.

(2) Project also means and includes the refunding or refinancing of outstanding obligations, mortgages, or advances, including advances from an endowment or similar fund, originally issued, made, or given by the eligible institution to finance the cost of a project or projects, and including the financing of eligible swap termination payments, whenever the authority finds that such refunding or refinancing is in the public interest and either:

(a) Alleviates a financial hardship upon the eligible institution;

(b) Results in a lesser cost of education, health care, housing, cultural services, or social and related support services to the eligible institution's students, patients, residents, clients, and other general public consumers; or

(c) Enables the eligible institution to offer greater security for the financing of a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Source: Laws 1981, LB 321, § 5; R.S.1943, (1994), § 79-2905; Laws 1995, LB 5, § 8; R.S.1943, (2008), § 85-1708; Laws 2013, LB170, § 11; Laws 2019, LB224, § 9.

Effective date September 1, 2019.

58-813 Nebraska Educational, Health, Cultural, and Social Services Finance Authority; created.

There is hereby created a body politic and corporate to be known as the Nebraska Educational, Health, Cultural, and Social Services Finance Authority. The authority is constituted a public instrumentality, and the exercise by the authority of the powers conferred by the Nebraska Educational, Health, Cultur-

al, and Social Services Finance Authority Act shall be deemed and held to be the performance of an essential public function of the state.

Source: Laws 1981, LB 321, § 10; Laws 1993, LB 465, § 7; R.S.1943, (1994), § 79-2910; Laws 1995, LB 5, § 10; R.S.1943, (2008), § 85-1710; Laws 2013, LB170, § 13; Laws 2019, LB224, § 10. Effective date September 1, 2019.

58-817 Authority; quorum; actions; vacancy; effect; meetings.

Four members of the authority shall constitute a quorum. The affirmative vote of a majority of all of the members of the authority shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted. Members of the authority may participate in a regular or special meeting of the authority by telephone conference call or videoconference as long as the chairperson or vice-chairperson conducts the meeting at a location where the public is able to participate by attendance at that location and the telephone conference call or videoconference otherwise conforms to the requirements of subdivisions (2)(a) through (e) of section 84-1411.

Source: Laws 1981, LB 321, § 14; Laws 1984, LB 644, § 2; Laws 1993, LB 465, § 9; R.S.1943, (1994), § 79-2914; Laws 1995, LB 5, § 14; R.S.1943, (2008), § 85-1714; Laws 2013, LB170, § 17; Laws 2019, LB224, § 11. Effective date September 1, 2019.

58-818 Authority; officers, members, and employees; surety bond requirements.

Before the issuance of any bonds under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, the chairperson, vice-chairperson, executive director, and assistant executive director, if any, and any other member of the authority authorized by resolution of the authority to handle funds or sign checks of the authority shall execute a surety bond in such amount as a majority of the members of the authority determine, or alternatively, the chairperson of the authority shall execute a blanket bond effecting such coverage. Each surety bond shall be conditioned upon the faithful performance of the duties of the office or offices covered and shall be executed by a surety company authorized to transact business in this state, and the cost of each such surety bond shall be paid by the authority.

Source: Laws 1981, LB 321, § 15; Laws 1993, LB 465, § 10; R.S.1943, (1994), § 79-2915; Laws 1995, LB 5, § 15; R.S.1943, (2008), § 85-1715; Laws 2013, LB170, § 18; Laws 2019, LB224, § 12. Effective date September 1, 2019.

58-820 Authority member or employee; conflict of interest; abstention.

Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer, or employee of any educational institution, health care institution, cultural institution, social services institu-

tion, financial institution, commercial bank or trust company, architecture firm, insurance company, or any firm, person, or corporation to serve as a member of the authority, but such trustee, director, officer, or employee shall abstain from any deliberation or action by the authority when the business affiliation of any such trustee, director, officer, or employee is involved. The executive director may serve less than full time. If the executive director serves less than full time, his or her other employment, if any, shall be reviewed by the members of the authority for potential conflicts of interest and whether such other employment would prevent the executive director from fully discharging his or her duties. No member of the authority may be a representative of a bank, investment banking firm, or other financial institution that underwrites the bonds of the authority.

Source: Laws 1981, LB 321, § 17; R.S.1943, (1994), § 79-2917; Laws 1995, LB 5, § 17; R.S.1943, (2008), § 85-1717; Laws 2013, LB170, § 20; Laws 2019, LB224, § 13.
Effective date September 1, 2019.

58-826 Authority; powers over project.

The authority may determine the location and character of any project to be financed or refinanced under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act and acquire, construct, reconstruct, improve, equip, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same. The authority may also enter into contracts for any or all of such purposes, enter into contracts for the management and operation of a project, and designate an eligible institution as its agent to determine the location and character of a project undertaken by such eligible institution under the act and, as the agent of the authority, to acquire, construct, reconstruct, improve, equip, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same and, as the agent of the authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project.

Source: Laws 1981, LB 321, § 23; Laws 1993, LB 465, § 12; R.S.1943, (1994), § 79-2923; Laws 1995, LB 5, § 23; R.S.1943, (2008), § 85-1723; Laws 2013, LB170, § 26; Laws 2019, LB224, § 14.
Effective date September 1, 2019.

58-827 Authority; issuance of bonds authorized.

The authority may issue bonds of the authority for any of its corporate purposes and fund or refund the same pursuant to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 24; Laws 1993, LB 465, § 13; R.S.1943, (1994), § 79-2924; Laws 1995, LB 5, § 24; R.S.1943, (2008), § 85-1724; Laws 2013, LB170, § 27; Laws 2019, LB224, § 15.
Effective date September 1, 2019.

58-832 Authority; mortgage of certain property.

The authority may mortgage all or any portion of any project or any other facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any

portion thereof or issued to refund or refinance outstanding indebtedness or to reimburse an endowment or any similar fund of an eligible institution as permitted by the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 29; Laws 1993, LB 465, § 14; R.S.1943, (1994), § 79-2929; Laws 1995, LB 5, § 29; R.S.1943, (2008), § 85-1729; Laws 2013, LB170, § 32; Laws 2019, LB224, § 16. Effective date September 1, 2019.

58-834 Authority; issue bonds; make loans; conditions.

The authority may issue bonds and make loans to an eligible institution and refund or reimburse outstanding obligations, mortgages, or advances, including advances from an endowment or any similar fund, issued, made, or given by such eligible institution for the cost of a project, including the power to issue bonds and make loans to an eligible institution to refinance indebtedness incurred or to reimburse advances made for projects undertaken prior thereto whenever the authority has received a written letter of intent to underwrite, place, or purchase the bonds from a financial institution having the powers of an investment bank, commercial bank, or trust company and finds that such financing or refinancing is in the public interest, and either: (1) Alleviates a financial hardship upon the eligible institution; (2) results in a lesser cost of education, health care services, cultural services, or social services; or (3) enables the eligible institution to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Source: Laws 1981, LB 321, § 31; R.S.1943, (1994), § 79-2931; Laws 1995, LB 5, § 31; R.S.1943, (2008), § 85-1731; Laws 2013, LB170, § 34; Laws 2019, LB224, § 17. Effective date September 1, 2019.

58-835 Authority; administrative costs; apportionment.

The authority may charge to and equitably apportion among participating eligible institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred by the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 32; Laws 1993, LB 465, § 15; R.S.1943, (1994), § 79-2932; Laws 1995, LB 5, § 32; R.S.1943, (2008), § 85-1732; Laws 2013, LB170, § 35; Laws 2019, LB224, § 18. Effective date September 1, 2019.

58-836 Authority; general powers; joint projects.

The authority may do all things necessary or convenient to carry out the purposes of the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

In carrying out the purposes of the act, the authority may undertake a project for two or more eligible institutions jointly, or for any combination thereof, and

thereupon all other provisions of the act shall apply to and be for the benefit of the authority and such joint participants.

Source: Laws 1981, LB 321, § 33; Laws 1993, LB 465, § 16; R.S.1943, (1994), § 79-2933; Laws 1995, LB 5, § 33; R.S.1943, (2008), § 85-1733; Laws 2013, LB170, § 36; Laws 2019, LB224, § 19. Effective date September 1, 2019.

58-837 Authority; combine and substitute projects; bonds; additional series.

Notwithstanding any other provision contained in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, the authority may combine for financing purposes, with the consent of all of the eligible institutions which are involved, the project or projects and some or all future projects of any eligible institutions, but the money set aside in any fund or funds pledged for any series or issue of bonds shall be held for the sole benefit of such series or issue separate and apart from any money pledged for any other series or issue of bonds of the authority. To facilitate the combining of projects, bonds may be issued in series under one or more resolutions or trust indentures and be fully open end, thus providing for the unlimited issuance of additional series, or partially open end, limited as to additional series, all in the discretion of the authority. Notwithstanding any other provision of the act to the contrary, the authority may, in its discretion, permit an eligible institution to substitute one or more projects of equal value, as determined by an independent appraiser satisfactory to the authority, for any project financed under the act on such terms and subject to such conditions as the authority may prescribe.

Source: Laws 1981, LB 321, § 34; Laws 1993, LB 465, § 17; R.S.1943, (1994), § 79-2934; Laws 1995, LB 5, § 34; R.S.1943, (2008), § 85-1734; Laws 2013, LB170, § 37; Laws 2019, LB224, § 20. Effective date September 1, 2019.

58-838 Expenses; how paid; liability; limitation.

All expenses incurred in carrying out the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act shall be payable solely from funds provided under the act, and no liability or obligation shall be incurred by the authority beyond the extent to which money has been provided under the act.

Source: Laws 1981, LB 321, § 35; Laws 1993, LB 465, § 18; R.S.1943, (1994), § 79-2935; Laws 1995, LB 5, § 35; R.S.1943, (2008), § 85-1735; Laws 2013, LB170, § 38; Laws 2019, LB224, § 21. Effective date September 1, 2019.

58-841 Authority; bonds; issuance; form; proceeds; how used; replacement; liability; liability insurance; indemnification.

The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds for the purpose of (1) paying, refinancing, or reimbursing all or any part of the cost of a project, (2) administering and operating the Nebraska Health Education Assistance Loan Program and the Nebraska Student Loan Assistance Program, or (3) making loans to any eligible institution in anticipation of the receipt of tuition or other revenue by the eligible institution. Except to the extent payable from payments to be made on securities or federally guaranteed securities as provided in

sections 58-844 and 58-845, the principal of and the interest on such bonds shall be payable solely out of the revenue of the authority derived from the project or program to which they relate and from any other facilities or assets pledged or made available therefor by the eligible institution for whose benefit such bonds were issued. The bonds of each issue shall be dated, shall bear interest at such rate or rates, including variations of such rates, without regard to any limit contained in any other statute or law of the State of Nebraska, shall mature at such time or times not exceeding forty years from the date thereof, all as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices, which may be at a premium or discount, and under such terms and conditions as may be fixed by the authority in the authorizing resolution and any trust indenture. Except to the extent required by the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act and for bonds issued to fund the Nebraska Student Loan Assistance Program, such bonds are to be paid out of the revenue of the project to which they relate and, in certain instances, the revenue of certain other facilities, and subject to the provisions of sections 58-844 and 58-845 with respect to a pledge of securities or government securities, the bonds may be unsecured or secured in the manner and to the extent determined by the authority in its discretion.

The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state. The bonds shall be signed in the name of the authority, by its chairperson or vice-chairperson or by a facsimile signature of such person, the official seal of the authority or a facsimile thereof shall be affixed thereto or printed or impressed thereon and attested by the manual or facsimile signature of the executive director or assistant executive director of the authority, except that facsimile signatures of members of the authority shall be sufficient only if the resolution or trust indenture requires that the trustee for such bond issue manually authenticate each bond and the resolution or trust indenture permits the use of facsimile signatures, and any coupons attached to the bonds shall bear the facsimile signature of the executive director or assistant executive director of the authority. The resolution or trust indenture authorizing the bonds may provide that the bonds contain a recital that they are issued under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, and such recital shall be deemed conclusive evidence of the validity of the bonds and the regularity of the issuance. The provisions of section 10-126 shall not apply to bonds issued by the authority. The provisions of section 10-140 shall apply to bonds issued by the authority. In case any official of the authority whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such an official before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained an official of the authority until such delivery.

All bonds issued under the act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law of the State of Nebraska. The bonds may be issued in coupon or in registered form, or both, and one form may be exchangeable for the other in such manner as the authority may determine. Provision may be made for the registration of any

coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The bonds may be sold in such manner, either at public or private sale, as the authority may determine.

The proceeds of the bonds of each issue shall be used solely for the payment of the costs of the project or program for which such bonds have been issued and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust indenture provided for in section 58-843 securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than such costs, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed the cost of the project or program for which they were issued, the surplus shall be deposited to the credit of the sinking fund for such bonds or shall be applied as may otherwise be permitted by applicable federal income tax laws relating to the tax exemption of interest.

Prior to the preparation of definitive bonds, the authority may under like restrictions issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

The authority may also provide for the replacement of any bonds which become mutilated or are destroyed or lost. Bonds may be issued under the act without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state and without any other proceedings or conditions other than those proceedings and conditions which are specifically required by the act. The authority may out of any funds available therefor purchase its bonds. The authority may hold, pledge, cancel, or resell such bonds, subject to and in accordance with any agreement with the bondholders.

Members of the authority shall not be liable to the state, the authority, or any other person as a result of their activities, whether ministerial or discretionary, as authority members, except for willful dishonesty or intentional violations of law. Members of the authority and any person executing bonds or policies of insurance shall not be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The authority may purchase liability insurance for members, officers, and employees and may indemnify any authority member to the same extent that a school district may indemnify a school board member pursuant to section 79-516.

Source: Laws 1981, LB 321, § 38; Laws 1983, LB 159, § 4; Laws 1993, LB 465, § 19; R.S.1943, (1994), § 79-2938; Laws 1995, LB 5, § 38; Laws 2003, LB 107, § 2; Laws 2011, LB424, § 1; R.S.Supp.,2012, § 85-1738; Laws 2013, LB170, § 41; Laws 2019, LB224, § 22.

Effective date September 1, 2019.

58-843 Bonds; secured by trust indenture; contents; expenses; how treated.

In the discretion of the authority any bonds issued under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act may be secured by a trust indenture, which trust indenture may be in the form of a bond resolution or similar contract, by and between the authority and a corporate trustee or trustees which may be any financial institution having the power of a trust company or any trust company within or outside the state. Such trust indenture providing for the issuance of such bonds may pledge or assign the revenue to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. The trust indenture by which a pledge is created or an assignment made shall be filed in the records of the authority.

Any pledge or assignment made by the authority pursuant to this section shall be valid and binding from the time that the pledge or assignment is made, and the revenue so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or any further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether such parties have notice thereof.

Such trust indenture may set forth the rights and remedies of the bondholders and of the trustee or trustees, may restrict the individual right of action by bondholders, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders and of the trustee or trustees as may be reasonable and proper, not in violation of law, or provided for in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act. Any such trust indenture may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders.

Any bank or trust company which acts as depository of the proceeds of the bonds, any revenue, or other money shall furnish such indemnifying bonds or pledge such securities as may be required by the authority.

All expenses incurred in carrying out the provisions of such trust indenture may be treated as a part of the cost of the operation of a project.

Source: Laws 1981, LB 321, § 40; Laws 1993, LB 465, § 20; R.S.1943, (1994), § 79-2940; Laws 1995, LB 5, § 40; R.S.1943, (2008), § 85-1740; Laws 2013, LB170, § 43; Laws 2019, LB224, § 23. Effective date September 1, 2019.

58-844 Bonds issued to purchase securities of eligible institution; provisions applicable.

In addition to any other methods of financing authorized in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, the authority may finance the cost of a project or program, refund outstanding indebtedness, or reimburse advances from an endowment or any similar fund of an eligible institution as authorized by section 58-834 by issuing its bonds for the purpose of purchasing the securities of the eligible institution. Any such securities shall have the same principal amounts, maturities, and interest rates as the bonds being issued, may be secured by a first mortgage lien on or security interest in any real or personal property, subject to such exceptions as the authority may approve and created by a mortgage or security instrument satisfactory to the authority, and may be insured or guaranteed by others. Any

such bonds shall be secured by a pledge of such securities under the trust indenture securing such bonds, shall be payable solely out of the payments to be made on such securities, and shall not exceed in principal amount the cost of such project or program, the refunding of such indebtedness, or reimbursement of such advances as determined by the eligible institution and approved by the authority. In other respects any such bonds shall be subject to the act, including sections 58-841 and 58-842, and the trust indenture securing such bonds may contain any of the provisions set forth in section 58-843 as the authority may consider appropriate.

If a project is financed pursuant to this section, the title to such project shall remain in the eligible institution owning such project, subject to the lien of the mortgage or security interest, if any, securing the securities then being purchased, and there shall be no lease of such facility between the authority and such eligible institution.

Section 58-840 shall not apply to any project financed pursuant to this section, but the authority shall return the securities purchased through the issuance of bonds pursuant to this section to the eligible institution issuing such securities when such bonds have been fully paid and retired or when adequate provision has been made to pay and retire such bonds fully and all other conditions of the trust indenture securing such bonds have been satisfied and any lien established pursuant to this section has been released in accordance with the provisions of the trust indenture.

Source: Laws 1981, LB 321, § 41; Laws 1993, LB 465, § 21; R.S.1943, (1994), § 79-2941; Laws 1995, LB 5, § 41; R.S.1943, (2008), § 85-1741; Laws 2013, LB170, § 44; Laws 2019, LB224, § 24. Effective date September 1, 2019.

58-845 Bonds issued to acquire federally guaranteed securities; provisions applicable.

Notwithstanding any other provision of the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act to the contrary, the authority may finance the cost of a project or program, refund outstanding indebtedness, or reimburse advances from any endowment or any similar fund of an eligible institution as authorized by the act, by issuing its bonds pursuant to a plan of financing involving the acquisition of any federally guaranteed security or securities or the acquisition or entering into of commitments to acquire any federally guaranteed security or securities. For purposes of this section, federally guaranteed security means any direct obligation of or obligation the principal of and interest on which are fully guaranteed or insured by the United States of America or any obligation issued by or the principal of and interest on which are fully guaranteed or insured by any agency or instrumentality of the United States of America, including without limitation any such obligation that is issued pursuant to the National Housing Act, or any successor provision of law, each as amended from time to time.

In furtherance of the powers granted in this section, the authority may acquire or enter into commitments to acquire any federally guaranteed security and pledge or otherwise use any such federally guaranteed security in such manner as the authority deems in its best interest to secure or otherwise provide a source of repayment of any of its bonds issued to finance or refinance a project or program or may enter into any appropriate agreement with any

eligible institution whereby the authority may make a loan to any such eligible institution for the purpose of acquiring or entering into commitments to acquire any federally guaranteed security.

Any agreement entered into pursuant to this section may contain such provisions as are deemed necessary or desirable by the authority for the security or protection of the authority or the holders of such bonds, except that the authority, prior to making any such acquisition, commitment, or loan, shall first determine and enter into an agreement with any such eligible institution or any other appropriate institution or corporation to require that the proceeds derived from the acquisition of any such federally guaranteed security will be used, directly or indirectly, for the purpose of financing or refinancing a project or program.

Any bonds issued pursuant to this section shall not exceed in principal amount the cost of financing or refinancing such project or program as determined by the participating eligible institution and approved by the authority, except that such costs may include, without limitation, all costs and expenses necessary or incidental to the acquisition of or commitment to acquire any federally guaranteed security and to the issuance and obtaining of any insurance or guarantee of any obligation issued or incurred in connection with any federally guaranteed security. In other respects any such bonds shall be subject to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, including sections 58-841 and 58-842, and the trust indenture securing such bonds may contain such of the provisions set forth in section 58-843 as the authority may deem appropriate.

If a project is financed or refinanced pursuant to this section, the title to such project shall remain in the participating eligible institution owning the project, subject to the lien of any mortgage or security interest securing, directly or indirectly, the federally guaranteed securities then being purchased or to be purchased, and there shall be no lease of such facility between the authority and such eligible institution.

Section 58-840 shall not apply to any project financed pursuant to this section, but the authority shall return the securities purchased through the issuance of bonds pursuant to this section to the issuer of such securities when such securities have been fully paid, when such bonds have been fully paid and retired, or when adequate provision, not involving the application of such securities, has been made to pay and retire such bonds fully, all other conditions of the trust indenture securing such bonds have been satisfied, and the lien on such bonds has been released in accordance with the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 42; Laws 1993, LB 465, § 22; R.S.1943, (1994), § 79-2942; Laws 1995, LB 5, § 42; R.S.1943, (2008), § 85-1742; Laws 2013, LB170, § 45; Laws 2019, LB224, § 25. Effective date September 1, 2019.

58-846 Refunding bonds; issuance authorized; provisions applicable.

The authority is hereby authorized to provide by resolution for the issuance of refunding bonds for the purpose of refunding any bonds then outstanding which have been issued by it under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date

of maturity or earlier redemption of such bonds, and, in the case of a project and if deemed advisable by the authority, for the additional purposes of acquiring, constructing, improving, equipping, and renovating improvements, extensions, or enlargements of the project in connection with which the bonds to be refunded were issued and of paying any expenses which the authority determines may be necessary or incidental to the issuance of such refunding bonds and the acquiring, constructing, improving, equipping, and renovating of such improvements, extensions, or enlargements. Such refunding bonds shall be payable solely out of the revenue of the project, including any such improvements, extensions, or enlargements thereto, or program to which the bonds being refunded relate or as otherwise described in sections 58-841, 58-844, 58-845, 58-860, and 58-861. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, the rights, duties, and obligations of the authority with respect to such bonds, and the manner of sale thereof shall be governed by the act insofar as applicable.

The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or earlier redemption of such outstanding bonds either on their earliest or any subsequent redemption date, upon the purchase of such bonds, or at the maturity of such bonds and may, pending such application, be placed in escrow to be applied to such purchase, retirement at maturity, or earlier redemption.

Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States of America or obligations the timely payment of principal and interest on which is fully guaranteed by the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. Only after the terms of the escrow have been fully satisfied and carried out may any balance of such proceeds, interest, income, or profits earned or realized on the investments thereof be returned to the eligible institution for whose benefit the refunded bonds were issued for use by it in any lawful manner.

All such bonds shall be subject to the act in the same manner and to the same extent as other revenue bonds issued pursuant to the act.

Source: Laws 1981, LB 321, § 43; Laws 1983, LB 159, § 6; Laws 1993, LB 465, § 23; R.S.1943, (1994), § 79-2943; Laws 1995, LB 5, § 43; R.S.1943, (2008), § 85-1743; Laws 2013, LB170, § 46; Laws 2019, LB224, § 26.
Effective date September 1, 2019.

58-847 Bond issuance; state or political subdivision; no obligation; statement; expenses.

Bonds issued pursuant to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be a limited obligation of the authority payable solely from the funds, securities, or government securities pledged for their payment as authorized in the act unless

such bonds are refunded by refunding bonds issued under the act, which refunding bonds shall be payable solely from funds, securities, or government securities pledged for their payment as authorized in the act. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the State of Nebraska or of any political subdivision thereof but are limited obligations of the authority payable solely from revenue, securities, or government securities, as the case may be, pledged for their payment. All expenses incurred in carrying out the act shall be payable solely from funds provided under the authority of the act, and nothing contained in the act shall be construed to authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

Source: Laws 1981, LB 321, § 44; Laws 1993, LB 465, § 24; R.S.1943, (1994), § 79-2944; Laws 1995, LB 5, § 44; R.S.1943, (2008), § 85-1744; Laws 2013, LB170, § 47; Laws 2019, LB224, § 27. Effective date September 1, 2019.

58-849 Money received by authority; deemed trust funds; investment.

All money received by the authority, whether as proceeds from the sale of bonds, from revenue, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act but, prior to the time when needed for use, may be invested in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States of America, obligations issued by agencies of the United States of America, any obligations of the United States of America or agencies thereof, obligations of this state, or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to subsection (1) of section 77-2341, except that any funds pledged to secure a bond issue shall be invested in the manner permitted by the resolution or trust indenture securing such bonds. Such funds shall be deposited as soon as practical in a separate account or accounts in banks or trust companies organized under the laws of this state or in national banking associations. The money in such accounts shall be paid out on checks signed by the executive director or other officers or employees of the authority as the authority authorizes. All deposits of money shall, if required by the authority, be secured in such a manner as the authority determines to be prudent, and all banks or trust companies may give security for the deposits, except to the extent provided otherwise in the resolution authorizing the issuance of the related bonds or in the trust indenture securing such bonds. The resolution authorizing the issuance of such bonds or the trust indenture securing such bonds shall provide that any officer to whom or any bank or trust company to which such money is entrusted shall act as trustee of such money and shall hold and apply the same for the purposes of the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, subject to the act, and of the authorizing resolution or trust indenture.

Source: Laws 1981, LB 321, § 46; Laws 1993, LB 465, § 25; R.S.1943, (1994), § 79-2946; Laws 1995, LB 5, § 46; R.S.1943, (2008), § 85-1746; Laws 2013, LB170, § 49; Laws 2019, LB224, § 28. Effective date September 1, 2019.

58-850 Bondholders and trustee; enforcement of rights.

Any holder of bonds or of any of the coupons appertaining thereto issued under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act and the trustee under any trust indenture, except to the extent the rights given in the act may be restricted by the resolution or trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state, the act, or such trust indenture or resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by the act or by such trust indenture or resolution to be performed by the authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, rents, loan payments, fees, and charges authorized in the act and required by the provisions of such resolution or trust indenture to be fixed, established, and collected.

Such rights shall include the right to compel the performance of all duties of the authority required by the act or the resolution or trust indenture to enjoin unlawful activities and, in the event of default with respect to the payment of any principal of and premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the resolution or trust indenture, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate a project, the revenue of which is pledged to the payment of the principal of and premium, if any, and interest on such bonds, with full power to pay and to provide for payment of the principal of and premium, if any, and interest on such bonds, and with such powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, excluding any power to pledge additional revenue of the authority to the payment of such principal, premium, and interest, and to foreclose the mortgage on the project in the same manner as the foreclosure of a mortgage on real estate of private corporations.

Source: Laws 1981, LB 321, § 47; Laws 1993, LB 465, § 26; R.S.1943, (1994), § 79-2947; Laws 1995, LB 5, § 47; R.S.1943, (2008), § 85-1747; Laws 2013, LB170, § 50; Laws 2019, LB224, § 29. Effective date September 1, 2019.

58-851 Act, how construed.

The Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

Source: Laws 1981, LB 321, § 48; Laws 1993, LB 465, § 27; R.S.1943, (1994), § 79-2948; Laws 1995, LB 5, § 48; R.S.1943, (2008), § 85-1748; Laws 2013, LB170, § 51; Laws 2019, LB224, § 30. Effective date September 1, 2019.

58-853 Authority; public purpose; exemptions from taxation.

The exercise of the powers granted by the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act shall be in all respects for the benefit of the people of the state, for the increase of their commerce, welfare, and prosperity, for the fostering, encouragement, protection, and improvement of their health and living conditions, and for the development of their intellectual and mental capacities and skills, and as the operation, maintenance, financing, or refinancing of a project or program by the authority or its

agent will constitute the performance of essential governmental functions and serve a public purpose, neither the authority nor its agent shall be required to pay any taxes or assessments, upon or with respect to a project or any property acquired or used by the authority or its agent under the act, upon the income therefrom, or upon any other amounts received by the authority in respect thereof, including payments of principal of or premium or interest on or in respect of any securities purchased pursuant to section 58-844 or any government securities involved in a plan of financing pursuant to section 58-845. The bonds issued under the act, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity, proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the State of Nebraska for all purposes except the state inheritance tax.

Source: Laws 1981, LB 321, § 50; Laws 1993, LB 465, § 28; R.S.1943, (1994), § 79-2950; Laws 1995, LB 5, § 50; R.S.1943, (2008), § 85-1750; Laws 2013, LB170, § 53; Laws 2019, LB224, § 31. Effective date September 1, 2019.

58-854 Bondholders; pledge; agreement of the state.

The State of Nebraska does hereby pledge to and agree with the holders of any obligations issued under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act and with those parties who may enter into contracts with the authority pursuant to the act that the state will not limit or alter the rights vested in the authority until such obligations, together with the interest thereon, are fully met and discharged and such contracts are fully performed on the part of the authority, except that nothing contained in this section shall preclude such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such obligations of the authority or those entering into such contracts with the authority.

Source: Laws 1981, LB 321, § 51; Laws 1993, LB 465, § 29; R.S.1943, (1994), § 79-2951; Laws 1995, LB 5, § 51; R.S.1943, (2008), § 85-1751; Laws 2013, LB170, § 54; Laws 2019, LB224, § 32. Effective date September 1, 2019.

58-855 Act; supplemental to other laws.

The Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act shall be deemed to provide a complete, additional, and alternative method for doing the things authorized in the act and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under the act need not comply with the requirements of any other law applicable to the issuance of bonds, and the acquisition, construction, improvement, equipment, and renovation of a project pursuant to the act by the authority need not comply with the requirements of any competitive bidding law or other restriction imposed on the procedure for award of contracts for the acquisition, construction, improvement, equipment, and renovation of a project or the lease, sale, or disposition of property of the authority, except that if the prospective lessee so requests in writing, the authority shall call for construction bids in such manner as shall be determined by the authority with the approval of such lessee. Except as otherwise expressly

provided in the act, none of the powers granted to the authority under the act shall be subject to the supervision of or regulation by or require the approval or consent of any municipality, commission, board, body, bureau, official, or other political subdivision or agency of the state.

Source: Laws 1981, LB 321, § 52; Laws 1993, LB 465, § 30; R.S.1943, (1994), § 79-2952; Laws 1995, LB 5, § 52; R.S.1943, (2008), § 85-1752; Laws 2013, LB170, § 55; Laws 2019, LB224, § 33. Effective date September 1, 2019.

58-856 Act; provisions controlling.

To the extent that the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act is inconsistent with the provisions of any general statute or special act or parts thereof, the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act shall be deemed controlling.

Source: Laws 1981, LB 321, § 53; Laws 1993, LB 465, § 31; R.S.1943, (1994), § 79-2953; Laws 1995, LB 5, § 53; R.S.1943, (2008), § 85-1753; Laws 2013, LB170, § 56; Laws 2019, LB224, § 34. Effective date September 1, 2019.

58-857 Nebraska Health Education Assistance Loan Program; established.

There is hereby established, in accordance with Public Law 94-484, the Nebraska Health Education Assistance Loan Program, to be financed by the authority in the manner provided in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1983, LB 159, § 7; Laws 1993, LB 465, § 32; R.S.1943, (1994), § 79-2954; Laws 1995, LB 5, § 54; R.S.1943, (2008), § 85-1754; Laws 2013, LB170, § 57; Laws 2019, LB224, § 35. Effective date September 1, 2019.

58-862 Nebraska Health Education Loan Repayment Fund; created; use.

There is hereby created a separate fund, to be known as the Nebraska Health Education Loan Repayment Fund, which shall consist of all revenue generated in connection with loans funded pursuant to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act. The authority may pledge revenue received or to be received by the fund to secure bonds, notes, or other obligations issued pursuant to the act. The authority may create such subfunds or accounts within the fund as it deems necessary or advisable.

Source: Laws 1983, LB 159, § 12; Laws 1993, LB 465, § 33; R.S.1943, (1994), § 79-2959; Laws 1995, LB 5, § 59; R.S.1943, (2008), § 85-1759; Laws 2013, LB170, § 62; Laws 2019, LB224, § 36. Effective date September 1, 2019.

58-863 Nebraska Student Loan Assistance Program; established.

There is hereby established the Nebraska Student Loan Assistance Program to be financed by the authority in the manner provided in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1993, LB 465, § 34; R.S.1943, (1994), § 79-2961; Laws 1995, LB 5, § 60; R.S.1943, (2008), § 85-1760; Laws 2013, LB170, § 63; Laws 2019, LB224, § 37. Effective date September 1, 2019.

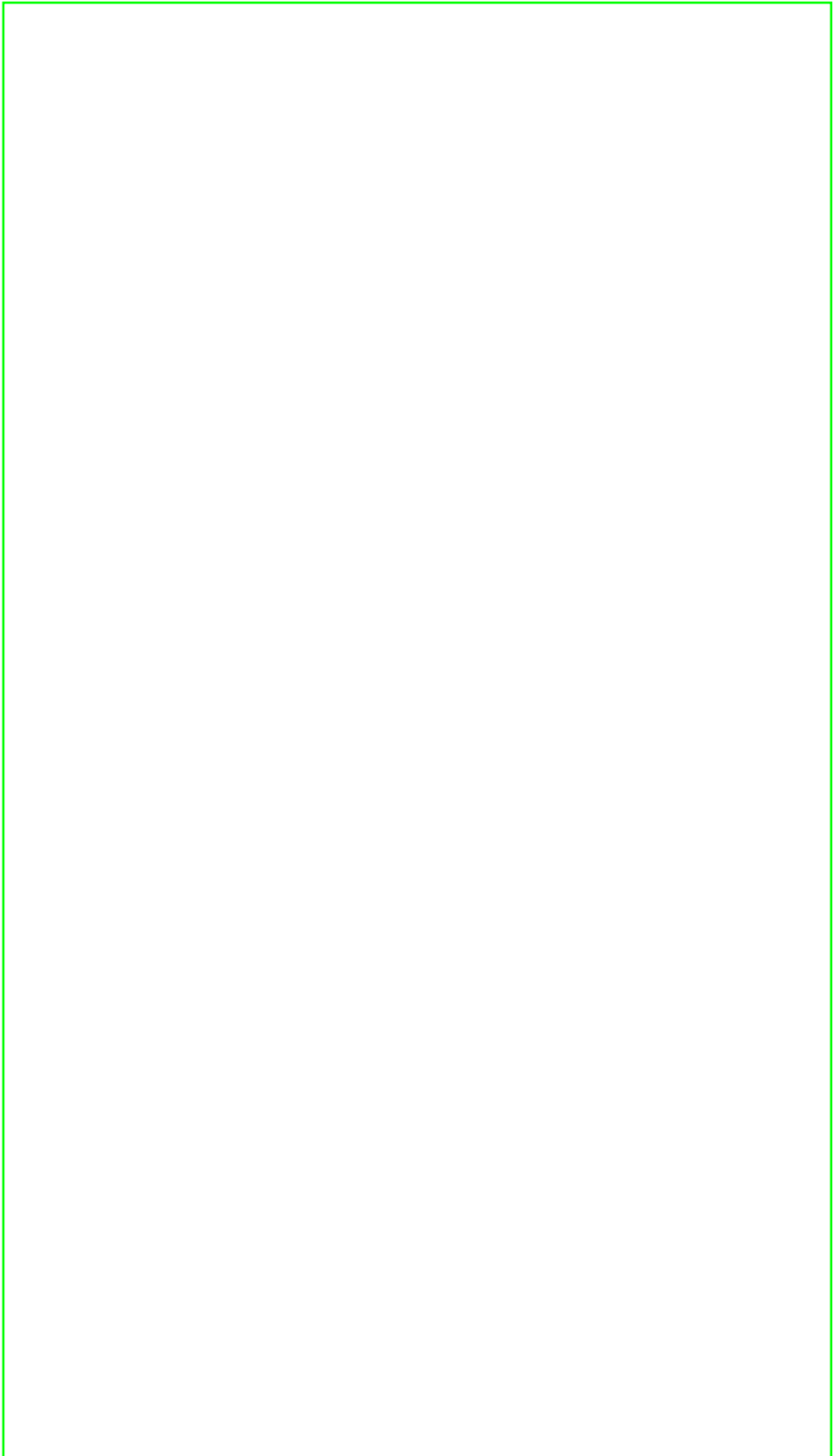
58-866 Change in name; effect.

(1) It is the intent of the Legislature that the changes made by Laws 1993, LB 465, in the name of the Nebraska Educational Facilities Authority Act to the Nebraska Educational Finance Authority Act and in the name of the Nebraska Educational Facilities Authority to the Nebraska Educational Finance Authority shall not affect or alter any rights, privileges, or obligations existing immediately prior to September 9, 1993.

(2) It is the intent of the Legislature that the changes made by Laws 2013, LB170, in the name of the Nebraska Educational Finance Authority Act to the Nebraska Educational, Health, and Social Services Finance Authority Act and in the name of the Nebraska Educational Finance Authority to the Nebraska Educational, Health, and Social Services Finance Authority shall not affect or alter any rights, privileges, or obligations existing immediately prior to September 6, 2013.

(3) It is the intent of the Legislature that the changes made by Laws 2019, LB224, in the name of the Nebraska Educational, Health, and Social Services Finance Authority Act to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act and in the name of the Nebraska Educational, Health, and Social Services Finance Authority to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority shall not affect or alter any rights, privileges, or obligations existing immediately prior to September 1, 2019.

Source: Laws 1993, LB 465, § 37; R.S.1943, (1994), § 79-2964; Laws 1995, LB 5, § 63; R.S.1943, (2008), § 85-1763; Laws 2013, LB170, § 66; Laws 2019, LB224, § 38.
Effective date September 1, 2019.



CHAPTER 59

MONOPOLIES AND UNLAWFUL COMBINATIONS

Article.

14. Musical Compositions. 59-1402.

ARTICLE 14

MUSICAL COMPOSITIONS

Section

59-1402. Terms, defined.

59-1402 Terms, defined.

For purposes of the Music Licensing Agency Act:

(1) Copyright owner means the owner of a copyright of a nondramatic musical work recognized and enforceable under the copyright laws of the United States pursuant to 17 U.S.C. 101 et seq., as such sections existed on January 1, 2018, and does not include the owner of a copyright in a motion picture or audiovisual work or in part of a motion picture or audiovisual work;

(2) Music licensing agency means an association or corporation that licenses the public performance of nondramatic musical works on behalf of copyright owners;

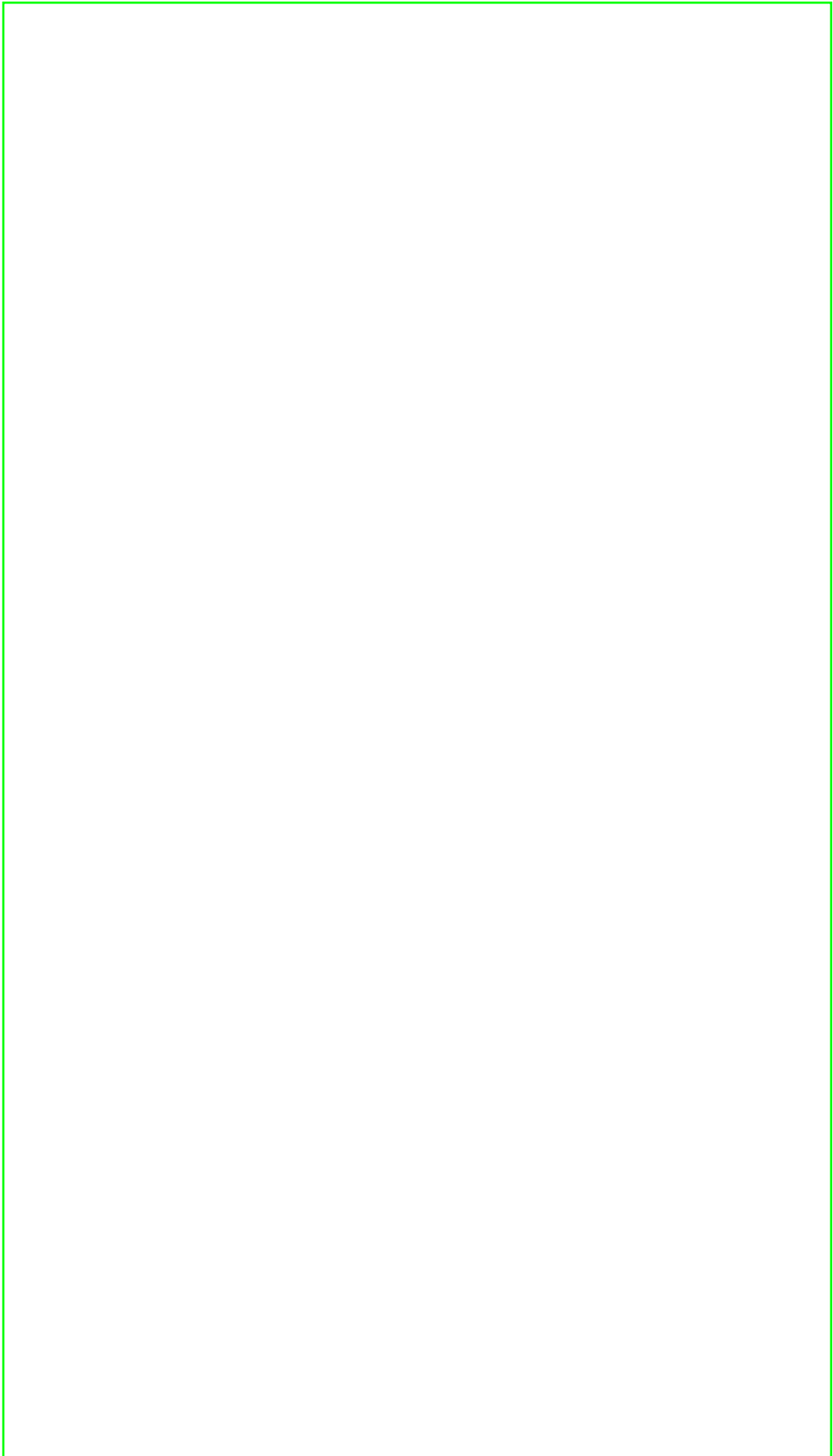
(3) Performing right means the right to perform a copyrighted nondramatic musical work publicly for profit;

(4) Person means any individual, resident or nonresident of this state, and every domestic, foreign, or alien partnership, limited liability company, society, association, corporation, or music licensing agency;

(5) Proprietor means the owner of a retail establishment, restaurant, inn, bar, tavern, sports or entertainment facility, multi-family residential dwelling, or other similar place of business or professional office located in this state in which the public may assemble and in which nondramatic musical works or similar copyrighted works may be performed, broadcast, or otherwise transmitted for the enjoyment of members of the public there assembled; and

(6) Royalty means the fees payable to a copyright owner for a performing right.

Source: Laws 2018, LB1120, § 31; Laws 2019, LB203, § 1.
Effective date September 1, 2019.



MOTOR VEHICLES

CHAPTER 60 MOTOR VEHICLES

Article.

1. Motor Vehicle Certificate of Title Act. 60-101 to 60-174.
3. Motor Vehicle Registration. 60-301 to 60-3,244.
4. Motor Vehicle Operators' Licenses.
 - (e) General Provisions. 60-462.01.
 - (f) Provisions Applicable to All Operators' Licenses. 60-479.01 to 60-4,111.01.
 - (g) Provisions Applicable to Operation of Motor Vehicles Other than Commercial. 60-4,117 to 60-4,126.
 - (h) Provisions Applicable to Operation of Commercial Motor Vehicles. 60-4,132 to 60-4,155.
 - (k) Point System. 60-4,182.
 - (l) Veteran Notation. 60-4,189.
5. Motor Vehicle Safety Responsibility.
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ARTICLE 1

MOTOR VEHICLE CERTIFICATE OF TITLE ACT

Section

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Section

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60-101 Act, how cited.

Sections 60-101 to 60-197 shall be known and may be cited as the Motor Vehicle Certificate of Title Act.

Source: Laws 2005, LB 276, § 1; Laws 2006, LB 663, § 1; Laws 2006, LB 1061, § 6; Laws 2007, LB286, § 1; Laws 2009, LB49, § 5; Laws 2009, LB202, § 10; Laws 2010, LB650, § 3; Laws 2011, LB289, § 6; Laws 2012, LB1155, § 2; Laws 2015, LB231, § 2; Laws 2017, LB263, § 7; Laws 2018, LB909, § 7; Laws 2019, LB156, § 1.

Effective date September 1, 2019.

60-102 Definitions, where found.

For purposes of the Motor Vehicle Certificate of Title Act, unless the context otherwise requires, the definitions found in sections 60-103 to 60-136.01 shall be used.

Source: Laws 2005, LB 276, § 2; Laws 2007, LB286, § 2; Laws 2010, LB650, § 4; Laws 2012, LB1155, § 3; Laws 2015, LB231, § 3; Laws 2017, LB263, § 8; Laws 2018, LB909, § 8; Laws 2019, LB156, § 2.

Effective date September 1, 2019.

60-107 Cabin trailer, defined.

Cabin trailer means a trailer or a semitrailer, which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place, whether used for such purposes or instead permanently or temporarily for the advertising, sale, display, or promotion of merchandise or services or for any other commercial purpose except transportation of property for hire or transportation of property for distribution by a private carrier. Cabin trailer does not mean a trailer or semitrailer which is permanently attached to real estate. There are four classes of cabin trailers:

(1) Camping trailer which includes cabin trailers one hundred two inches or less in width and forty feet or less in length and adjusted mechanically smaller for towing;

(2) Mobile home which includes cabin trailers more than one hundred two inches in width or more than forty feet in length;

(3) Travel trailer which includes cabin trailers not more than one hundred two inches in width nor more than forty feet in length from front hitch to rear bumper, except as provided in subdivision (2)(k) of section 60-6,288; and

(4) Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent frame and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of

this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such act existed on January 1, 2019, 42 U.S.C. 5401 et seq.

Source: Laws 2005, LB 276, § 7; Laws 2008, LB797, § 1; Laws 2019, LB79, § 1.
Effective date March 7, 2019.

60-115.01 Former military vehicle, defined.

Former military vehicle means a motor vehicle that was manufactured for use in any country's military forces and is maintained to accurately represent its military design and markings, regardless of the vehicle's size or weight, but is no longer used, or never was used, by a military force.

Source: Laws 2019, LB156, § 3.
Effective date September 1, 2019.

60-119.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2019, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) which is equipped with a windshield and an occupant protection system. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2007, LB286, § 5; Laws 2011, LB289, § 7; Laws 2016, LB929, § 1; Laws 2017, LB263, § 12; Laws 2018, LB909, § 14; Laws 2019, LB79, § 2; Laws 2019, LB270, § 6.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB79, section 2, with LB270, section 6, to reflect all amendments.

Note: Changes made by LB79 became effective March 7, 2019. Changes made by LB270 became effective September 1, 2019.

60-142.12 Former military vehicle; application for certificate of title; procedure.

The owner of a former military vehicle may apply for a certificate of title by presenting (1) a manufacturer's certificate of origin, (2) a certificate of title from another state, (3) a court order issued by a court of record, (4) an assigned registration certificate, if the law of the state from which the vehicle was brought into this state does not require a certificate of title, (5) a United States Government Certificate to Obtain Title to a Vehicle, or (6) evidence of ownership as provided for in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, or sections 60-2401 to 60-2411, or documentation of compliance with section 76-1607.

Source: Laws 2019, LB156, § 4.
Effective date September 1, 2019.

60-144 Certificate of title; issuance; filing; application; contents; form.

(1)(a)(i) Except as provided in subdivisions (b), (c), and (d) of this subsection, the county treasurer shall be responsible for issuing and filing certificates of title for vehicles, and each county shall issue and file such certificates of title using the Vehicle Title and Registration System which shall be provided and maintained by the department. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(ii) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2021. In addition to the information required under subdivision (1)(a)(i) of this section, the application for a certificate of title shall contain (A)(I) the full legal name as defined in section 60-468.01 of each owner or (II) the name of each owner as such name appears on the owner's motor vehicle operator's license or state identification card and (B)(I) the motor vehicle operator's license number or state identification card number of each owner, if applicable, and one or more of the identification elements as listed in section 60-484 of each owner, if applicable, and (II) if any owner is a business entity, a nonprofit organization, an estate, a trust, or a church-controlled organization, its tax identification number.

(b) The department shall issue and file certificates of title for Nebraska-based fleet vehicles. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(c) The department shall issue and file certificates of title for state-owned vehicles. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(d) The department shall issue certificates of title pursuant to section 60-142.06. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(e) The department shall issue certificates of title pursuant to section 60-142.09. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(2) If the owner of an all-terrain vehicle, a utility-type vehicle, or a minibike resides in Nebraska, the application shall be filed with the county treasurer of the county in which the owner resides.

(3)(a) If a vehicle has situs in Nebraska, the application for a certificate of title may be filed with the county treasurer of any county.

(b) If a motor vehicle dealer licensed under the Motor Vehicle Industry Regulation Act applies for a certificate of title for a vehicle, the application may be filed with the county treasurer of any county.

(c) An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may apply for a certificate of title for a vehicle to the county treasurer of any county or the department in a manner provided by the electronic dealer services system.

(4) If the owner of a vehicle is a nonresident, the application shall be filed in the county in which the transaction is consummated.

(5) The application shall be filed within thirty days after the delivery of the vehicle.

(6) All applicants registering a vehicle pursuant to section 60-3,198 shall file the application for a certificate of title with the Division of Motor Carrier Services of the department. The division shall deliver the certificate to the applicant if there are no liens on the vehicle. If there are one or more liens on the vehicle, the certificate of title shall be handled as provided in section 60-164. All certificates of title issued by the division shall be issued in the manner prescribed for the county treasurer in section 60-152.

Source: Laws 2005, LB 276, § 44; Laws 2006, LB 663, § 13; Laws 2006, LB 765, § 3; Laws 2009, LB202, § 12; Laws 2010, LB650, § 11; Laws 2010, LB816, § 4; Laws 2011, LB212, § 2; Laws 2012, LB801, § 29; Laws 2015, LB642, § 3; Laws 2017, LB263, § 13; Laws 2019, LB270, § 7.

Effective date September 1, 2019.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

60-146 Application; identification inspection required; exceptions; form; procedure; additional inspection authorized; agreement with franchisee; county sheriff; duties.

(1) An application for a certificate of title for a vehicle shall include a statement that an identification inspection has been conducted on the vehicle unless (a) the title sought is a salvage branded certificate of title or a nontransferable certificate of title, (b) the surrendered ownership document is a Nebraska certificate of title, a manufacturer's statement of origin, an importer's statement of origin, a United States Government Certificate of Release of a vehicle, or a nontransferable certificate of title, (c) the application contains a statement that the vehicle is to be registered under section 60-3,198, (d) the vehicle is a cabin trailer, (e) the title sought is the first title for the vehicle sold directly by the manufacturer of the vehicle to a dealer franchised by the manufacturer, or (f) the vehicle was sold at an auction authorized by the manufacturer and purchased by a dealer franchised by the manufacturer of the vehicle.

(2) The department shall prescribe a form to be executed by a dealer and submitted with an application for a certificate of title for vehicles exempt from inspection pursuant to subdivision (1)(e) or (f) of this section. The form shall clearly identify the vehicle and state under penalty of law that the vehicle is exempt from inspection.

(3) The statement that an identification inspection has been conducted shall be furnished by the county sheriff of any county or by any other holder of a certificate of training issued pursuant to section 60-183, shall be in a format as determined by the department, and shall expire ninety days after the date of the inspection. The county treasurer shall accept a certificate of inspection, approved by the superintendent, from an officer of a state police agency of another state unless an inspection is required under section 60-174.

(4)(a) Except as provided in subdivision (b) of this subsection, the identification inspection shall include examination and notation of the then current

odometer reading, if any, and a comparison of the vehicle identification number with the number listed on the ownership records, except that if a lien is registered against a vehicle and recorded on the vehicle's ownership records, the county treasurer shall provide a copy of the ownership records for use in making such comparison. If such numbers are not identical, if there is reason to believe further inspection is necessary, or if the inspection is for a Nebraska assigned number, the person performing the inspection shall make a further inspection of the vehicle which may include, but shall not be limited to, examination of other identifying numbers placed on the vehicle by the manufacturer and an inquiry into the numbering system used by the state issuing such ownership records to determine ownership of a vehicle. The identification inspection shall also include a statement that the vehicle identification number has been checked for entry in the National Crime Information Center and the Nebraska Crime Information Service. In the case of an assembled vehicle, a vehicle designated as reconstructed, or a vehicle designated as replica, the identification inspection shall include, but not be limited to, an examination of the records showing the date of receipt and source of each major component part. No identification inspection shall be conducted unless all major component parts are properly attached to the vehicle in the correct location.

(b) Each county sheriff shall establish a process to enter into an agreement with any franchisee as defined in section 60-1401.19 licensed under the Motor Vehicle Industry Regulation Act with a franchise location in the county in which the sheriff has jurisdiction to collect information for the identification inspection on motor vehicles which are in the inventory of the franchisee and which are at a franchise location in such county. The agreement shall require that the franchisee provide the required fee, a copy of the documents evidencing transfer of ownership, and the make, model, vehicle identification number, and odometer reading in a form and manner prescribed by the county sheriff, which shall include a requirement to provide one or more photographs or digital images of the vehicle, the vehicle identification number, and the odometer reading. The county sheriff shall complete the identification inspection as required under subdivision (a) of this subsection using such information and return to the franchisee the statement that an identification inspection has been conducted for each motor vehicle as provided in subsection (3) of this section. If the information is incomplete or if there is reason to believe that further inspection is necessary, the county sheriff shall inform the franchisee. If the franchisee knowingly provides inaccurate or false information, the franchisee shall be liable for any damages that result from the provision of such information. The franchisee shall keep the records for five years after the date the identification inspection is complete.

(5) If there is cause to believe that odometer fraud exists, written notification shall be given to the office of the Attorney General. If after such inspection the sheriff or his or her designee determines that the vehicle is not the vehicle described by the ownership records, no statement shall be issued.

(6) The county treasurer or the department may also request an identification inspection of a vehicle to determine if it meets the definition of motor vehicle as defined in section 60-123.

Source: Laws 2005, LB 276, § 46; Laws 2006, LB 765, § 4; Laws 2007, LB286, § 11; Laws 2012, LB801, § 30; Laws 2018, LB909, § 24; Laws 2019, LB80, § 1.
Effective date September 1, 2019.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

60-149 Application; documentation required.

(1)(a) If a certificate of title has previously been issued for a vehicle in this state, the application for a new certificate of title shall be accompanied by the certificate of title duly assigned except as otherwise provided in the Motor Vehicle Certificate of Title Act.

(b) Except for manufactured homes or mobile homes as provided in subsection (2) of this section, if a certificate of title has not previously been issued for the vehicle in this state or if a certificate of title is unavailable, the application shall be accompanied by:

(i) A manufacturer's or importer's certificate except as otherwise provided in subdivision (viii) of this subdivision;

(ii) A duly certified copy of the manufacturer's or importer's certificate;

(iii) An affidavit by the owner affirming ownership in the case of an all-terrain vehicle, a utility-type vehicle, or a minibike;

(iv) A certificate of title from another state;

(v) A court order issued by a court of record, a manufacturer's certificate of origin, or an assigned registration certificate, if the law of the state from which the vehicle was brought into this state does not have a certificate of title law;

(vi) Evidence of ownership as provided for in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, or sections 60-2401 to 60-2411;

(vii) Documentation prescribed in section 60-142.01, 60-142.02, 60-142.04, 60-142.05, 60-142.09, or 60-142.11 or documentation of compliance with section 76-1607;

(viii) A manufacturer's or importer's certificate and an affidavit by the owner affirming ownership in the case of a minitruck; or

(ix) In the case of a motor vehicle, a trailer, an all-terrain vehicle, a utility-type vehicle, or a minibike, an affidavit by the holder of a motor vehicle auction dealer's license as described in subdivision (11) of section 60-1406 affirming that the certificate of title is unavailable and that the vehicle (A) is a salvage vehicle through payment of a total loss settlement, (B) is a salvage vehicle purchased by the auction dealer, or (C) has been donated to an organization operating under section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01.

(c) If the application for a certificate of title in this state is accompanied by a valid certificate of title issued by another state which meets that state's requirements for transfer of ownership, then the application may be accepted by this state.

(d) If a certificate of title has not previously been issued for the vehicle in this state and the applicant is unable to provide such documentation, the applicant may apply for a bonded certificate of title as prescribed in section 60-167.

(2)(a) If the application for a certificate of title for a manufactured home or a mobile home is being made in accordance with subdivision (4)(b) of section 60-137 or if the certificate of title for a manufactured home or a mobile home is

unavailable, the application shall be accompanied by proof of ownership in the form of:

- (i) A duly assigned manufacturer's or importer's certificate;
- (ii) A certificate of title from another state;
- (iii) A court order issued by a court of record;

(iv) Evidence of ownership as provided for in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, or sections 60-2401 to 60-2411, or documentation of compliance with section 76-1607; or

(v) Assessment records for the manufactured home or mobile home from the county assessor and an affidavit by the owner affirming ownership.

(b) If the applicant cannot produce proof of ownership described in subdivision (a) of this subsection, he or she may submit to the department such evidence as he or she may have, and the department may thereupon, if it finds the evidence sufficient, issue the certificate of title or authorize the county treasurer to issue a certificate of title, as the case may be.

(3) For purposes of this section, certificate of title includes a salvage certificate, a salvage branded certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle. Only a salvage branded certificate of title shall be issued to any vehicle conveyed upon a salvage certificate, a salvage branded certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle.

(4) The county treasurer shall retain the evidence of title presented by the applicant and on which the certificate of title is issued.

(5)(a) If an affidavit is submitted under subdivision (1)(b)(ix) of this section, the holder of a motor vehicle auction dealer's license shall certify that (i) it has made at least two written attempts and has been unable to obtain the properly endorsed certificate of title to the property noted in the affidavit from the owner and (ii) thirty days have expired after the mailing of a written notice regarding the intended disposition of the property noted in the affidavit by certified mail, return receipt requested, to the last-known address of the owner and to any lien or security interest holder of record of the property noted in the affidavit.

(b) The notice under subdivision (5)(a)(ii) of this section shall contain a description of the property noted in the affidavit and a statement that title to the property noted in the affidavit shall vest in the holder of the motor vehicle auction dealer's license thirty days after the date such notice was mailed.

(c) The mailing of notice and the expiration of thirty days under subdivision (5)(a)(ii) of this section shall extinguish any lien or security interest of a lienholder or security interest holder in the property noted in the affidavit, unless the lienholder or security interest holder has claimed such property within such thirty-day period. The holder of a motor vehicle auction dealer's license shall transfer possession of the property noted in the affidavit to the lienholder or security interest holder claiming such property.

Source: Laws 2005, LB 276, § 49; Laws 2006, LB 663, § 15; Laws 2010, LB650, § 13; Laws 2010, LB933, § 1; Laws 2012, LB801, § 33; Laws 2017, LB263, § 14; Laws 2017, LB492, § 12; Laws 2018, LB275, § 1; Laws 2018, LB909, § 26; Laws 2019, LB270, § 8. Effective date September 1, 2019.

60-151 Certificate of title obtained in name of purchaser; exceptions.

(1) The certificate of title for a vehicle shall be obtained in the name of the purchaser upon application signed by the purchaser, except that (a) for titles to be held by a married couple, applications may be accepted upon the signature of either spouse as a signature for himself or herself and as agent for his or her spouse and (b) for an applicant providing proof that he or she is a handicapped or disabled person as defined in section 60-331.02, applications may be accepted upon the signature of the applicant's parent, legal guardian, foster parent, or agent.

(2) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2021. If the purchaser of a vehicle does not obtain a certificate of title in accordance with subsection (1) of this section within thirty days after the sale of the vehicle, the seller of such vehicle may request the department to update the electronic certificate of title record. The department shall update such record upon receiving evidence of a sale satisfactory to the director.

Source: Laws 2005, LB 276, § 51; Laws 2011, LB163, § 14; Laws 2019, LB111, § 2; Laws 2019, LB270, § 9.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB111, section 2, with LB270, section 9, to reflect all amendments.

60-153 Certificate of title; form; contents; secure power-of-attorney form.

(1) A certificate of title shall be printed upon safety security paper to be selected by the department. The certificate of title, manufacturer's statement of origin, and assignment of manufacturer's certificate shall be upon forms prescribed by the department and may include, but shall not be limited to, county of issuance, date of issuance, certificate of title number, previous certificate of title number, vehicle identification number, year, make, model, and body type of the vehicle, name and residential and mailing address of the owner, acquisition date, issuing county treasurer's signature and official seal, and sufficient space for the notation and release of liens, mortgages, or encumbrances, if any. A certificate of title issued on or after September 1, 2007, shall include the words "void if altered". A certificate of title that is altered shall be deemed a mutilated certificate of title. The certificate of title of an all-terrain vehicle, utility-type vehicle, or minibike shall include the words "not to be registered for road use".

(2) An assignment of certificate of title shall appear on each certificate of title and shall include, but not be limited to, a statement that the owner of the vehicle assigns all his or her right, title, and interest in the vehicle, the name and address of the assignee, the name and address of the lienholder or secured party, if any, and the signature of the owner or the owner's parent, legal guardian, foster parent, or agent in the case of an owner who is a handicapped or disabled person as defined in section 60-331.02.

(3) A reassignment by a dealer shall appear on each certificate of title and shall include, but not be limited to, a statement that the dealer assigns all his or her right, title, and interest in the vehicle, the name and address of the assignee, the name and address of the lienholder or secured party, if any, and the signature of the dealer or designated representative. Reassignments shall be printed on the reverse side of each certificate of title as many times as convenient.

(4) The department may prescribe a secure power-of-attorney form and may contract with one or more persons to develop, provide, sell, and distribute secure power-of-attorney forms in the manner authorized or required by the federal Truth in Mileage Act of 1986 and any other federal law or regulation. Any secure power-of-attorney form authorized pursuant to a contract shall conform to the terms of the contract and be in strict compliance with the requirements of the department.

(5) A certificate of title for a former military vehicle shall include the words “former military vehicle”.

Source: Laws 2005, LB 276, § 53; Laws 2007, LB286, § 13; Laws 2010, LB650, § 14; Laws 2011, LB163, § 15; Laws 2012, LB801, § 36; Laws 2019, LB156, § 5.

Effective date September 1, 2019.

60-169 Vehicle; certificate of title; surrender and cancellation; when required; licensed wrecker or salvage dealer; report; contents; fee; mobile home or manufactured home affixed to real property; certificate of title; surrender and cancellation; procedure; effect; detachment; owner; duties.

(1)(a) Except as otherwise provided in subdivision (c) of this subsection, each owner of a vehicle and each person mentioned as owner in the last certificate of title, when the vehicle is dismantled, destroyed, or changed in such a manner that it loses its character as a vehicle or changed in such a manner that it is not the vehicle described in the certificate of title, shall surrender his or her certificate of title to any county treasurer or to the department. If the certificate of title is surrendered to a county treasurer, he or she shall, with the consent of any holders of any liens noted thereon, enter a cancellation upon the records and shall notify the department of such cancellation. Beginning on the implementation date designated by the director pursuant to subsection (3) of section 60-1508, a wrecker or salvage dealer shall report electronically to the department using the electronic reporting system. If the certificate is surrendered to the department, it shall, with the consent of any holder of any lien noted thereon, enter a cancellation upon its records.

(b) This subdivision applies to all licensed wrecker or salvage dealers and, except as otherwise provided in this subdivision, to each vehicle located on the premises of such dealer. For each vehicle required to be reported under 28 C.F.R. 25.56, as such regulation existed on January 1, 2019, the information obtained by the department under this section may be reported to the National Motor Vehicle Title Information System in a format that will satisfy the requirement for reporting under 28 C.F.R. 25.56, as such regulation existed on January 1, 2019. Such report shall include:

- (i) The name, address, and contact information for the reporting entity;
- (ii) The vehicle identification number;
- (iii) The date the reporting entity obtained such motor vehicle;
- (iv) The name of the person from whom such motor vehicle was obtained, for use only by a law enforcement or other appropriate government agency;
- (v) A statement of whether the motor vehicle was or will be crushed, disposed of, offered for sale, or used for another purpose; and
- (vi) Whether the motor vehicle is intended for export outside of the United States.

The department may set and collect a fee, not to exceed the cost of reporting to the National Motor Vehicle Title Information System, from wrecker or salvage dealers for electronic reporting to the National Motor Vehicle Title Information System, which shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. This subdivision does not apply to any vehicle reported by a wrecker or salvage dealer to the National Motor Vehicle Title Information System as required under 28 C.F.R. 25.56, as such regulation existed on January 1, 2019.

(c)(i) In the case of a mobile home or manufactured home for which a certificate of title has been issued, if such mobile home or manufactured home is affixed to real property in which each owner of the mobile home or manufactured home has any ownership interest, the certificate of title may be surrendered for cancellation to the county treasurer of the county where such mobile home or manufactured home is affixed to real property if at the time of surrender the owner submits to the county treasurer an affidavit of affixture on a form provided by the department that contains all of the following, as applicable:

(A) The names and addresses of all of the owners of record of the mobile home or manufactured home;

(B) A description of the mobile home or manufactured home that includes the name of the manufacturer, the year of manufacture, the model, and the manufacturer's serial number;

(C) The legal description of the real property upon which the mobile home or manufactured home is affixed and the names of all of the owners of record of the real property;

(D) A statement that the mobile home or manufactured home is affixed to the real property;

(E) The written consent of each holder of a lien duly noted on the certificate of title to the release of such lien and the cancellation of the certificate of title;

(F) A copy of the certificate of title surrendered for cancellation; and

(G) The name and address of an owner, a financial institution, or another entity to which notice of cancellation of the certificate of title may be delivered.

(ii) The person submitting an affidavit of affixture pursuant to subdivision (c)(i) of this subsection shall swear or affirm that all statements in the affidavit are true and material and further acknowledge that any false statement in the affidavit may subject the person to penalties relating to perjury under section 28-915.

(2) If a certificate of title of a mobile home or manufactured home is surrendered to the county treasurer, along with the affidavit required by subdivision (1)(c) of this section, he or she shall enter a cancellation upon his or her records, notify the department of such cancellation, forward a duplicate original of the affidavit to the department, and deliver a duplicate original of the executed affidavit under subdivision (1)(c) of this section to the register of deeds for the county in which the real property is located to be filed by the register of deeds. The county treasurer shall be entitled to collect fees from the person submitting the affidavit in accordance with section 33-109 to cover the costs of filing such affidavit. Following the cancellation of a certificate of title for a mobile home or manufactured home, the county treasurer or designated

county official shall not issue a certificate of title for such mobile home or manufactured home, except as provided in subsection (5) of this section.

(3) If a mobile home or manufactured home is affixed to real estate before June 1, 2006, a person who is the holder of a lien or security interest in both the mobile home or manufactured home and the real estate to which it is affixed on such date may enforce its liens or security interests by accepting a deed in lieu of foreclosure or in the manner provided by law for enforcing liens on the real estate.

(4) A mobile home or manufactured home for which the certificate of title has been canceled and for which an affidavit of affixture has been duly recorded pursuant to subsection (2) of this section shall be treated as part of the real estate upon which such mobile home or manufactured home is located. Any lien thereon shall be perfected and enforced in the same manner as a lien on real estate. The owner of such mobile home or manufactured home may convey ownership of the mobile home or manufactured home only as a part of the real estate to which it is affixed.

(5)(a) If each owner of both the mobile home or manufactured home and the real estate described in subdivision (1)(c) of this section intends to detach the mobile home or manufactured home from the real estate, the owner shall do both of the following: (i) Before detaching the mobile home or manufactured home, record an affidavit of detachment in the office of the register of deeds in the county in which the affidavit is recorded under subdivision (1)(c) of this section; and (ii) apply for a certificate of title for the mobile home or manufactured home pursuant to section 60-147.

(b) The affidavit of detachment shall contain all of the following:

(i) The names and addresses of all of the owners of record of the mobile home or manufactured home;

(ii) A description of the mobile home or manufactured home that includes the name of the manufacturer, the year of manufacture, the model, and the manufacturer's serial number;

(iii) The legal description of the real estate from which the mobile home or manufactured home is to be detached and the names of all of the owners of record of the real estate;

(iv) A statement that the mobile home or manufactured home is to be detached from the real property;

(v) A statement that the certificate of title of the mobile home or manufactured home has previously been canceled;

(vi) The name of each holder of a lien of record against the real estate from which the mobile home or manufactured home is to be detached, with the written consent of each holder to the detachment; and

(vii) The name and address of an owner, a financial institution, or another entity to which the certificate of title may be delivered.

(6) An owner of an affixed mobile home or manufactured home for which the certificate of title has previously been canceled pursuant to subsection (2) of this section shall not detach the mobile home or manufactured home from the real estate before a certificate of title for the mobile home or manufactured home is issued by the county treasurer or department. If a certificate of title is issued by the county treasurer or department, the mobile home or manufactured home is no longer considered part of the real property. Any lien thereon

shall be perfected pursuant to section 60-164. The owner of such mobile home or manufactured home may convey ownership of the mobile home or manufactured home only by way of a certificate of title.

(7) For purposes of this section:

(a) A mobile home or manufactured home is affixed to real estate if the wheels, towing hitches, and running gear are removed and it is permanently attached to a foundation or other support system; and

(b) Ownership interest means the fee simple interest in real estate or an interest as the lessee under a lease of the real property that has a term that continues for at least twenty years after the recording of the affidavit under subsection (2) of this section.

(8) Upon cancellation of a certificate of title in the manner prescribed by this section, the county treasurer and the department may cancel and destroy all certificates and all memorandum certificates in that chain of title.

Source: Laws 2005, LB 276, § 69; Laws 2006, LB 663, § 19; Laws 2012, LB14, § 6; Laws 2012, LB751, § 10; Laws 2012, LB801, § 44; Laws 2018, LB909, § 31; Laws 2019, LB719, § 1.
Effective date September 1, 2019.

60-171 Salvage branded certificate of title; terms, defined.

For purposes of sections 60-171 to 60-177:

(1) Cost of repairs means the estimated or actual retail cost of parts needed to repair a vehicle plus the cost of labor computed by using the hourly labor rate and time allocations for repair that are customary and reasonable. Retail cost of parts and labor rates may be based upon collision estimating manuals or electronic computer estimating systems customarily used in the insurance industry;

(2) Flood damaged means damage to a vehicle resulting from being submerged in water to the point that rising water has reached over the floorboard, has entered the passenger compartment, and has caused damage to any electrical, computerized, or mechanical components. Flood damaged specifically does not apply to a vehicle that an inspection, conducted by an insurance claim representative or a vehicle repairer, indicates:

(a) Has no electrical, computerized, or mechanical components damaged by water; or

(b) Had one or more electrical, computerized, or mechanical components damaged by water and all such damaged components were repaired or replaced;

(3) Late model vehicle means a vehicle which has (a) a manufacturer's model year designation of, or later than, the year in which the vehicle was wrecked, damaged, or destroyed, or any of the six preceding years or (b)(i) in the case of vehicles other than all-terrain vehicles, utility-type vehicles, and minibikes, a retail value of more than ten thousand five hundred dollars until January 1, 2010, and a retail value of more than ten thousand five hundred dollars increased by five hundred dollars every five years thereafter or (ii) in the case of all-terrain vehicles, utility-type vehicles, or minibikes, a retail value of more than one thousand seven hundred fifty dollars until January 1, 2010, and a retail value of more than one thousand seven hundred fifty dollars increased by two hundred fifty dollars every five years thereafter;

(4) Manufacturer buyback means the designation of a vehicle with an alleged nonconformity when the vehicle (a) has been replaced by a manufacturer or (b) has been repurchased by a manufacturer as the result of court judgment, arbitration, or any voluntary agreement entered into between the manufacturer or its agent and a consumer;

(5) Previously salvaged or rebuilt each mean the designation of a rebuilt vehicle which was previously required to be issued a salvage branded certificate of title and which has been inspected as provided in section 60-146;

(6) Retail value means the actual cash value, fair market value, or retail value of a vehicle as (a) set forth in a current edition of any nationally recognized compilation, including automated data bases, of retail values or (b) determined pursuant to a market survey of comparable vehicles with respect to condition and equipment; and

(7) Salvage means the designation of a vehicle which is:

(a) A late model vehicle which has been wrecked, damaged, or destroyed to the extent that the estimated total cost of repair to rebuild or reconstruct the vehicle to its condition immediately before it was wrecked, damaged, or destroyed and to restore the vehicle to a condition for legal operation, meets or exceeds seventy-five percent of the retail value of the vehicle at the time it was wrecked, damaged, or destroyed; or

(b) Voluntarily designated by the owner of the vehicle as a salvage vehicle by obtaining a salvage branded certificate of title, without respect to the damage to, age of, or value of the vehicle.

Source: Laws 2005, LB 276, § 71; Laws 2010, LB650, § 19; Laws 2014, LB446, § 1; Laws 2018, LB909, § 32; Laws 2019, LB270, § 10. Effective date September 1, 2019.

60-173 Salvage branded certificate of title; insurance company; total loss settlement; when issued.

(1) When an insurance company acquires a salvage vehicle through payment of a total loss settlement on account of damage, the company shall obtain the certificate of title from the owner, surrender such certificate of title to the county treasurer, and make application for a salvage branded certificate of title which shall be assigned when the company transfers ownership. An insurer shall take title to a salvage vehicle for which a total loss settlement is made unless the owner of the salvage vehicle elects to retain the salvage vehicle.

(2) If the owner elects to retain the salvage vehicle, the insurance company shall notify the department of such fact in a format prescribed by the department. The department shall immediately enter the salvage brand onto the computerized record of the vehicle. Beginning on the implementation date designated by the director pursuant to subsection (3) of section 60-1508, the insurance company shall report electronically to the department using the electronic reporting system. The insurance company shall also notify the owner of the owner's responsibility to comply with this section. The owner shall, within thirty days after the settlement of the loss, forward the properly endorsed acceptable certificate of title to the county treasurer in the county designated in section 60-144. Upon receipt of the certificate of title, the county treasurer shall issue a salvage branded certificate of title for the vehicle unless the vehicle has been repaired and inspected as provided in section 60-146, in

which case the county treasurer shall issue a previously salvaged branded certificate of title for the vehicle.

(3) An insurance company may apply to the department for a salvage branded certificate of title without obtaining a properly endorsed certificate of title from the owner or other evidence of ownership as prescribed by the department if it has been at least thirty days since the company obtained oral or written acceptance by the owner of an offer in an amount in settlement of a total loss. The insurance company shall submit an application form prescribed by the department for a salvage branded certificate of title accompanied by an affidavit from the insurance company that it has made at least two written attempts and has been unable to obtain the proper endorsed certificate of title from the owner following an oral or written acceptance by the owner of an offer of an amount in settlement of a total loss and evidence of settlement.

Source: Laws 2005, LB 276, § 73; Laws 2007, LB286, § 19; Laws 2012, LB801, § 46; Laws 2014, LB701, § 1; Laws 2018, LB909, § 33; Laws 2019, LB270, § 11.
Effective date September 1, 2019.

60-174 Salvage branded certificate of title; salvage, previously salvaged or rebuilt, flood damaged, or manufacturer buyback title brand; inspection; when.

Whenever a title is issued in this state for a vehicle that is designated a salvage, previously salvaged or rebuilt, flood damaged, or manufacturer buyback, the following title brands shall be required: Salvage, previously salvaged, flood damaged, or manufacturer buyback. A certificate branded salvage, previously salvaged, flood damaged, or manufacturer buyback shall be administered in the same manner and for the same fee or fees as provided for a certificate of title in sections 60-154 to 60-160. When a salvage branded certificate of title is surrendered for a certificate of title branded previously salvaged, the application for a certificate of title shall be accompanied by a statement of inspection as provided in section 60-146.

Source: Laws 2005, LB 276, § 74; Laws 2018, LB909, § 34; Laws 2019, LB270, § 12.
Effective date September 1, 2019.

ARTICLE 3

MOTOR VEHICLE REGISTRATION

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§ 60-301**MOTOR VEHICLES**

Section

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60-301 Act, how cited.

Sections 60-301 to 60-3,244 shall be known and may be cited as the Motor Vehicle Registration Act.

Source: Laws 2005, LB 274, § 1; Laws 2006, LB 663, § 21; Laws 2007, LB286, § 20; Laws 2007, LB349, § 1; Laws 2007, LB570, § 1;

Laws 2008, LB756, § 5; Laws 2009, LB110, § 1; Laws 2009, LB129, § 1; Laws 2010, LB650, § 20; Laws 2011, LB163, § 16; Laws 2011, LB289, § 12; Laws 2012, LB216, § 1; Laws 2012, LB1155, § 7; Laws 2014, LB383, § 1; Laws 2014, LB816, § 1; Laws 2015, LB220, § 1; Laws 2015, LB231, § 6; Laws 2016, LB474, § 3; Laws 2016, LB783, § 1; Laws 2016, LB977, § 5; Laws 2017, LB46, § 1; Laws 2017, LB263, § 23; Laws 2018, LB909, § 38; Laws 2019, LB138, § 3; Laws 2019, LB156, § 6; Laws 2019, LB356, § 2.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 3, with LB156, section 6, and LB356, section 2, to reflect all amendments.

60-302 Definitions, where found.

For purposes of the Motor Vehicle Registration Act, unless the context otherwise requires, the definitions found in sections 60-302.01 to 60-360 shall be used.

Source: Laws 2005, LB 274, § 2; Laws 2007, LB286, § 21; Laws 2008, LB756, § 6; Laws 2010, LB650, § 21; Laws 2011, LB163, § 17; Laws 2012, LB1155, § 8; Laws 2015, LB231, § 7; Laws 2016, LB783, § 2; Laws 2017, LB263, § 24; Laws 2018, LB909, § 39; Laws 2019, LB156, § 7.

Effective date September 1, 2019.

60-302.01 Access aisle, defined.

Access aisle means a space adjacent to a handicapped parking space or passenger loading zone which is constructed and designed in compliance with the federal Americans with Disabilities Act of 1990 and the federal regulations adopted in response to the act, as the act and the regulations existed on January 1, 2019.

Source: Laws 2011, LB163, § 18; Laws 2019, LB79, § 3.

Effective date March 7, 2019.

60-328.01 Former military vehicle, defined.

Former military vehicle means a motor vehicle that was manufactured for use in any country's military forces and is maintained to accurately represent its military design and markings, regardless of the vehicle's size or weight, but is no longer used, or never was used, by a military force.

Source: Laws 2019, LB156, § 8.

Effective date September 1, 2019.

60-336.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2019, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) which is equipped with a

windshield and an occupant protection system. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2007, LB286, § 26; Laws 2011, LB289, § 14; Laws 2014, LB776, § 1; Laws 2015, LB313, § 1; Laws 2016, LB929, § 2; Laws 2017, LB263, § 27; Laws 2018, LB909, § 46; Laws 2019, LB79, § 4; Laws 2019, LB270, § 13.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB79, section 4, with LB270, section 13, to reflect all amendments.

Note: Changes made by LB79 became effective March 7, 2019. Changes made by LB270 became effective September 1, 2019.

60-363 Registration certificate; duty to carry, exceptions.

(1) No person shall operate or park a motor vehicle on the highways unless such motor vehicle at all times carries in or upon it, subject to inspection by any peace officer, the registration certificate issued for it.

(2) No person shall tow or park a trailer on the highways unless the registration certificate issued for the trailer or a copy thereof is carried in or upon the trailer or in or upon the motor vehicle that is towing or parking the trailer, subject to inspection by any peace officer, except as provided in subsections (4) and (5) of this section and except fertilizer trailers as defined in section 60-326. The registration certificate for a fertilizer trailer shall be kept at the principal place of business of the owner of the fertilizer trailer.

(3) In the case of a motorcycle other than an autocycle, the registration certificate shall be carried either in plain sight, affixed to the motorcycle, or in the tool bag or some convenient receptacle attached to the motorcycle.

(4) In the case of a motor vehicle or trailer operated by a public power district registered pursuant to section 60-3,228, the registration certificate shall be kept at the principal place of business of the public power district.

(5) Beginning January 1, 2023, in the case of a motor vehicle or trailer operated by a metropolitan utilities district registered pursuant to section 60-3,228, the registration certificate shall be kept at the principal place of business of the metropolitan utilities district.

(6) In the case of an apportionable vehicle registered under section 60-3,198, the registration certificate may be displayed as a legible paper copy or electronically as authorized by the department.

Source: Laws 2005, LB 274, § 63; Laws 2010, LB725, § 1; Laws 2014, LB758, § 1; Laws 2017, LB263, § 28; Laws 2018, LB909, § 53; Laws 2019, LB79, § 5.
Effective date March 7, 2019.

60-378 Transporter plates; fee; records.

(1) Any transporter doing business in this state may, in lieu of registering each motor vehicle or trailer which such transporter is transporting, upon payment of a fee of ten dollars, apply to the department for a transporter's certificate and one transporter license plate. Additional pairs of transporter certificates and transporter license plates may be procured for a fee of ten dollars each. Transporter license plates shall be displayed (a) upon the motor vehicle or trailer being transported or (b) upon a properly registered truck or truck-tractor which is a work or service vehicle in the process of towing a trailer which is itself being delivered by the transporter, and such registered truck or truck-tractor shall also display a transporter plate upon the front

thereof. The applicant for a transporter plate shall keep for three years a record of each motor vehicle or trailer transported by him or her under this section, and such record shall be available to the department for inspection. Each applicant shall file with the department proof of his or her status as a bona fide transporter.

(2) Transporter license plates may be the same size as license plates issued for motorcycles other than autocycles, shall bear thereon a mark to distinguish them as transporter plates, and shall be serially numbered so as to distinguish them from each other. Such license plates may only be displayed upon the front of a driven motor vehicle of a lawful combination or upon the front of a motor vehicle driven singly or upon the rear of a trailer being towed.

Source: Laws 2005, LB 274, § 78; Laws 2007, LB286, § 32; Laws 2018, LB909, § 54; Laws 2019, LB699, § 1.
Effective date September 1, 2019.

60-386 Application; contents.

(1) Each new application shall contain, in addition to other information as may be required by the department, the name and residential and mailing address of the applicant and a description of the motor vehicle or trailer, including the color, the manufacturer, the identification number, the United States Department of Transportation number if required by 49 C.F.R. 390.5 to 390.21, as such regulations existed on January 1, 2019, and the weight of the motor vehicle or trailer required by the Motor Vehicle Registration Act. Beginning on the implementation date designated by the director pursuant to subsection (4) of section 60-1508, for trailers which are not required to have a certificate of title under section 60-137 and which have no identification number, the assignment of an identification number shall be required and the identification number shall be issued by the county treasurer or department. With the application the applicant shall pay the proper registration fee and shall state whether the motor vehicle is propelled by alternative fuel and, if alternative fuel, the type of fuel. The application shall also contain a notification that bulk fuel purchasers may be subject to federal excise tax liability. The department shall include such notification in the notices required by section 60-3,186.

(2) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2021. In addition to the information required under subsection (1) of this section, the application for registration shall contain (a)(i) the full legal name as defined in section 60-468.01 of each owner or (ii) the name of each owner as such name appears on the owner's motor vehicle operator's license or state identification card and (b)(i) the motor vehicle operator's license number or state identification card number of each owner, if applicable, and one or more of the identification elements as listed in section 60-484 of each owner, if applicable, and (ii) if any owner is a business entity, a nonprofit organization, an estate, a trust, or a church-controlled organization, its tax identification number.

Source: Laws 2005, LB 274, § 86; Laws 2011, LB289, § 17; Laws 2012, LB801, § 58; Laws 2013, LB207, § 1; Laws 2015, LB642, § 4; Laws 2016, LB929, § 3; Laws 2017, LB263, § 31; Laws 2018, LB909, § 55; Laws 2019, LB79, § 6; Laws 2019, LB270, § 14.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB79, section 6, with LB270, section 14, to reflect all amendments.

Note: Changes made by LB79 became effective March 7, 2019. Changes made by LB270 became effective September 1, 2019.

60-393 Multiple vehicle registration.

Any owner who has two or more motor vehicles or trailers required to be registered under the Motor Vehicle Registration Act may register all such motor vehicles or trailers on a calendar-year basis or on an annual basis for the same registration period beginning in a month chosen by the owner. When electing to establish the same registration period for all such motor vehicles or trailers, the owner shall pay the registration fee, the motor vehicle tax imposed in section 60-3,185, the motor vehicle fee imposed in section 60-3,190, and the alternative fuel fee imposed in section 60-3,191 on each motor vehicle for the number of months necessary to extend its current registration period to the registration period under which all such motor vehicles or trailers will be registered. Credit shall be given for registration paid on each motor vehicle or trailer when the motor vehicle or trailer has a later expiration date than that chosen by the owner except as otherwise provided in sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,233, 60-3,235, 60-3,238, 60-3,240, 60-3,242, and 60-3,244. Thereafter all such motor vehicles or trailers shall be registered on an annual basis starting in the month chosen by the owner.

Source: Laws 2005, LB 274, § 93; Laws 2007, LB570, § 4; Laws 2011, LB289, § 18; Laws 2014, LB383, § 2; Laws 2015, LB220, § 2; Laws 2016, LB474, § 4; Laws 2017, LB46, § 2; Laws 2017, LB263, § 32; Laws 2019, LB138, § 4; Laws 2019, LB356, § 3. Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 4, with LB356, section 3, to reflect all amendments.

60-395 Refund or credit of fees; when authorized.

(1) Except as otherwise provided in subsection (2) of this section and sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,231, 60-3,233, 60-3,235, 60-3,238, 60-3,240, 60-3,242, and 60-3,244, the registration shall expire and the registered owner or lessee may, by returning the registration certificate, the license plates, and, when appropriate, the validation decals and by either making application on a form prescribed by the department to the county treasurer of the occurrence of an event described in subdivisions (a) through (e) of this subsection or, in the case of a change in situs, displaying to the county treasurer the registration certificate of such other state as evidence of a change in situs, receive a refund of that part of the unused fees and taxes on motor vehicles or trailers based on the number of unexpired months remaining in the registration period from the date of any of the following events:

- (a) Upon transfer of ownership of any motor vehicle or trailer;
- (b) In case of loss of possession because of fire, theft, dismantlement, or junking;
- (c) When a salvage branded certificate of title is issued;
- (d) Whenever a type or class of motor vehicle or trailer previously registered is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to

registration fees, the motor vehicle tax imposed in section 60-3,185, the motor vehicle fee imposed in section 60-3,190, and the alternative fuel fee imposed in section 60-3,191;

(e) Upon a trade-in or surrender of a motor vehicle under a lease; or

(f) In case of a change in the situs of a motor vehicle or trailer to a location outside of this state.

(2) If the date of the event falls within the same calendar month in which the motor vehicle or trailer is acquired, no refund shall be allowed for such month.

(3) If the transferor or lessee acquires another motor vehicle at the time of the transfer, trade-in, or surrender, the transferor or lessee shall have the credit provided for in this section applied toward payment of the motor vehicle fees and taxes then owing. Otherwise, the transferor or lessee shall file a claim for refund with the county treasurer upon an application form prescribed by the department.

(4) The registered owner or lessee shall make a claim for refund or credit of the fees and taxes for the unexpired months in the registration period within sixty days after the date of the event or shall be deemed to have forfeited his or her right to such refund or credit.

(5) For purposes of this section, the date of the event shall be: (a) In the case of a transfer or loss, the date of the transfer or loss; (b) in the case of a change in the situs, the date of registration in another state; (c) in the case of a trade-in or surrender under a lease, the date of trade-in or surrender; (d) in the case of a legislative act, the effective date of the act; and (e) in the case of a court decision, the date the decision is rendered.

(6) Application for registration or for reassignment of license plates and, when appropriate, validation decals to another motor vehicle or trailer shall be made within thirty days of the date of purchase.

(7) If a motor vehicle or trailer was reported stolen under section 60-178, a refund under this section shall not be reduced for a lost plate charge and a credit under this section may be reduced for a lost plate charge but the applicant shall not be required to pay the plate fee for new plates.

(8) The county treasurer shall refund the motor vehicle fee and registration fee from the fees which have not been transferred to the State Treasurer. The county treasurer shall make payment to the claimant from the undistributed motor vehicle taxes of the taxing unit where the tax money was originally distributed. No refund of less than two dollars shall be paid.

Source: Laws 2005, LB 274, § 95; Laws 2007, LB286, § 35; Laws 2007, LB570, § 5; Laws 2009, LB175, § 1; Laws 2011, LB289, § 19; Laws 2012, LB801, § 61; Laws 2014, LB383, § 3; Laws 2015, LB220, § 3; Laws 2016, LB474, § 5; Laws 2017, LB46, § 3; Laws 2017, LB263, § 34; Laws 2018, LB909, § 57; Laws 2019, LB138, § 5; Laws 2019, LB356, § 4.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 5, with LB356, section 4, to reflect all amendments.

60-396 Credit of fees; vehicle disabled or removed from service.

Whenever the registered owner files an application with the county treasurer showing that a motor vehicle, trailer, or semitrailer is disabled and has been

removed from service, the registered owner may, by returning the registration certificate, the license plates, and, when appropriate, the validation decals or, in the case of the unavailability of such registration certificate or certificates, license plates, or validation decals, then by making an affidavit to the county treasurer of such disablement and removal from service, receive a credit for a portion of the registration fee from the fee deposited with the State Treasurer at the time of registration based upon the number of unexpired months remaining in the registration year except as otherwise provided in sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,233, 60-3,235, 60-3,238, 60-3,240, 60-3,242, and 60-3,244. The owner shall also receive a credit for the unused portion of the motor vehicle tax and fee based upon the number of unexpired months remaining in the registration year. When the owner registers a replacement motor vehicle, trailer, or semitrailer at the time of filing such affidavit, the credit may be immediately applied against the registration fee and the motor vehicle tax and fee for the replacement motor vehicle, trailer, or semitrailer. When no such replacement motor vehicle, trailer, or semitrailer is so registered, the county treasurer shall forward the application and affidavit, if any, to the State Treasurer who shall determine the amount, if any, of the allowable credit for the registration fee and issue a credit certificate to the owner. For the motor vehicle tax and fee, the county treasurer shall determine the amount, if any, of the allowable credit and issue a credit certificate to the owner. When such motor vehicle, trailer, or semitrailer is removed from service within the same month in which it was registered, no credits shall be allowed for such month. The credits may be applied against taxes and fees for new or replacement motor vehicles, trailers, or semitrailers incurred within one year after cancellation of registration of the motor vehicle, trailer, or semitrailer for which the credits were allowed. When any such motor vehicle, trailer, or semitrailer is reregistered within the same registration year in which its registration has been canceled, the taxes and fees shall be that portion of the registration fee and the motor vehicle tax and fee for the remainder of the registration year.

Source: Laws 2005, LB 274, § 96; Laws 2007, LB570, § 6; Laws 2012, LB801, § 62; Laws 2014, LB383, § 4; Laws 2015, LB220, § 4; Laws 2016, LB474, § 6; Laws 2017, LB46, § 4; Laws 2017, LB263, § 35; Laws 2019, LB138, § 6; Laws 2019, LB356, § 5. Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 6, with LB356, section 5, to reflect all amendments.

60-3,100 License plates; issuance; license decal; display; additional registration fee.

(1) The department shall issue to every person whose motor vehicle or trailer is registered one or two fully reflectorized license plates upon which shall be displayed (a) the registration number consisting of letters and numerals assigned to such motor vehicle or trailer in figures not less than two and one-half inches nor more than three inches in height and (b) also the word Nebraska suitably lettered so as to be attractive. The license plates shall be of a color designated by the director. The color of the plates shall be changed each time the license plates are changed. Each time the license plates are changed, the director shall secure competitive bids for materials pursuant to sections 81-145 to 81-162. Autocycle, motorcycle, minitruck, low-speed vehicle, and trailer

license plate letters and numerals may be one-half the size of those required in this section.

(2)(a) Except as otherwise provided in this subsection, two license plates shall be issued for every motor vehicle.

(b) One license plate shall be issued for (i) apportionable vehicles, (ii) buses, (iii) dealers, (iv) minitrucks, (v) motorcycles, other than autocycles, (vi) special interest motor vehicles that use the special interest motor vehicle license plate authorized by and issued under section 60-3,135.01, (vii) trailers, and (viii) truck-tractors.

(c)(i) One license plate shall be issued, upon request and compliance with this subdivision, for any passenger car which is not manufactured to be equipped with a bracket on the front of the vehicle to display a license plate. A license decal shall be issued with the license plate as provided in subdivision (ii) of this subdivision and shall be displayed on the driver's side of the windshield. In order to request a single license plate and license decal, there shall be an additional annual nonrefundable registration fee of fifty dollars plus the cost of the decal paid to the county treasurer at the time of registration. All fees collected under this subdivision shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(ii) The department shall design, procure, and furnish to the county treasurer a license decal which shall be displayed as evidence that a license plate has been obtained under this subdivision. Each county treasurer shall furnish a license decal to the person obtaining the plate.

(d) When two license plates are issued, one shall be prominently displayed at all times on the front and one on the rear of the registered motor vehicle or trailer. When only one plate is issued, it shall be prominently displayed on the rear of the registered motor vehicle or trailer. When only one plate is issued for motor vehicles registered pursuant to section 60-3,198 and truck-tractors, it shall be prominently displayed on the front of the apportionable vehicle.

Source: Laws 2005, LB 274, § 100; Laws 2010, LB650, § 25; Laws 2011, LB289, § 20; Laws 2012, LB216, § 2; Laws 2015, LB231, § 11; Laws 2016, LB53, § 1; Laws 2018, LB909, § 58; Laws 2019, LB356, § 6.

Effective date September 1, 2019.

60-3,102 Plate fee.

(1) Except as provided in subsection (2) of this section, whenever new license plates, including duplicate or replacement license plates, are issued to any person, a fee per plate shall be charged in addition to all other required fees. The license plate fee shall be determined by the department and shall only cover the cost of the license plate and validation decals but shall not exceed three dollars and fifty cents. All fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(2) Beginning January 1, 2021, no license plate fee under this section shall be charged for license plates issued pursuant to section 60-3,122, 60-3,122.02, 60-3,123, 60-3,124, or 60-3,125.

Source: Laws 2005, LB 274, § 102; Laws 2019, LB138, § 7.

Effective date September 1, 2019.

60-3,104 Types of license plates.

The department shall issue the following types of license plates:

- (1) Amateur radio station license plates issued pursuant to section 60-3,126;
- (2) Apportionable vehicle license plates issued pursuant to section 60-3,203;
- (3) Autocycle license plates issued pursuant to section 60-3,100;
- (4) Boat dealer license plates issued pursuant to section 60-379;
- (5) Breast Cancer Awareness Plates issued pursuant to sections 60-3,230 and 60-3,231;
- (6) Bus license plates issued pursuant to section 60-3,144;
- (7) Choose Life License Plates issued pursuant to sections 60-3,232 and 60-3,233;
- (8) Commercial motor vehicle license plates issued pursuant to section 60-3,147;
- (9) Dealer or manufacturer license plates issued pursuant to sections 60-3,114 and 60-3,115;
- (10) Disabled veteran license plates issued pursuant to section 60-3,124;
- (11) Farm trailer license plates issued pursuant to section 60-3,151;
- (12) Farm truck license plates issued pursuant to section 60-3,146;
- (13) Farm trucks with a gross weight of over sixteen tons license plates issued pursuant to section 60-3,146;
- (14) Fertilizer trailer license plates issued pursuant to section 60-3,151;
- (15) Former military vehicle license plates issued pursuant to section 60-3,236;
- (16) Gold Star Family license plates issued pursuant to sections 60-3,122.01 and 60-3,122.02;
- (17) Handicapped or disabled person license plates issued pursuant to section 60-3,113;
- (18) Historical vehicle license plates issued pursuant to sections 60-3,130 to 60-3,134;
- (19) Local truck license plates issued pursuant to section 60-3,145;
- (20) Metropolitan utilities district license plates issued pursuant to section 60-3,228;
- (21) Military Honor Plates issued pursuant to sections 60-3,122.03 and 60-3,122.04;
- (22) Minitruck license plates issued pursuant to section 60-3,100;
- (23) Motor vehicle license plates for motor vehicles owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,105;
- (24) Motor vehicles exempt pursuant to section 60-3,107;
- (25) Motorcycle license plates issued pursuant to section 60-3,100;
- (26) Mountain Lion Conservation Plates issued pursuant to sections 60-3,226 and 60-3,227;
- (27) Native American Cultural Awareness and History Plates issued pursuant to sections 60-3,234 and 60-3,235;

- (28) Nebraska Cornhusker Spirit Plates issued pursuant to sections 60-3,127 to 60-3,129;
- (29) Nebraska 150 Sesquicentennial Plates issued pursuant to sections 60-3,223 to 60-3,225;
- (30) Nonresident owner thirty-day license plates issued pursuant to section 60-382;
- (31) Passenger car having a seating capacity of ten persons or less and not used for hire issued pursuant to section 60-3,143 other than autocycles;
- (32) Passenger car having a seating capacity of ten persons or less and used for hire issued pursuant to section 60-3,143 other than autocycles;
- (33) Pearl Harbor license plates issued pursuant to section 60-3,122;
- (34) Personal-use dealer license plates issued pursuant to section 60-3,116;
- (35) Personalized message license plates for motor vehicles, trailers, and semitrailers, except motor vehicles, trailers, and semitrailers registered under section 60-3,198, issued pursuant to sections 60-3,118 to 60-3,121;
- (36) Prisoner-of-war license plates issued pursuant to section 60-3,123;
- (37) Prostate Cancer Awareness Plates issued pursuant to section 60-3,240;
- (38) Public power district license plates issued pursuant to section 60-3,228;
- (39) Purple Heart license plates issued pursuant to section 60-3,125;
- (40) Recreational vehicle license plates issued pursuant to section 60-3,151;
- (41) Repossession license plates issued pursuant to section 60-375;
- (42) Sammy's Superheroes license plates for childhood cancer awareness issued pursuant to section 60-3,242;
- (43) Special interest motor vehicle license plates issued pursuant to section 60-3,135.01;
- (44) Specialty license plates issued pursuant to sections 60-3,104.01 and 60-3,104.02;
- (45) Trailer license plates issued for trailers owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,106;
- (46) Support Our Troops Plates issued pursuant to sections 60-3,243 and 60-3,244;
- (47) Trailer license plates issued pursuant to section 60-3,100;
- (48) Trailer license plates issued for trailers owned or operated by a metropolitan utilities district or public power district pursuant to section 60-3,228;
- (49) Trailers exempt pursuant to section 60-3,108;
- (50) Transporter license plates issued pursuant to section 60-378;
- (51) Trucks or combinations of trucks, truck-tractors, or trailers which are not for hire and engaged in soil and water conservation work and used for the purpose of transporting pipe and equipment exclusively used by such contractors for soil and water conservation construction license plates issued pursuant to section 60-3,149;
- (52) Utility trailer license plates issued pursuant to section 60-3,151;
- (53) Well-boring apparatus and well-servicing equipment license plates issued pursuant to section 60-3,109; and

(54) Wildlife Conservation Plates issued pursuant to section 60-3,238.

Source: Laws 2005, LB 274, § 104; Laws 2006, LB 663, § 23; Laws 2007, LB286, § 37; Laws 2007, LB570, § 7; Laws 2009, LB110, § 2; Laws 2010, LB650, § 26; Laws 2012, LB216, § 3; Laws 2014, LB383, § 5; Laws 2015, LB45, § 2; Laws 2015, LB220, § 5; Laws 2015, LB231, § 12; Laws 2016, LB474, § 7; Laws 2016, LB783, § 7; Laws 2016, LB977, § 6; Laws 2017, LB46, § 5; Laws 2017, LB263, § 36; Laws 2018, LB909, § 59; Laws 2019, LB138, § 8; Laws 2019, LB156, § 9; Laws 2019, LB356, § 7.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 8, with LB156, section 9, and LB356, section 7, to reflect all amendments.

60-3,104.01 Specialty license plates; application; fee; delivery; transfer; credit allowed; fee.

(1) A person may apply for specialty license plates in lieu of regular license plates on an application prescribed and provided by the department pursuant to section 60-3,104.02 for any motor vehicle, trailer, or semitrailer, except for motor vehicles or trailers registered under section 60-3,198. An applicant receiving a specialty license plate for a farm truck with a gross weight of over sixteen tons or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications. Each application for initial issuance or renewal of specialty license plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer. Until January 1, 2021, the State Treasurer shall credit fifteen percent of the fee for initial issuance and renewal of specialty license plates to the Department of Motor Vehicles Cash Fund and eighty-five percent of the fee to the Highway Trust Fund. Beginning January 1, 2021, the State Treasurer shall credit sixty percent of the fee for initial issuance and renewal of specialty license plates to the Department of Motor Vehicles Cash Fund and forty percent of the fee to the Highway Trust Fund.

(2)(a) When the department receives an application for specialty license plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue specialty license plates in lieu of regular license plates when the applicant complies with the other provisions of law for registration of the motor vehicle, trailer, or semitrailer. If specialty license plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the

counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(3)(a) The owner of a motor vehicle, trailer, or semitrailer bearing specialty license plates may make application to the county treasurer to have such specialty license plates transferred to a motor vehicle, trailer, or semitrailer other than the motor vehicle, trailer, or semitrailer for which such plates were originally purchased if such motor vehicle, trailer, or semitrailer is owned by the owner of the specialty license plates.

(b) The owner may have the unused portion of the specialty license plate fee credited to the other motor vehicle, trailer, or semitrailer which will bear the specialty license plates at the rate of eight and one-third percent per month for each full month left in the registration period.

(c) Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2009, LB110, § 3; Laws 2012, LB801, § 65; Laws 2017, LB263, § 37; Laws 2019, LB270, § 15; Laws 2019, LB356, § 8. Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB270, section 15, with LB356, section 8, to reflect all amendments.

60-3,113.04 Handicapped or disabled person; parking permit; contents; issuance; duplicate permit.

(1) A handicapped or disabled parking permit shall be of a design, size, configuration, color, and construction and contain such information as specified in the regulations adopted by the United States Department of Transportation in 23 C.F.R. part 1235, UNIFORM SYSTEM FOR PARKING FOR PERSONS WITH DISABILITIES, as such regulations existed on January 1, 2019.

(2) No handicapped or disabled parking permit shall be issued to any person or for any motor vehicle if any permit has been issued to such person or for such motor vehicle and such permit has been suspended pursuant to section 18-1741.02. At the expiration of such suspension, a permit may be renewed in the manner provided for renewal in sections 60-3,113.02, 60-3,113.03, and 60-3,113.05.

(3) A duplicate handicapped or disabled parking permit may be provided up to two times during any single permit period if a permit is destroyed, lost, or stolen. Such duplicate permit shall be issued as provided in section 60-3,113.02 or 60-3,113.03, whichever is applicable, except that a new certification by a physician, a physician assistant, or an advanced practice registered nurse need not be provided. A duplicate permit shall be valid for the remainder of the period for which the original permit was issued. If a person has been issued two duplicate permits under this subsection and needs another permit, such person shall reapply for a new permit under section 60-3,113.02 or 60-3,113.03, whichever is applicable.

Source: Laws 2011, LB163, § 26; Laws 2012, LB751, § 13; Laws 2013, LB35, § 1; Laws 2014, LB657, § 8; Laws 2014, LB776, § 2; Laws 2015, LB313, § 2; Laws 2016, LB929, § 4; Laws 2017, LB263, § 38; Laws 2018, LB909, § 62; Laws 2019, LB79, § 7. Effective date March 7, 2019.

60-3,119 Personalized message license plates; application; renewal; fee.

(1) Application for personalized message license plates shall be made to the department. The department shall make available through each county treasurer forms to be used for such applications.

(2) Each initial application shall be accompanied by a fee of forty dollars. The fees shall be remitted to the State Treasurer. Until January 1, 2021, the State Treasurer shall credit twenty-five percent of the fee to the Highway Trust Fund and seventy-five percent of the fee to the Department of Motor Vehicles Cash Fund. Beginning January 1, 2021, the State Treasurer shall credit forty percent of the fee to the Highway Trust Fund and sixty percent of the fee to the Department of Motor Vehicles Cash Fund.

(3) An application for renewal of a license plate previously approved and issued shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subsection shall remit them to the State Treasurer. Until January 1, 2021, the State Treasurer shall credit twenty-five percent of the fee to the Highway Trust Fund and seventy-five percent of the fee to the Department of Motor Vehicles Cash Fund. Beginning January 1, 2021, the State Treasurer shall credit forty percent of the fee to the Highway Trust Fund and sixty percent of the fee to the Department of Motor Vehicles Cash Fund.

Source: Laws 2005, LB 274, § 119; Laws 2009, LB110, § 5; Laws 2012, LB801, § 72; Laws 2019, LB356, § 9.
Effective date September 1, 2019.

60-3,122 Pearl Harbor plates.

(1) Any person may, in addition to the application required by section 60-385, apply to the department for license plates designed by the department to indicate that he or she is a survivor of the Japanese attack on Pearl Harbor if he or she:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;

(c) Was discharged or otherwise separated with a characterization of honorable from the United States Armed Forces; and

(d) Holds a current membership in a Nebraska Chapter of the Pearl Harbor Survivors Association.

(2) Pearl Harbor license plates shall be issued upon the applicant paying the license plate fee as provided in subsection (3) of this section and furnishing proof satisfactory to the department that the applicant fulfills the requirements provided by subsection (1) of this section. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) Until January 1, 2021, the applicant for Pearl Harbor license plates shall pay the license plate fee required under section 60-3,102. Beginning January 1, 2021, no license plate fee shall be required for Pearl Harbor license plates.

(4) If the license plates issued pursuant to this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement license plates upon request and without charge.

(5) Beginning January 1, 2021, license plates issued under this section shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually.

(6) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 122; Laws 2007, LB286, § 40; Laws 2009, LB110, § 6; Laws 2010, LB705, § 1; Laws 2015, LB642, § 5; Laws 2017, LB263, § 42; Laws 2019, LB138, § 9; Laws 2019, LB270, § 16.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 9, with LB270, section 16, to reflect all amendments.

60-3,122.02 Gold Star Family plates; fee; delivery.

(1) A person may apply to the department for Gold Star Family plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Gold Star Family plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. Gold Star Family plates shall be issued upon payment of the license fee described in subsection (2) of this section and furnishing proof satisfactory to the department that the applicant is a surviving spouse, whether remarried or not, or an ancestor, including a stepparent, a descendant, including a stepchild, a foster parent or a person in loco parentis, or a sibling of a person who died while in good standing on active duty in the military service of the United States.

(2)(a)(i) Until January 1, 2021, each application for initial issuance of consecutively numbered Gold Star Family plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees for renewals pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee for initial issuance and renewal of such plates to the Nebraska Veteran Cemetery System Operation Fund.

(ii) Beginning January 1, 2021, no additional fee shall be required for consecutively numbered Gold Star Family plates issued under this section and such plates shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are

registered as long as the vehicle is properly registered by the applicant annually.

(b)(i) Each application for initial issuance of personalized message Gold Star Family plates shall be accompanied by a fee of forty dollars. An application for renewal of such plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees for renewals pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Nebraska Veteran Cemetery System Operation Fund.

(ii) Beginning January 1, 2021:

(A) No license plate fee under section 60-3,102 shall be required for personalized message Gold Star Family plates issued under this section, other than the renewal fee provided for in subdivision (2)(b)(i) of this section; and

(B) Such plates shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually and the renewal fee provided for in subdivision (2)(b)(i) of this section is paid.

(3)(a) When the department receives an application for Gold Star Family plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Gold Star Family plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Gold Star Family plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request and without charge.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Gold Star Family plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates, if any, credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Until January 1, 2021, application for such transfer shall be accompanied by a fee of three dollars. Beginning January 1, 2021, no such fee shall be required. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Gold Star Family plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Nebraska Veteran Cemetery System Operation Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Gold Star Family plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Nebraska Veteran Cemetery System Operation Fund.

Source: Laws 2007, LB570, § 3; Laws 2009, LB110, § 7; Laws 2009, LB331, § 2; Laws 2012, LB801, § 75; Laws 2017, LB263, § 43; Laws 2019, LB138, § 10; Laws 2019, LB270, § 17.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 10, with LB270, section 17, to reflect all amendments.

60-3,122.03 Military Honor Plates; design.

(1) The department shall design license plates to be known as Military Honor Plates.

(2)(a) Until January 1, 2021, the department shall create designs honoring persons who have served or are serving in the United States Army, United States Army Reserve, United States Navy, United States Navy Reserve, United States Marine Corps, United States Marine Corps Reserve, United States Coast Guard, United States Coast Guard Reserve, United States Air Force, United States Air Force Reserve, or National Guard; and

(b) Beginning January 1, 2021, the department shall create designs honoring persons who have served or are serving in the United States Army, United States Army Reserve, United States Navy, United States Navy Reserve, United States Marine Corps, United States Marine Corps Reserve, United States Coast Guard, United States Coast Guard Reserve, United States Air Force, United States Air Force Reserve, Air National Guard, or Army National Guard.

(3) There shall be eleven such designs until January 1, 2021, and twelve such designs beginning January 1, 2021, one for each of such armed forces reflecting its official emblem, official seal, or other official image. The issuance of plates for each of such armed forces shall be conditioned on the approval of the armed forces owning the copyright to the official emblem, official seal, or other official image.

(4) By January 1, 2021, the department shall create five additional designs honoring persons who are serving or have served in the armed forces of the United States and who have been awarded the Afghanistan Campaign Medal, Iraq Campaign Medal, Global War on Terrorism Expeditionary Medal, Southwest Asia Service Medal, or Vietnam Service Medal.

(5) A person may qualify for a Military Honor Plate by registering with the Department of Veterans' Affairs pursuant to section 80-414. The Department of Motor Vehicles shall verify the applicant's eligibility for a plate created pursuant to this section by consulting the registry established by the Department of Veterans' Affairs.

(6) The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The Department of Motor Vehicles shall make applications available for each type of plate when it is designed. The

department may adopt and promulgate rules and regulations to carry out this section and section 60-3,122.04.

(7) One type of Military Honor Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(8) One type of Military Honor Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(9) The department shall cease to issue Military Honor Plates beginning with the next license plate issuance cycle pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than two hundred fifty per year within any prior consecutive two-year period.

Source: Laws 2014, LB383, § 9; Laws 2017, LB45, § 1; Laws 2019, LB138, § 11; Laws 2019, LB356, § 10.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 11, with LB356, section 10, to reflect all amendments.

60-3,122.04 Military Honor Plates; fee; eligibility; delivery; transfer; fee.

(1) An eligible person may apply to the department for Military Honor Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Military Honor Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section and verification by the department of an applicant's eligibility using the registry established by the Department of Veterans' Affairs pursuant to section 80-414. To be eligible an applicant shall be (a) active duty or reserve duty armed forces personnel serving in any of the armed forces listed in subsection (2) of section 60-3,122.03, (b) a veteran of any of such armed forces who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), (c) a current or former commissioned officer of the United States Public Health Service or National Oceanic and Atmospheric Administration who has been detailed directly to any branch of such armed forces for service on active or reserve duty and who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) as proven with valid orders from the United States Department of Defense, a statement of service provided by the United States Public Health Service, or a report of transfer or discharge provided by the National Oceanic and Atmospheric Administration, or (d) a person who is serving or has served in the armed forces of the United States and who has been awarded the Afghanistan Campaign Medal, Iraq Campaign Medal, Global War on Terrorism Expeditionary Medal, Southwest Asia Service Medal, or Vietnam Service Medal. Any person using Military Honor Plates shall surrender the plates to the county treasurer if such person is no longer eligible for the plates. Regular plates shall be issued to any such person upon surrender

of the Military Honor Plates for a three-dollar transfer fee and forfeiture of any of the remaining annual fee. The three-dollar transfer fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Military Honor Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Nebraska Veteran Cemetery System Operation Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Military Honor Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Nebraska Veteran Cemetery System Operation Fund.

(3)(a) When the department receives an application for Military Honor Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Military Honor Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Military Honor Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Military Honor Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Military Honor Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Nebraska Veteran Cemetery System Operation Fund shall

instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Military Honor Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Nebraska Veteran Cemetery System Operation Fund.

(6) If the director discovers evidence of fraud in an application for Military Honor Plates or that the holder is no longer eligible to have Military Honor Plates, the director may summarily cancel the plates and registration and send notice of the cancellation to the holder of the license plates.

Source: Laws 2014, LB383, § 10; Laws 2017, LB45, § 2; Laws 2017, LB263, § 44; Laws 2019, LB138, § 12; Laws 2019, LB270, § 18; Laws 2019, LB356, § 11.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 12, with LB270, section 18, and LB356, section 11, to reflect all amendments.

60-3,123 Prisoner of war plates; fee.

(1) Any person who was captured and incarcerated by an enemy of the United States during a period of conflict with such enemy and who was discharged or otherwise separated with a characterization of honorable from or is currently serving in the United States Armed Forces may, in addition to the application required in section 60-385, apply to the department for license plates designed to indicate that he or she is a former prisoner of war.

(2) The license plates shall be issued upon the applicant paying the license plate fee as provided in subsection (3) of this section and furnishing proof satisfactory to the department that the applicant was formerly a prisoner of war. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) Until January 1, 2021, the applicant for license plates under this section shall pay the license plate fee required under section 60-3,102. Beginning January 1, 2021, no license plate fee shall be required for license plates under this section.

(4) If the license plates issued under this section are lost, stolen, or mutilated, the recipient of the license plates shall be issued replacement license plates upon request and without charge.

(5) Beginning January 1, 2021, license plates issued under this section shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually.

(6) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties.

The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 123; Laws 2007, LB286, § 41; Laws 2009, LB110, § 8; Laws 2010, LB705, § 2; Laws 2014, LB383, § 6; Laws 2017, LB263, § 45; Laws 2019, LB138, § 13; Laws 2019, LB270, § 19.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 13, with LB270, section 19, to reflect all amendments.

60-3,124 Disabled veteran plates.

(1) Any person who is a veteran of the United States Armed Forces, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who is classified by the United States Department of Veterans Affairs as one hundred percent service-connected disabled may, in addition to the application required in section 60-385, apply to the Department of Motor Vehicles for license plates designed by the department to indicate that the applicant is a disabled veteran. The inscription on the license plates shall be D.A.V. immediately below the license plate number to indicate that the holder of the license plates is a disabled veteran.

(2) The plates shall be issued upon the applicant paying the license plate fee as provided in subsection (3) of this section and furnishing proof satisfactory to the department that the applicant is a disabled veteran. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) Until January 1, 2021, the applicant for license plates under this section shall pay the license plate fee required under section 60-3,102. Beginning January 1, 2021, no license plate fee shall be required for license plates under this section.

(4) If the license plates issued under this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement license plates as provided in section 60-3,157.

(5) Beginning January 1, 2021, license plates issued under this section shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually.

(6) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 124; Laws 2007, LB286, § 42; Laws 2009, LB110, § 9; Laws 2010, LB705, § 3; Laws 2015, LB642, § 6;

Laws 2017, LB263, § 46; Laws 2019, LB138, § 14; Laws 2019, LB270, § 20.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 14, with LB270, section 20, to reflect all amendments.

60-3,125 Purple Heart plates; fee.

(1) Any person may, in addition to the application required by section 60-385, apply to the department for license plates designed by the department to indicate that the applicant has received from the federal government an award of a Purple Heart. The inscription of the plates shall be designed so as to include a facsimile of the award and beneath any numerical designation upon the plates pursuant to section 60-370 the words Purple Heart separately on one line and the words Combat Wounded on the line below.

(2) The license plates shall be issued upon payment of the license plate fee as provided in subsection (3) of this section and furnishing proof satisfactory to the department that the applicant was awarded the Purple Heart. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) Until January 1, 2021, the applicant for license plates under this section shall pay the license plate fee required under section 60-3,102. Beginning January 1, 2021, no license plate fee shall be required for license plates under this section.

(4) If license plates issued pursuant to this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement license plates upon request and without charge.

(5) Beginning January 1, 2021, license plates issued under this section shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually.

(6) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 125; Laws 2007, LB286, § 43; Laws 2009, LB110, § 10; Laws 2014, LB383, § 7; Laws 2017, LB263, § 47; Laws 2019, LB138, § 15; Laws 2019, LB270, § 21.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 15, with LB270, section 21, to reflect all amendments.

60-3,126 Amateur radio station license plates; fee; renewal.

(1) Any person who holds an unrevoked and unexpired amateur radio station license issued by the Federal Communications Commission and is the owner of a motor vehicle, trailer, or semitrailer, except for motor vehicles and trailers registered under section 60-3,198, may, in addition to the application required by section 60-385, apply to the department for license plates upon which shall be inscribed the official amateur radio call letters of such applicant.

(2) Such license plates shall be issued, in lieu of the usual numbers and letters, to such an applicant upon payment of the regular license fee and the payment of an additional fee of five dollars and furnishing proof that the applicant holds such an unrevoked and unexpired amateur radio station license. The additional fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund. Only one such motor vehicle or trailer owned by an applicant shall be so registered at any one time.

(3) An applicant applying for renewal of amateur radio station license plates shall again furnish proof that he or she holds an unrevoked and unexpired amateur radio station license issued by the Federal Communications Commission.

(4) The department shall prescribe the size and design of the license plates and furnish such plates to the persons applying for and entitled to the same upon the payment of the required fee.

(5) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 126; Laws 2007, LB286, § 44; Laws 2017, LB263, § 48; Laws 2019, LB270, § 22.
Effective date September 1, 2019.

60-3,127 Nebraska Cornhusker Spirit Plates; design requirements.

(1) The department, in designing Nebraska Cornhusker Spirit Plates, shall:

(a) Include the word Cornhuskers or Huskers prominently in the design;

(b) Use scarlet and cream colors in the design or such other similar colors as the department determines to best represent the official team colors of the University of Nebraska Cornhuskers athletic programs and to provide suitable reflection and contrast;

(c) Use cream or a similar color for the background of the design and scarlet or a similar color for the printing; and

(d) Create a design reflecting support for the University of Nebraska Cornhuskers athletic programs in consultation with the University of Nebraska-Lincoln Athletic Department. The design shall be selected on the basis of (i) enhancing the marketability of spirit plates to supporters of University of Nebraska Cornhuskers athletic programs and (ii) limiting the manufacturing

cost of each spirit plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102.

(2) One type of Nebraska Cornhusker Spirit Plates shall be consecutively numbered spirit plates. The department shall:

(a) Number the spirit plates consecutively beginning with the number one, using numerals the size of which maximizes legibility; and

(b) Not use a county designation or any characters other than numbers on the spirit plates.

(3) One type of Nebraska Cornhusker Spirit Plates shall be personalized message spirit plates. Such plates shall be issued subject to the same conditions specified for message plates in subsection (2) of section 60-3,118. The characters used shall consist only of letters and numerals of the same size and design and shall comply with the requirements of subdivision (1)(a) of section 60-3,100. A maximum of seven characters may be used.

(4) The department shall cease to issue Nebraska Cornhusker Spirit Plates beginning with the next license plate issuance cycle pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than two hundred fifty per year within any prior consecutive two-year period.

Source: Laws 2005, LB 274, § 127; Laws 2019, LB356, § 12.
Effective date September 1, 2019.

60-3,128 Nebraska Cornhusker Spirit Plates; application; fee; delivery; transfer; credit allowed.

(1) A person may apply to the department for Nebraska Cornhusker Spirit Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for motor vehicles or trailers registered under section 60-3,198. An applicant receiving a spirit plate for a farm truck with a gross weight of over sixteen tons or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the spirit plate. The department shall make forms available for such applications through the county treasurers. Each application for initial issuance or renewal of spirit plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer. Until January 1, 2021, the State Treasurer shall credit forty-three percent of the fees for initial issuance and renewal of spirit plates to the Department of Motor Vehicles Cash Fund and fifty-seven percent of the fees to the Spirit Plate Proceeds Fund until the fund has been credited five million dollars from such fees and thereafter to the Highway Trust Fund. Beginning January 1, 2021, the State Treasurer shall credit sixty percent of the fees for initial issuance and renewal of spirit plates to the Department of Motor Vehicles Cash Fund and forty percent of the fees to the Highway Trust Fund.

(2)(a) When the department receives an application for spirit plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue spirit plates in lieu of regular

license plates when the applicant complies with the other provisions of law for registration of the motor vehicle or trailer. If spirit plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(3)(a) The owner of a motor vehicle or trailer bearing spirit plates may make application to the county treasurer to have such spirit plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the spirit plates.

(b) The owner may have the unused portion of the spirit plate fee credited to the other motor vehicle or trailer which will bear the spirit plate at the rate of eight and one-third percent per month for each full month left in the registration period.

(c) Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2005, LB 274, § 128; Laws 2007, LB286, § 45; Laws 2009, LB110, § 11; Laws 2012, LB801, § 76; Laws 2017, LB263, § 49; Laws 2019, LB270, § 23; Laws 2019, LB356, § 13.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB270, section 23, with LB356, section 13, to reflect all amendments.

60-3,130.04 Historical vehicle; model-year license plates; authorized.

(1) An owner of a historical vehicle eligible for registration under section 60-3,130 may use a license plate or plates designed by this state in the year corresponding to the model year when the vehicle was manufactured in lieu of the plates designed pursuant to section 60-3,130.03 subject to the approval of the department. The department shall inspect the plate or plates and may approve the plate or plates if it is determined that the model-year license plate or plates are legible and serviceable and that the license plate numbers do not conflict with or duplicate other numbers assigned and in use. An original-issued license plate or plates that have been restored to original condition may be used when approved by the department.

(2) The department may consult with a recognized car club in determining whether the year of the license plate or plates to be used corresponds to the model year when the vehicle was manufactured.

(3) If only one license plate is used on the vehicle, the license plate shall be placed on the rear of the vehicle. The owner of a historical vehicle may use only

one plate on the vehicle even for years in which two license plates were issued for vehicles in general.

(4) License plates used pursuant to this section corresponding to the year of manufacture of the vehicle shall not be personalized message license plates, Pearl Harbor license plates, prisoner-of-war license plates, disabled veteran license plates, Purple Heart license plates, amateur radio station license plates, Nebraska Cornhusker Spirit Plates, handicapped or disabled person license plates, specialty license plates, special interest motor vehicle license plates, Military Honor Plates, Nebraska 150 Sesquicentennial Plates, Breast Cancer Awareness Plates, Prostate Cancer Awareness Plates, Mountain Lion Conservation Plates, Choose Life License Plates, Native American Cultural Awareness and History Plates, Sammy’s Superheroes license plates for childhood cancer awareness, Wildlife Conservation Plates, or Support Our Troops Plates.

Source: Laws 2006, LB 663, § 28; Laws 2007, LB286, § 46; Laws 2009, LB110, § 13; Laws 2013, LB32, § 1; Laws 2014, LB383, § 8; Laws 2015, LB220, § 6; Laws 2016, LB474, § 8; Laws 2016, LB977, § 8; Laws 2017, LB46, § 6; Laws 2017, LB263, § 50; Laws 2019, LB138, § 16; Laws 2019, LB356, § 14.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 16, with LB356, section 14, to reflect all amendments.

60-3,162 Certificate of registration; improper issuance; revocation.

The department shall, upon a sworn complaint in writing of any person, investigate whether a certificate of registration has been issued on a motor vehicle or trailer exceeding the length, height, or width provided by law or issued contrary to any law of this state. If the department determines from the investigation that such certificate of registration has been improperly issued, it shall have power to revoke such certificate of registration.

Source: Laws 2005, LB 274, § 162; Laws 2019, LB270, § 24.
Effective date September 1, 2019.

60-3,187 Motor vehicle tax schedules; calculation of tax.

(1) The motor vehicle tax schedules are set out in this section.

(2) The motor vehicle tax shall be calculated by multiplying the base tax times the fraction which corresponds to the age category of the vehicle as shown in the following table:

YEAR	FRACTION
First	1.00
Second	0.90
Third	0.80
Fourth	0.70
Fifth	0.60
Sixth	0.51
Seventh	0.42
Eighth	0.33
Ninth	0.24
Tenth and Eleventh	0.15
Twelfth and Thirteenth	0.07
Fourteenth and older	0.00

(3) The base tax shall be:

(a) Automobiles, autocycles, and motorcycles - An amount determined using the following table:

Value when new	Base tax
Up to \$ 3,999	\$ 25
\$4,000 to \$5,999	35
\$6,000 to \$7,999	45
\$8,000 to \$9,999	60
\$10,000 to \$11,999	100
\$12,000 to \$13,999	140
\$14,000 to \$15,999	180
\$16,000 to \$17,999	220
\$18,000 to \$19,999	260
\$20,000 to \$21,999	300
\$22,000 to \$23,999	340
\$24,000 to \$25,999	380
\$26,000 to \$27,999	420
\$28,000 to \$29,999	460
\$30,000 to \$31,999	500
\$32,000 to \$33,999	540
\$34,000 to \$35,999	580
\$36,000 to \$37,999	620
\$38,000 to \$39,999	660
\$40,000 to \$41,999	700
\$42,000 to \$43,999	740
\$44,000 to \$45,999	780
\$46,000 to \$47,999	820
\$48,000 to \$49,999	860
\$50,000 to \$51,999	900
\$52,000 to \$53,999	940
\$54,000 to \$55,999	980
\$56,000 to \$57,999	1,020
\$58,000 to \$59,999	1,060
\$60,000 to \$61,999	1,100
\$62,000 to \$63,999	1,140
\$64,000 to \$65,999	1,180
\$66,000 to \$67,999	1,220
\$68,000 to \$69,999	1,260
\$70,000 to \$71,999	1,300
\$72,000 to \$73,999	1,340
\$74,000 to \$75,999	1,380
\$76,000 to \$77,999	1,420
\$78,000 to \$79,999	1,460
\$80,000 to \$81,999	1,500
\$82,000 to \$83,999	1,540
\$84,000 to \$85,999	1,580
\$86,000 to \$87,999	1,620
\$88,000 to \$89,999	1,660
\$90,000 to \$91,999	1,700
\$92,000 to \$93,999	1,740
\$94,000 to \$95,999	1,780
\$96,000 to \$97,999	1,820
\$98,000 to \$99,999	1,860
\$100,000 and over	1,900

- (b) Assembled automobiles — \$60
 - (c) Assembled motorcycles other than autocycles — \$25
 - (d) Cabin trailers, up to one thousand pounds — \$10
 - (e) Cabin trailers, one thousand pounds and over and less than two thousand pounds — \$25
 - (f) Cabin trailers, two thousand pounds and over — \$40
 - (g) Recreational vehicles, less than eight thousand pounds — \$160
 - (h) Recreational vehicles, eight thousand pounds and over and less than twelve thousand pounds — \$410
 - (i) Recreational vehicles, twelve thousand pounds and over — \$860
 - (j) Assembled recreational vehicles and buses shall follow the schedules for body type and registered weight
 - (k) Trucks - Over seven tons and less than ten tons — \$360
 - (l) Trucks - Ten tons and over and less than thirteen tons — \$560
 - (m) Trucks - Thirteen tons and over and less than sixteen tons — \$760
 - (n) Trucks - Sixteen tons and over and less than twenty-five tons — \$960
 - (o) Trucks - Twenty-five tons and over — \$1,160
 - (p) Buses — \$360
 - (q) Trailers other than semitrailers — \$10
 - (r) Semitrailers — \$110
 - (s) Former military vehicles — \$50
 - (t) Minitrucks — \$50
 - (u) Low-speed vehicles — \$50
- (4) For purposes of subsection (3) of this section, truck means all trucks and combinations of trucks except those trucks, trailers, or combinations thereof registered under section 60-3,198, and the tax is based on the gross vehicle weight rating as reported by the manufacturer.
- (5) Current model year vehicles are designated as first-year motor vehicles for purposes of the schedules.
- (6) When a motor vehicle is registered which is newer than the current model year by the manufacturer's designation, the motor vehicle is subject to the initial motor vehicle tax in the first registration period and ninety-five percent of the initial motor vehicle tax in the second registration period.
- (7) Assembled cabin trailers, assembled recreational vehicles, and assembled buses shall be designated as sixth-year motor vehicles in their first year of registration for purposes of the schedules.
- (8) When a motor vehicle is registered which is required to have a title branded as previous salvage pursuant to section 60-174, the motor vehicle tax shall be reduced by twenty-five percent.

Source: Laws 2005, LB 274, § 187; Laws 2006, LB 248, § 2; Laws 2006, LB 765, § 7; Laws 2010, LB650, § 28; Laws 2011, LB289, § 22; Laws 2015, LB231, § 17; Laws 2018, LB909, § 67; Laws 2019, LB156, § 11; Laws 2019, LB270, § 25.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB156, section 11, with LB270, section 25, to reflect all amendments.

60-3,190 Motor vehicle fee; fee schedules; Motor Vehicle Fee Fund; created; use; investment.

(1) A motor vehicle fee is imposed on all motor vehicles registered for operation in this state. An owner of a motor vehicle which is exempt from the imposition of a motor vehicle tax pursuant to section 60-3,185 shall also be exempt from the imposition of the motor vehicle fee imposed pursuant to this section.

(2) The department shall annually determine the motor vehicle fee on each motor vehicle registered pursuant to this section and shall cause a notice of the amount to be delivered to the registrant. The notice shall be combined with the notice of the motor vehicle tax required by section 60-3,186.

(3) The motor vehicle fee schedules are set out in this subsection and subsection (4) of this section. Except for automobiles with a value when new of less than \$20,000, and for assembled, reconstructed-designated, and replica-designated automobiles, the fee shall be calculated by multiplying the base fee times the fraction which corresponds to the age category of the automobile as shown in the following table:

YEAR	FRACTION
First through fifth	1.00
Sixth through tenth	.70
Eleventh and over	.35

(4) The base fee shall be:

- (a) Automobiles, with a value when new of less than \$20,000, and assembled, reconstructed-designated, and replica-designated automobiles — \$5
- (b) Automobiles, with a value when new of \$20,000 through \$39,999 — \$20
- (c) Automobiles, with a value when new of \$40,000 or more — \$30
- (d) Motorcycles and autocycles — \$10
- (e) Recreational vehicles and cabin trailers — \$10
- (f) Trucks over seven tons and buses — \$30
- (g) Trailers other than semitrailers — \$10
- (h) Semitrailers — \$30
- (i) Former military vehicles — \$10
- (j) Minitrucks — \$10
- (k) Low-speed vehicles — \$10.

(5) The motor vehicle tax, motor vehicle fee, and registration fee shall be paid to the county treasurer prior to the registration of the motor vehicle for the following registration period. After retaining one percent of the motor vehicle fee collected for costs, the remaining proceeds shall be remitted to the State Treasurer for credit to the Motor Vehicle Fee Fund. The State Treasurer shall return funds from the Motor Vehicle Fee Fund remitted by a county treasurer which are needed for refunds or credits authorized by law.

(6)(a) The Motor Vehicle Fee Fund is created. On or before the last day of each calendar quarter, the State Treasurer shall distribute all funds in the Motor Vehicle Fee Fund as follows: (i) Fifty percent to the county treasurer of

each county, amounts in the same proportion as the most recent allocation received by each county from the Highway Allocation Fund; and (ii) fifty percent to the treasurer of each municipality, amounts in the same proportion as the most recent allocation received by each municipality from the Highway Allocation Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(b) Funds from the Motor Vehicle Fee Fund shall be considered local revenue available for matching state sources.

(c) All receipts by counties and municipalities from the Motor Vehicle Fee Fund shall be used for road, bridge, and street purposes.

(7) For purposes of subdivisions (4)(a), (b), (c), and (f) of this section, automobiles or trucks includes all trucks and combinations of trucks or truck-tractors, except those trucks, trailers, or semitrailers registered under section 60-3,198, and the fee is based on the gross vehicle weight rating as reported by the manufacturer.

(8) Current model year vehicles are designated as first-year motor vehicles for purposes of the schedules.

(9) When a motor vehicle is registered which is newer than the current model year by the manufacturer's designation, the motor vehicle is subject to the initial motor vehicle fee for six registration periods.

(10) Assembled vehicles other than assembled, reconstructed-designated, or replica-designated automobiles shall follow the schedules for the motor vehicle body type.

Source: Laws 2005, LB 274, § 190; Laws 2007, LB286, § 55; Laws 2010, LB650, § 29; Laws 2011, LB289, § 23; Laws 2012, LB801, § 91; Laws 2013, LB207, § 5; Laws 2015, LB231, § 18; Laws 2018, LB909, § 68; Laws 2019, LB156, § 12.
Effective date September 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-3,193.01 International Registration Plan; adopted.

For purposes of the Motor Vehicle Registration Act, the International Registration Plan is adopted and incorporated by reference as the plan existed on January 1, 2019.

Source: Laws 2008, LB756, § 10; Laws 2009, LB331, § 4; Laws 2010, LB805, § 2; Laws 2011, LB212, § 3; Laws 2012, LB751, § 14; Laws 2013, LB35, § 2; Laws 2014, LB776, § 3; Laws 2015, LB313, § 3; Laws 2016, LB929, § 5; Laws 2017, LB263, § 55; Laws 2018, LB909, § 69; Laws 2019, LB79, § 8.
Effective date March 7, 2019.

60-3,198 Fleet of vehicles in interjurisdiction commerce; registration; exception; application; fees; temporary authority; evidence of registration; proportional registration; removal from fleet; effect; unladen-weight registration; trip permit; fee.

(1) Any owner engaged in operating a fleet of apportionable vehicles in this state in interjurisdiction commerce may, in lieu of registration of such apportionable vehicles under the general provisions of the Motor Vehicle Registration Act, register and license such fleet for operation in this state by filing a statement and the application required by section 60-3,203 with the Division of Motor Carrier Services of the department. The statement shall be in such form and contain such information as the division requires, declaring the total mileage operated by such vehicles in all jurisdictions and in this state during the preceding year and describing and identifying each such apportionable vehicle to be operated in this state during the ensuing license year. Upon receipt of such statement and application, the division shall determine the total fee payment, which shall be equal to the amount of fees due pursuant to section 60-3,203 and the amount obtained by applying the formula provided in section 60-3,204 to a fee of thirty-two dollars per ton based upon gross vehicle weight of the empty weights of a truck or truck-tractor and the empty weights of any trailer or combination thereof with which it is to be operated in combination at any one time plus the weight of the maximum load to be carried thereon at any one time, and shall notify the applicant of the amount of payment required to be made. Mileage operated in noncontracting reciprocity jurisdictions by apportionable vehicles based in Nebraska shall be applied to the portion of the formula for determining the Nebraska jurisdiction fleet distance.

Temporary authority which permits the operation of a fleet or an addition to a fleet in this state while the application is being processed may be issued upon application to the division if necessary to complete processing of the application.

Upon completion of such processing and receipt of the appropriate fees, the division shall issue to the applicant a sufficient number of distinctive registration certificates which provide a list of the jurisdictions in which the apportionable vehicle has been apportioned, the weight for which registered, and such other evidence of registration for display on the apportionable vehicle as the division determines appropriate for each of the apportionable vehicles of his or her fleet, identifying it as a part of an interjurisdiction fleet proportionately registered. Such registration certificates may be displayed as a legible paper copy or electronically as authorized by the department. All fees received as provided in this section shall be remitted to the State Treasurer for credit to the Motor Carrier Services Division Distributive Fund.

The apportionable vehicles so registered shall be exempt from all further registration and license fees under the Motor Vehicle Registration Act for movement or operation in the State of Nebraska except as provided in section 60-3,203. The proportional registration and licensing provision of this section shall apply to apportionable vehicles added to such fleets and operated in this state during the license year except with regard to permanent license plates issued under section 60-3,203.

The right of applicants to proportional registration under this section shall be subject to the terms and conditions of any reciprocity agreement, contract, or consent made by the division.

When a nonresident fleet owner has registered his or her apportionable vehicles, his or her apportionable vehicles shall be considered as fully registered for both interjurisdiction and intrajurisdiction commerce when the jurisdiction of base registration for such fleet accords the same consideration for

fleets with a base registration in Nebraska. Each apportionable vehicle of a fleet registered by a resident of Nebraska shall be considered as fully registered for both interjurisdiction and intrajurisdiction commerce.

(2) Mileage proportions for interjurisdiction fleets not operated in this state during the preceding year shall be determined by the division upon the application of the applicant on forms to be supplied by the division which shall show the operations of the preceding year in other jurisdictions and estimated operations in Nebraska or, if no operations were conducted the previous year, a full statement of the proposed method of operation.

(3) Any owner complying with and being granted proportional registration shall preserve the records on which the application is made for a period of three years following the current registration year. Upon request of the division, the owner shall make such records available to the division at its office for audit as to accuracy of computation and payments or pay the costs of an audit at the home office of the owner by a duly appointed representative of the division if the office where the records are maintained is not within the State of Nebraska. The division may enter into agreements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any such owner. All payments received to cover the costs of an audit shall be remitted by the division to the State Treasurer for credit to the Motor Carrier Division Cash Fund. No deficiency shall be assessed and no claim for credit shall be allowed for any license registration year for which records on which the application was made are no longer required to be maintained.

(4) If the division claims that a greater amount of fee is due under this section than was paid, the division shall notify the owner of the additional amount claimed to be due. The owner may accept such claim and pay the amount due, or he or she may dispute the claim and submit to the division any information which he or she may have in support of his or her position. If the dispute cannot otherwise be resolved within the division, the owner may petition for an appeal of the matter. The director shall appoint a hearing officer who shall hear the dispute and issue a written decision. Any appeal shall be in accordance with the Administrative Procedure Act. Upon expiration of the time for perfecting an appeal if no appeal is taken or upon final judicial determination if an appeal is taken, the division shall deny the owner the right to further registration for a fleet license until the amount finally determined to be due, together with any costs assessed against the owner, has been paid.

(5) Every applicant who licenses any apportionable vehicles under this section and section 60-3,203 shall have his or her registration certificates issued only after all fees under such sections are paid and, if applicable, proof has been furnished of payment, in the form prescribed by the director as directed by the United States Secretary of the Treasury, of the federal heavy vehicle use tax imposed by 26 U.S.C. 4481 of the Internal Revenue Code as defined in section 49-801.01.

(6)(a) In the event of the transfer of ownership of any registered apportionable vehicle, (b) in the case of loss of possession because of fire, theft, or wrecking, junking, or dismantling of any registered apportionable vehicle, (c) when a salvage branded certificate of title is issued for any registered apportionable vehicle, (d) whenever a type or class of registered apportioned vehicle is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to

registration fees and taxes, (e) upon trade-in or surrender of a registered apportionable vehicle under a lease, or (f) in case of a change in the situs of a registered apportionable vehicle to a location outside of this state, its registration shall expire, except that if the registered owner or lessee applies to the division after such transfer or loss of possession and accompanies the application with a fee of one dollar and fifty cents, he or she may have any remaining credit of vehicle fees and taxes from the previously registered apportionable vehicle applied toward payment of any vehicle fees and taxes due and owing on another registered apportionable vehicle. If such registered apportionable vehicle has a greater gross vehicle weight than that of the previously registered apportionable vehicle, the registered owner or lessee of the registered apportionable vehicle shall additionally pay only the registration fee for the increased gross vehicle weight for the remaining months of the registration year based on the factors determined by the division in the original fleet application.

(7) Whenever a Nebraska-based fleet owner files an application with the division to delete a registered apportionable vehicle from a fleet of registered apportionable vehicles (a) because of a transfer of ownership of the registered apportionable vehicle, (b) because of loss of possession due to fire, theft, or wrecking, junking, or dismantling of the registered apportionable vehicle, (c) because a salvage branded certificate of title is issued for the registered apportionable vehicle, (d) because a type or class of registered apportioned vehicle is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to registration fees and taxes, (e) because of a trade-in or surrender of the registered apportionable vehicle under a lease, or (f) because of a change in the situs of the registered apportionable vehicle to a location outside of this state, the registered owner may, by returning the registration certificate or certificates and such other evidence of registration used by the division or, if such certificate or certificates or such other evidence of registration is unavailable, then by making an affidavit to the division of such transfer or loss, receive a refund of that portion of the unused registration fee based upon the number of unexpired months remaining in the registration year from the date of transfer or loss. No refund shall be allowed for any fees paid under section 60-3,203. When such apportionable vehicle is transferred or lost within the same month as acquired, no refund shall be allowed for such month. Such refund may be in the form of a credit against any registration fees that have been incurred or are, at the time of the refund, being incurred by the registered apportionable vehicle owner. The Nebraska-based fleet owner shall make a claim for a refund under this subsection within the registration period or shall be deemed to have forfeited his or her right to the refund.

(8) In case of addition to the registered fleet during the registration year, the owner engaged in operating the fleet shall pay the proportionate registration fee from the date the vehicle was placed into service or, if the vehicle was previously registered, the date the prior registration expired or the date Nebraska became the base jurisdiction for the fleet, whichever is first, for the remaining balance of the registration year. The fee for any permanent license plate issued for such addition pursuant to section 60-3,203 shall be the full fee required by such section, regardless of the number of months remaining in the license year.

(9) In lieu of registration under subsections (1) through (8) of this section, the title holder of record may apply to the division for special registration, to be

known as an unladen-weight registration, for any commercial motor vehicle or combination of vehicles which have been registered to a Nebraska-based fleet owner within the current or previous registration year. Such registration shall be valid only for a period of thirty days and shall give no authority to operate the vehicle except when empty. The fee for such registration shall be twenty dollars for each vehicle, which fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund. The issuance of such permits shall be governed by section 60-3,179.

(10) Any person may, in lieu of registration under subsections (1) through (8) of this section or for other jurisdictions as approved by the director, purchase a trip permit for any nonresident truck, truck-tractor, bus, or truck or truck-tractor combination. A trip permit shall be issued before any person required to obtain a trip permit enters this state with such vehicle. The trip permit shall be issued by the director through Internet sales from the department's web site. The trip permit shall be valid for a period of seventy-two hours. The fee for the trip permit shall be twenty-five dollars for each truck, truck-tractor, bus, or truck or truck-tractor combination. The fee collected by the director shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

Source: Laws 2005, LB 274, § 198; Laws 2008, LB756, § 15; Laws 2009, LB331, § 5; Laws 2012, LB751, § 15; Laws 2013, LB250, § 1; Laws 2016, LB666, § 2; Laws 2018, LB177, § 2; Laws 2019, LB79, § 9.

Effective date March 7, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

60-3,202 Registration fees; collection and distribution; procedure; Motor Vehicle Tax Fund; created; use; investment.

(1) Registration fees credited to the Motor Carrier Services Division Distributive Fund pursuant to section 60-3,198 and remaining in such fund at the close of each calendar month shall be remitted to the State Treasurer for credit as follows: (a) Three percent of thirty percent of such amount shall be credited to the Department of Revenue Property Assessment Division Cash Fund; (b) the remainder of such thirty percent shall be credited to the Motor Vehicle Tax Fund; and (c) seventy percent of such amount shall be credited to the Highway Trust Fund.

(2) On or before the last day of each quarter of the calendar year, the State Treasurer shall distribute all funds in the Motor Vehicle Tax Fund to the county treasurer of each county in the same proportion as the number of original motor vehicle registrations in each county bears to the total of all original registrations within the state in the registration year immediately preceding.

(3) Upon receipt of motor vehicle tax funds from the State Treasurer, the county treasurer shall distribute such funds to taxing agencies within the county in the same proportion that the levy of each such taxing agency bears to the total of such levies of all taxing agencies in the county.

(4) In the event any taxing district has been annexed, merged, dissolved, or in any way absorbed into another taxing district, any apportionment of motor vehicle tax funds to which such taxing district would have been entitled shall be apportioned to the successor taxing district which has assumed the functions of the annexed, merged, dissolved, or absorbed taxing district.

(5) On or before March 1 of each year, the department shall furnish to the State Treasurer a tabulation showing the total number of original motor vehicle registrations in each county for the immediately preceding calendar year, which shall be the basis for computing the distribution of motor vehicle tax funds as provided in subsection (2) of this section.

(6) The Motor Vehicle Tax Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2005, LB 274, § 202; Laws 2007, LB334, § 11; Laws 2012, LB801, § 92; Laws 2016, LB977, § 12; Laws 2019, LB79, § 10. Effective date March 7, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-3,221 Towing of trailers; restrictions; section; how construed.

(1) Except as otherwise provided in the Motor Vehicle Registration Act:

(a) A cabin trailer shall only be towed by a properly registered:

- (i) Passenger car;
- (ii) Commercial motor vehicle or apportionable vehicle;
- (iii) Farm truck;
- (iv) Local truck;
- (v) Minitruck;
- (vi) Recreational vehicle; or
- (vii) Bus;

(b) A utility trailer shall only be towed by:

- (i) A properly registered passenger car;
- (ii) A properly registered commercial motor vehicle or apportionable vehicle;
- (iii) A properly registered farm truck;
- (iv) A properly registered local truck;
- (v) A properly registered minitruck;
- (vi) A properly registered recreational vehicle;
- (vii) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;
- (viii) A properly registered well-boring apparatus;
- (ix) A dealer-plated vehicle;
- (x) A personal-use dealer-plated vehicle;
- (xi) A properly registered bus; or
- (xii) A properly registered public power district motor vehicle or, beginning January 1, 2023, a properly registered metropolitan utilities district motor vehicle;

(c) A farm trailer shall only be towed by a properly registered:

- (i) Passenger car;
- (ii) Commercial motor vehicle;

- (iii) Farm truck; or
- (iv) Minitruck;
- (d) A commercial trailer shall only be towed by:
 - (i) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;
 - (ii) A properly registered local truck;
 - (iii) A properly registered well-boring apparatus;
 - (iv) A properly registered commercial motor vehicle or apportionable vehicle;
 - (v) A dealer-plated vehicle;
 - (vi) A personal-use dealer-plated vehicle;
 - (vii) A properly registered bus;
 - (viii) A properly registered farm truck; or
 - (ix) A properly registered public power district motor vehicle or, beginning January 1, 2023, a properly registered metropolitan utilities district motor vehicle;
- (e) A fertilizer trailer shall only be towed by a properly registered:
 - (i) Passenger car;
 - (ii) Commercial motor vehicle or apportionable vehicle;
 - (iii) Farm truck; or
 - (iv) Local truck;
- (f) A pole and cable reel trailer shall only be towed by a properly registered:
 - (i) Commercial motor vehicle or apportionable vehicle;
 - (ii) Local truck; or
 - (iii) Public power district motor vehicle or, beginning January 1, 2023, metropolitan utilities district motor vehicle;
- (g) A dealer-plated trailer shall only be towed by:
 - (i) A dealer-plated vehicle;
 - (ii) A properly registered passenger car;
 - (iii) A properly registered commercial motor vehicle or apportionable vehicle;
 - (iv) A properly registered farm truck;
 - (v) A properly registered minitruck; or
 - (vi) A personal-use dealer-plated vehicle;
- (h) Trailers registered pursuant to section 60-3,198 as part of an apportioned fleet shall only be towed by:
 - (i) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;
 - (ii) A properly registered local truck;
 - (iii) A properly registered well-boring apparatus;
 - (iv) A properly registered commercial motor vehicle or apportionable vehicle;
 - (v) A dealer-plated vehicle;
 - (vi) A personal-use dealer-plated vehicle;
 - (vii) A properly registered bus; or
 - (viii) A properly registered farm truck; and

(i) A trailer registered as a historical vehicle pursuant to sections 60-3,130 to 60-3,134 shall only be towed by:

(i) A motor vehicle properly registered as a historical vehicle pursuant to sections 60-3,130 to 60-3,134;

(ii) A properly registered passenger car;

(iii) A properly registered commercial motor vehicle or apportionable vehicle;
or

(iv) A properly registered local truck.

(2) Nothing in this section shall be construed to waive compliance with the Nebraska Rules of the Road or Chapter 75.

(3) Nothing in this section shall be construed to prohibit any motor vehicle or trailer from displaying dealer license plates or In Transit stickers authorized by section 60-376.

Source: Laws 2007, LB349, § 2; Laws 2011, LB212, § 4; Laws 2016, LB783, § 13; Laws 2018, LB909, § 70; Laws 2019, LB270, § 26.
Effective date September 1, 2019.

Cross References

Nebraska Rules of the Road, see section 60-601.

60-3,224 Nebraska 150 Sesquicentennial Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning October 1, 2015, and ending December 31, 2022, a person may apply to the department for Nebraska 150 Sesquicentennial Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a plate under this section for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers.

(2) Each application for initial issuance or renewal of Nebraska 150 Sesquicentennial Plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this section shall be remitted to the State Treasurer. The State Treasurer shall credit fifteen percent of the fee for initial issuance and renewal of plates under subsection (3) of section 60-3,223 to the Department of Motor Vehicles Cash Fund and eighty-five percent of such fee to the Nebraska 150 Sesquicentennial Plate Proceeds Fund. The State Treasurer shall credit forty-three percent of the fee for initial issuance and renewal of plates under subsection (4) of section 60-3,223 to the Department of Motor Vehicles Cash Fund and fifty-seven percent of such fee to the Nebraska 150 Sesquicentennial Plate Proceeds Fund.

(3)(a) When the department receives an application for Nebraska 150 Sesquicentennial Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue plates under this section in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the

motor vehicle or trailer. If plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Nebraska 150 Sesquicentennial Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. The State Treasurer shall credit fees collected pursuant to this subsection to the Department of Motor Vehicles Cash Fund.

(5) Nebraska 150 Sesquicentennial Plates shall not be issued or renewed beginning on January 1, 2023.

Source: Laws 2015, LB220, § 8; Laws 2017, LB263, § 56; Laws 2019, LB270, § 27.
Effective date September 1, 2019.

60-3,226 Mountain Lion Conservation Plates; design.

(1) The department shall design license plates to be known as Mountain Lion Conservation Plates. The department shall create designs reflecting support for the conservation of the mountain lion population. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate by October 1, 2016. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,227.

(2) One type of Mountain Lion Conservation Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Mountain Lion Conservation Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Mountain Lion Conservation Plates beginning with the next license plate issuance cycle pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is

less than two hundred fifty per year within any prior consecutive two-year period.

Source: Laws 2016, LB474, § 9; Laws 2019, LB356, § 15.
Effective date September 1, 2019.

60-3,227 Mountain Lion Conservation Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) A person may apply to the department for Mountain Lion Conservation Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Mountain Lion Conservation Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Mountain Lion Conservation Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Game and Parks Commission Educational Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Mountain Lion Conservation Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Game and Parks Commission Educational Fund.

(3)(a) When the department receives an application for Mountain Lion Conservation Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Mountain Lion Conservation Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Mountain Lion Conservation Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties.

The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle, trailer, or semitrailer bearing Mountain Lion Conservation Plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Mountain Lion Conservation Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Game and Parks Commission Educational Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Mountain Lion Conservation Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Game and Parks Commission Educational Fund.

Source: Laws 2016, LB474, § 10; Laws 2017, LB263, § 57; Laws 2019, LB270, § 28; Laws 2019, LB356, § 16.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB270, section 28, with LB356, section 16, to reflect all amendments.

60-3,230 Breast Cancer Awareness Plates; design.

(1) The department shall design license plates to be known as Breast Cancer Awareness Plates. The design shall include a pink ribbon and the words “early detection saves lives” along the bottom of the plate.

(2) The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate when it is designed.

(3) One type of plate under this section shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(4) One type of plate under this section shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(5) The department shall cease to issue Breast Cancer Awareness Plates beginning with the next license plate issuance cycle pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than two hundred fifty per year within any prior consecutive two-year period.

Source: Laws 2016, LB977, § 9; Laws 2019, LB356, § 17.
Effective date September 1, 2019.

60-3,231 Breast Cancer Awareness Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) A person may apply to the department for Breast Cancer Awareness Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a plate under this section for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers.

(2)(a) Beginning January 1, 2021, in addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Breast Cancer Awareness Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the University of Nebraska Medical Center for the breast cancer navigator program.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Breast Cancer Awareness Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit seventy-five percent of the fee to the University of Nebraska Medical Center for the breast cancer navigator program and twenty-five percent of the fee to the Department of Motor Vehicles Cash Fund.

(3)(a) When the department receives an application for Breast Cancer Awareness Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue plates under this section in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Breast Cancer Awareness Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Breast Cancer Awareness Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such

plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2016, LB977, § 10; Laws 2017, LB263, § 59; Laws 2019, LB270, § 29; Laws 2019, LB356, § 18.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB270, section 29, with LB356, section 18, to reflect all amendments.

60-3,232 Choose Life License Plates; design.

(1) The department shall design license plates to be known as Choose Life License Plates. The department shall create designs reflecting support for the protection of Nebraska's children. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate beginning January 1, 2018. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,233.

(2) One type of Choose Life License Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Choose Life License Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Choose Life License Plates beginning with the next license plate issuance cycle pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than two hundred fifty per year within any prior consecutive two-year period.

Source: Laws 2017, LB46, § 7; Laws 2019, LB356, § 19.
Effective date September 1, 2019.

60-3,233 Choose Life License Plates; application; form; fee; transfer; procedure; fee.

(1) A person may apply to the department for Choose Life License Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle or trailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Choose Life License Plate for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Choose Life License Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program, 42 U.S.C. 601, et seq.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Choose Life License Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program.

(3)(a) When the department receives an application for Choose Life License Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. The county treasurer shall issue Choose Life License Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Choose Life License Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Choose Life License Plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Choose Life License Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Health and Human Services Cash Fund to

supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Choose Life License Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program.

Source: Laws 2017, LB46, § 8; Laws 2019, LB270, § 30; Laws 2019, LB356, § 20.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB270, section 30, with LB356, section 20, to reflect all amendments.

60-3,234 Native American Cultural Awareness and History Plates; design requirements.

(1) The department, in consultation with the Commission on Indian Affairs, shall design license plates to be known as Native American Cultural Awareness and History Plates. The design shall reflect the unique culture and history of Native American tribes historically and currently located in Nebraska. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,235.

(2) One type of Native American Cultural Awareness and History Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Native American Cultural Awareness and History Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Native American Cultural Awareness and History Plates beginning with the next license plate issuance cycle pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than two hundred fifty per year within any prior consecutive two-year period.

Source: Laws 2017, LB263, § 60; Laws 2019, LB356, § 21.

Effective date September 1, 2019.

60-3,235 Native American Cultural Awareness and History Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) A person may apply to the department for Native American Cultural Awareness and History Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle or trailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Native American Cultural Awareness and History Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates

shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Native American Cultural Awareness and History Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Native American Scholarship and Leadership Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Native American Cultural Awareness and History Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Native American Scholarship and Leadership Fund.

(3)(a) When the department receives an application for Native American Cultural Awareness and History Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Native American Cultural Awareness and History Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Native American Cultural Awareness and History Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Native American Cultural Awareness and History Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this

subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Native American Cultural Awareness and History Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Native American Scholarship and Leadership Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Native American Cultural Awareness and History Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Native American Scholarship and Leadership Fund.

Source: Laws 2017, LB263, § 61; Laws 2019, LB270, § 31; Laws 2019, LB356, § 22.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB270, section 31, with LB356, section 22, to reflect all amendments.

60-3,236 Former military vehicle; plates; fee.

For the registration of every former military vehicle, the fee shall be fifteen dollars. Former military vehicle license plates shall display, in addition to the registration number, the designation former military vehicle.

Source: Laws 2019, LB156, § 10.
Effective date September 1, 2019.

60-3,237 Wildlife Conservation Plates; design.

(1) The department shall design license plates to be known as Wildlife Conservation Plates. The department shall create no more than three designs reflecting support for the conservation of Nebraska wildlife, including sandhill cranes, bighorn sheep, and ornate box turtles. Each design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate by January 1, 2021. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,238.

(2) One type of Wildlife Conservation Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Wildlife Conservation Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Wildlife Conservation Plates beginning with the next license plate issuance cycle pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than two hundred fifty per year within any prior consecutive two-year period.

Source: Laws 2019, LB356, § 23.
Effective date September 1, 2019.

60-3,238 Wildlife Conservation Plates; application; form; fee; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Wildlife Conservation Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Wildlife Conservation Plate for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Wildlife Conservation Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Wildlife Conservation Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Wildlife Conservation Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Wildlife Conservation Fund.

(3) When the department receives an application for Wildlife Conservation Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Wildlife Conservation Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Wildlife Conservation Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle, trailer, or semitrailer bearing Wildlife Conservation Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Wildlife Conservation Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Wildlife Conservation Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Wildlife Conservation Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Wildlife Conservation Fund.

Source: Laws 2019, LB356, § 24.

Effective date September 1, 2019.

60-3,239 Prostate Cancer Awareness Plates; design.

(1) The department shall design license plates to be known as Prostate Cancer Awareness Plates. The design shall include a light blue ribbon and the words “early detection saves lives” along the bottom of the plate.

(2) The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate when it is designed.

(3) One type of plate under this section shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(4) One type of plate under this section shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(5) The department shall cease to issue Prostate Cancer Awareness Plates beginning with the next license plate issuance cycle pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than two hundred fifty per year within any prior consecutive two-year period.

Source: Laws 2019, LB356, § 25.

Effective date September 1, 2019.

60-3,240 Prostate Cancer Awareness Plates; application; form; fee; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Prostate Cancer Awareness Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a plate under this section for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Prostate Cancer Awareness Plates shall be accompanied by a fee of five dollars.

An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the University of Nebraska Medical Center for the Nebraska Prostate Cancer Research Program.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Prostate Cancer Awareness Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit seventy-five percent of the fee to the University of Nebraska Medical Center for the Nebraska Prostate Cancer Research Program and twenty-five percent of the fee to the Department of Motor Vehicles Cash Fund.

(3) When the department receives an application for Prostate Cancer Awareness Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue plates under this section in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Prostate Cancer Awareness Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle, trailer, or semitrailer bearing Prostate Cancer Awareness Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Prostate Cancer Awareness Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the University of Nebraska Medical Center for the Nebraska Prostate Cancer Research Program shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Prostate Cancer Awareness Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the University of Nebraska Medical Center for the Nebraska Prostate Cancer Research Program.

Source: Laws 2019, LB356, § 26.

Effective date September 1, 2019.

60-3,241 Sammy's Superheroes license plates; design.

(1) The department shall design license plates to be known as Sammy's Superheroes license plates for childhood cancer awareness. The design shall

include a blue handprint over a yellow ribbon and the words “childhood cancer awareness”. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate beginning January 1, 2021. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,242.

(2) One type of Sammy’s Superheroes license plates for childhood cancer awareness shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Sammy’s Superheroes license plates for childhood cancer awareness shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Sammy’s Superheroes license plates for childhood cancer awareness beginning with the next license plate issuance cycle pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than two hundred fifty per year within any prior consecutive two-year period.

Source: Laws 2019, LB356, § 27.

Effective date September 1, 2019.

60-3,242 Sammy’s Superheroes license plates; application; form; fee; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Sammy’s Superheroes license plates for childhood cancer awareness in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Sammy’s Superheroes license plate for childhood cancer awareness for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Sammy’s Superheroes license plates for childhood cancer awareness shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the University of Nebraska Medical Center for pediatric cancer research.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Sammy’s Superheroes license plates for childhood cancer awareness shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State

Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the University of Nebraska Medical Center for pediatric cancer research.

(3) When the department receives an application for Sammy's Superheroes license plates for childhood cancer awareness, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered, and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Sammy's Superheroes license plates for childhood cancer awareness in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Sammy's Superheroes license plates for childhood cancer awareness are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle, trailer, or semitrailer bearing Sammy's Superheroes license plates for childhood cancer awareness may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Sammy's Superheroes license plates for childhood cancer awareness at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the University of Nebraska Medical Center for pediatric cancer research shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Sammy's Superheroes license plates for childhood cancer awareness and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the University of Nebraska Medical Center for pediatric cancer research.

Source: Laws 2019, LB356, § 28.

Effective date September 1, 2019.

60-3,243 Support Our Troops Plates; design.

(1) The department shall design license plates to be known as Support Our Troops Plates. The department shall create a design reflecting support for troops from all branches of the armed forces. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate by January 1, 2021. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,244.

(2) One type of Support Our Troops Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Support Our Troops Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

Source: Laws 2019, LB138, § 17.

Effective date September 1, 2019.

60-3,244 Support Our Troops Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Support Our Troops Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Support Our Troops Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Support Our Troops Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Veterans Employment Program Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Support Our Troops Plates shall be accompanied by a fee of seventy dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Veterans Employment Program Fund.

(3) When the department receives an application for Support Our Troops Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Support Our Troops Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Support Our Troops Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle, trailer, or semitrailer bearing Support Our Troops Plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally

purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Support Our Troops Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Veterans Employment Program Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Support Our Troops Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Veterans Employment Program Fund.

Source: Laws 2019, LB138, § 18.
Effective date September 1, 2019.

ARTICLE 4

MOTOR VEHICLE OPERATORS' LICENSES

(e) GENERAL PROVISIONS

Section

60-462.01. Federal regulations; adopted.

(f) PROVISIONS APPLICABLE TO ALL OPERATORS' LICENSES

60-479.01. Fraudulent document recognition training; criminal history record information check; lawful status check; cost.

60-482. Rules and regulations.

60-484. Operator's license required, when; state identification card; application.

60-495. Organ and tissue donation; rules and regulations; director; duties; Organ and Tissue Donor Awareness and Education Fund; created; use; investment.

60-498.01. Driving under influence of alcohol; operator's license; confiscation and revocation; application for ignition interlock permit; procedures; appeal; restrictions relating to ignition interlock permit; prohibited acts relating to ignition interlock devices; additional revocation period.

60-4,111.01. Storage or compilation of information; retailer; seller; authorized acts; sign posted; use of stored information; approval of negotiable instrument or certain payments; authorized acts; violations; penalty.

(g) PROVISIONS APPLICABLE TO OPERATION OF MOTOR VEHICLES OTHER THAN COMMERCIAL

60-4,117. Operator's license or state identification card; form; department personnel or county treasurer; duties.

60-4,118. Vision requirements; persons with physical impairments; physical or mental incompetence; prohibited act; penalty.

60-4,118.06. Ignition interlock permit; issued; when; operation restriction; revocation of permit by director; when.

60-4,120.02. Provisional operator's permit; violations; revocation; not eligible for ignition interlock permit.

60-4,122. Operator's license; state identification card; renewal procedure; law examination; exceptions; department; powers.

60-4,124. School permit; LPE-learner's permit; issuance; operation restrictions; violations; penalty; not eligible for ignition interlock permit.

§ 60-462.01

MOTOR VEHICLES

Section

60-4,125. LPD-learner's permit; LPE-learner's permit; violations; impoundment or revocation of permit; effect on eligibility for operator's license; not eligible for ignition interlock permit.

60-4,126. Farm permit; issuance; violations; penalty; not eligible for ignition interlock permit.

(h) PROVISIONS APPLICABLE TO OPERATION
OF COMMERCIAL MOTOR VEHICLES

60-4,132. Purposes of sections.

60-4,134. Holder of Class A commercial driver's license; hazardous materials endorsement not required; conditions.

60-4,144. Commercial driver's license; CLP-commercial learner's permit; applications; contents; application; demonstration of knowledge and skills; information and documentation required; verification.

60-4,146.01. Restricted commercial driver's license; seasonal permit; application or examiner's certificate; operation permitted; term; violation; penalty.

60-4,147.02. Hazardous materials endorsement; USA PATRIOT Act requirements.

60-4,155. Department; duties; rules and regulations.

(k) POINT SYSTEM

60-4,182. Point system; offenses enumerated.

(l) VETERAN NOTATION

60-4,189. Operator's license; state identification card; veteran designation; Department of Motor Vehicles; duties; replacement license or card.

(e) GENERAL PROVISIONS

60-462.01 Federal regulations; adopted.

For purposes of the Motor Vehicle Operator's License Act, the following federal regulations are adopted as Nebraska law as they existed on January 1, 2019:

The parts, subparts, and sections of Title 49 of the Code of Federal Regulations, as referenced in the Motor Vehicle Operator's License Act.

Source: Laws 2003, LB 562, § 20; Laws 2004, LB 560, § 36; Laws 2005, LB 76, § 3; Laws 2006, LB 853, § 7; Laws 2006, LB 1007, § 4; Laws 2007, LB239, § 4; Laws 2008, LB756, § 16; Laws 2009, LB331, § 7; Laws 2010, LB805, § 3; Laws 2011, LB178, § 3; Laws 2011, LB212, § 5; Laws 2012, LB751, § 17; Laws 2013, LB35, § 3; Laws 2014, LB776, § 4; Laws 2014, LB983, § 3; Laws 2015, LB313, § 4; Laws 2016, LB929, § 6; Laws 2017, LB263, § 62; Laws 2018, LB909, § 74; Laws 2019, LB79, § 11.
Effective date March 7, 2019.

(f) PROVISIONS APPLICABLE TO ALL OPERATORS' LICENSES

60-479.01 Fraudulent document recognition training; criminal history record information check; lawful status check; cost.

(1) All persons handling source documents or engaged in the issuance of new, renewed, or reissued operators' licenses or state identification cards shall have periodic fraudulent document recognition training.

(2) All persons and agents of the department involved in the recording of verified application information or verified operator's license and state identification card information, involved in the manufacture or production of licenses

or cards, or who have the ability to affect information on such licenses or cards shall be subject to a criminal history record information check, including a check of prior employment references, and a lawful status check as required by 6 C.F.R. part 37, as such part existed on January 1, 2019. Such persons and agents shall provide fingerprints which shall be submitted to the Federal Bureau of Investigation. The bureau shall use its records for the criminal history record information check.

(3) Upon receipt of a request pursuant to subsection (2) of this section, the Nebraska State Patrol shall undertake a search for criminal history record information relating to such applicant, including transmittal of the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information concerning the applicant from federal repositories of such information and repositories of such information in other states, if authorized by federal law. The Nebraska State Patrol shall issue a report to the employing public agency that shall include the criminal history record information concerning the applicant. The cost of any background check shall be borne by the employer of the person or agent.

(4) Any person convicted of any disqualifying offense as provided in 6 C.F.R. part 37, as such part existed on January 1, 2019, shall not be involved in the recording of verified application information or verified operator's license and state identification card information, involved in the manufacture or production of licenses or cards, or involved in any capacity in which such person would have the ability to affect information on such licenses or cards. Any employee or prospective employee of the department shall be provided notice that he or she will undergo such criminal history record information check prior to employment or prior to any involvement with the issuance of operators' licenses or state identification cards.

Source: Laws 2008, LB911, § 8; Laws 2011, LB215, § 4; Laws 2012, LB751, § 18; Laws 2013, LB35, § 4; Laws 2014, LB776, § 5; Laws 2015, LB313, § 5; Laws 2016, LB929, § 7; Laws 2017, LB263, § 63; Laws 2018, LB909, § 76; Laws 2019, LB79, § 12. Effective date March 7, 2019.

60-482 Rules and regulations.

The director may adopt and promulgate such rules and regulations as may be necessary to carry out the Motor Vehicle Operator's License Act.

Source: Laws 1977, LB 90, § 7; Laws 1981, LB 204, § 100; R.S.1943, (1988), § 60-406.06; Laws 1989, LB 285, § 32; Laws 1994, LB 1061, § 3; Laws 2019, LB270, § 32. Effective date September 1, 2019.

60-484 Operator's license required, when; state identification card; application.

(1) Except as otherwise provided in the Motor Vehicle Operator's License Act, no resident of the State of Nebraska shall operate a motor vehicle upon the alleys or highways of this state until the person has obtained an operator's license for that purpose.

(2) Application for an operator's license or a state identification card shall be made in a manner prescribed by the department.

(3) The applicant shall provide his or her full legal name, date of birth, mailing address, gender, race or ethnicity, and social security number, two forms of proof of address of his or her principal residence unless the applicant is a program participant under the Address Confidentiality Act, evidence of identity as required by subsection (6) of this section, and a brief physical description of himself or herself. The applicant (a) may also complete the voter registration portion pursuant to section 32-308, (b) shall be provided the advisement language required by subsection (5) of section 60-6,197, (c) shall answer the following:

(i) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):

(A) lost voluntary control or consciousness ... yes ... no

(B) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no

(C) experienced disorientation ... yes ... no

(D) experienced seizures ... yes ... no

(E) experienced impairment of memory, memory loss ... yes ... no

Please explain:

(ii) Do you experience any condition which affects your ability to operate a motor vehicle? (e.g. due to loss of, or impairment of, foot, leg, hand, arm; neurological or neuromuscular disease, etc.) ... yes ... no

Please explain:

(iii) Since the issuance of your last driver's license/permit, has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive:, and (d) may answer the following:

(i) Do you wish to register to vote as part of this application process?

(ii) Do you wish to have a veteran designation displayed on the front of your operator's license or state identification card to show that you served in the armed forces of the United States? (To be eligible you must register with the Nebraska Department of Veterans' Affairs registry.)

(iii) Do you wish to include your name in the Donor Registry of Nebraska and donate your organs and tissues at the time of your death?

(iv) Do you wish to receive any additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska?

(v) Do you wish to donate \$1 to promote the Organ and Tissue Donor Awareness and Education Fund?

(4) Application for an operator's license or state identification card shall include a signed oath, affirmation, or declaration of the applicant that the information provided on the application for the license or card is true and correct.

(5) The social security number shall not be printed on the operator's license or state identification card and shall be used only (a) to furnish information to the United States Selective Service System under section 60-483, (b) with the permission of the director in connection with the verification of the status of an individual's driving record in this state or any other state, (c) for purposes of child support enforcement pursuant to section 42-358.08 or 43-512.06, (d) to

furnish information regarding an applicant for or holder of a commercial driver's license with a hazardous materials endorsement to the Transportation Security Administration of the United States Department of Homeland Security or its agent, (e) to furnish information to the Department of Revenue under section 77-362.02, or (f) to furnish information to the Secretary of State for purposes of the Election Act.

(6)(a) Each individual applying for an operator's license or a state identification card shall furnish proof of date of birth and identity with documents containing a photograph or with nonphoto identity documents which include his or her full legal name and date of birth. Such documents shall be those provided in subsection (1) of section 60-484.04.

(b) Any individual under the age of eighteen years applying for an operator's license or a state identification card shall provide a certified copy of his or her birth certificate or, if such individual is unable to provide a certified copy of his or her birth certificate, other reliable proof of his or her identity and age, as required in subdivision (6)(a) of this section, accompanied by a certification signed by a parent or guardian explaining the inability to produce a copy of such birth certificate. The applicant also may be required to furnish proof to department personnel that the parent or guardian signing the certification is in fact the parent or guardian of such applicant.

(c) An applicant may present other documents as proof of identification and age designated by the director. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(7) Any individual applying for an operator's license or a state identification card who indicated his or her wish to have a veteran designation displayed on the front of such license or card shall comply with section 60-4,189.

(8) No person shall be a holder of an operator's license and a state identification card at the same time. A person who has a digital image and digital signature on file with the department may apply electronically to change his or her Class O operator's license to a state identification card.

Source: Laws 1929, c. 148, § 1, p. 512; C.S.1929, § 60-401; Laws 1937, c. 141, § 11, p. 510; C.S.Supp.,1941, § 60-401; R.S.1943, § 60-403; Laws 1945, c. 141, § 1, p. 446; Laws 1947, c. 207, § 1, p. 675; Laws 1957, c. 366, § 35, p. 1269; Laws 1961, c. 315, § 2, p. 998; Laws 1961, c. 316, § 2, p. 1007; Laws 1984, LB 811, § 2; Laws 1986, LB 153, § 9; Laws 1986, LB 878, § 1; Laws 1987, LB 300, § 1; R.S.1943, (1988), § 60-403; Laws 1989, LB 285, § 35; Laws 1991, LB 457, § 44; Laws 1992, LB 1178, § 1; Laws 1994, LB 76, § 571; Laws 1994, LB 211, § 2; Laws 1995, LB 467, § 10; Laws 1996, LB 939, § 1; Laws 1996, LB 1073, § 1; Laws 1997, LB 635, § 20; Laws 1999, LB 147, § 1; Laws 1999, LB 704, § 5; Laws 2000, LB 1317, § 7; Laws 2001, LB 34, § 1; Laws 2001, LB 387, § 4; Laws 2001, LB 574, § 5; Laws 2003, LB 228, § 12; Laws 2004, LB 208, § 4; Laws 2004, LB 559, § 1; Laws 2005, LB 1, § 1; Laws 2005, LB 76, § 5; Laws 2008, LB911, § 9; Laws 2010, LB879, § 3; Laws 2011, LB215, § 5; Laws 2013, LB93, § 3; Laws 2014, LB661, § 16; Laws 2014, LB983, § 10; Laws 2016, LB47, § 1; Laws 2016, LB311, § 6; Laws 2018, LB909, § 78; Laws 2019, LB192, § 1.

Operative date January 1, 2021.

Cross References

Address Confidentiality Act, see section 42-1201.

Donor Registry of Nebraska, see section 71-4822.

Election Act, see section 32-101.

Nebraska Department of Veterans' Affairs registry, see section 80-414.

60-495 Organ and tissue donation; rules and regulations; director; duties; Organ and Tissue Donor Awareness and Education Fund; created; use; investment.

(1) The director may adopt and promulgate such rules and regulations necessary to carry out sections 60-493 to 60-495 and the duties of the department under the Revised Uniform Anatomical Gift Act. The director shall prepare and furnish all forms and information necessary under the act.

(2) The Organ and Tissue Donor Awareness and Education Fund is created. Department personnel and the county treasurer shall remit all funds contributed under sections 60-484, 60-4,144, and 60-4,181 to the State Treasurer for credit to the fund. The Department of Health and Human Services shall administer the Organ and Tissue Donor Awareness and Education Fund for the promotion of organ and tissue donation. The department shall use the fund to assist organizations such as the federally designated organ procurement organization for Nebraska and the State Anatomical Board in carrying out activities which promote organ and tissue donation through the creation and dissemination of educational information. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1977, LB 115, § 5; R.S.1943, (1988), § 60-406.03; Laws 1989, LB 285, § 45; Laws 1999, LB 147, § 2; Laws 2010, LB1036, § 33; Laws 2016, LB311, § 8; Laws 2019, LB270, § 33. Effective date September 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

Revised Uniform Anatomical Gift Act, see section 71-4824.

60-498.01 Driving under influence of alcohol; operator's license; confiscation and revocation; application for ignition interlock permit; procedures; appeal; restrictions relating to ignition interlock permit; prohibited acts relating to ignition interlock devices; additional revocation period.

(1) Because persons who drive while under the influence of alcohol present a hazard to the health and safety of all persons using the highways, a procedure is needed for the swift and certain revocation of the operator's license of any person who has shown himself or herself to be a health and safety hazard (a) by driving with an excessive concentration of alcohol in his or her body or (b) by driving while under the influence of alcohol.

(2) If a person arrested as described in subsection (2) of section 60-6,197 refuses to submit to the chemical test of blood, breath, or urine required by section 60-6,197, the test shall not be given except as provided in section 60-6,210 for the purpose of medical treatment and the arresting peace officer, as agent for the director, shall verbally serve notice to the arrested person of the intention to immediately confiscate and revoke the operator's license of such person and that the revocation will be automatic fifteen days after the date of arrest. The arresting peace officer shall within ten days forward to the

director a sworn report stating (a) that the person was arrested as described in subsection (2) of section 60-6,197 and the reasons for such arrest, (b) that the person was requested to submit to the required test, and (c) that the person refused to submit to the required test. The director may accept a sworn report submitted electronically.

(3) If a person arrested as described in subsection (2) of section 60-6,197 submits to the chemical test of blood or breath required by section 60-6,197, the test discloses the presence of alcohol in any of the concentrations specified in section 60-6,196, and the test results are available to the arresting peace officer while the arrested person is still in custody, the arresting peace officer, as agent for the director, shall verbally serve notice to the arrested person of the intention to immediately confiscate and revoke the operator's license of such person and that the revocation will be automatic fifteen days after the date of arrest. The arresting peace officer shall within ten days forward to the director a sworn report stating (a) that the person was arrested as described in subsection (2) of section 60-6,197 and the reasons for such arrest, (b) that the person was requested to submit to the required test, and (c) that the person submitted to a test, the type of test to which he or she submitted, and that such test revealed the presence of alcohol in a concentration specified in section 60-6,196. The director may accept a sworn report submitted electronically.

(4) On behalf of the director, the arresting peace officer submitting a sworn report under subsection (2) or (3) of this section shall serve notice of the revocation on the arrested person, and the revocation shall be effective fifteen days after the date of arrest. The notice of revocation shall contain a statement explaining the operation of the administrative license revocation procedure. The peace officer shall also provide to the arrested person information prepared and approved by the director describing how to request an administrative license revocation hearing or apply for an ignition interlock permit from the department. A petition for an administrative license revocation hearing must be completed and delivered to the department or postmarked within ten days after the person's arrest or the person's right to an administrative license revocation hearing to contest the revocation will be foreclosed. The director shall prepare and approve the information form, the application for an ignition interlock permit, and the notice of revocation and shall provide them to law enforcement agencies.

If the person has an operator's license, the arresting peace officer shall take possession of the license and issue a temporary operator's license valid for fifteen days. The arresting peace officer shall forward the operator's license to the department along with the sworn report made under subsection (2) or (3) of this section.

(5)(a) If the results of a chemical test indicate the presence of alcohol in a concentration specified in section 60-6,196, the results are not available to the arresting peace officer while the arrested person is in custody, and the notice of revocation has not been served as required by subsection (4) of this section, the peace officer shall forward to the director a sworn report containing the information prescribed by subsection (3) of this section within ten days after receipt of the results of the chemical test. If the sworn report is not received within ten days, the revocation shall not take effect. The director may accept a sworn report submitted electronically.

(b) Upon receipt of the report, the director shall serve the notice of revocation on the arrested person by mail to the address appearing on the records of the director. If the address on the director's records differs from the address on the arresting peace officer's report, the notice shall be sent to both addresses. The notice of revocation shall contain a statement explaining the operation of the administrative license revocation procedure. The director shall also provide to the arrested person information prepared and approved by the director describing how to request an administrative license revocation hearing and an application for an ignition interlock permit. A petition for an administrative license revocation hearing must be completed and delivered to the department or postmarked within ten days after the mailing of the notice of revocation or the person's right to an administrative license revocation hearing to contest the revocation will be foreclosed. The director shall prepare and approve the ignition interlock permit application and the notice of revocation. The revocation shall be effective fifteen days after the date of mailing.

(c) If the records of the director indicate that the arrested person possesses an operator's license, the director shall include with the notice of revocation a temporary operator's license which expires fifteen days after the date of mailing. Any arrested person who desires an administrative license revocation hearing and has been served a notice of revocation pursuant to this subsection shall return his or her operator's license with the petition requesting the hearing. If the operator's license is not included with the petition requesting the hearing, the director shall deny the petition.

(6)(a) An arrested person's operator's license confiscated pursuant to subsection (4) of this section shall be automatically revoked upon the expiration of fifteen days after the date of arrest, and the petition requesting the hearing shall be completed and delivered to the department or postmarked within ten days after the person's arrest. An arrested person's operator's license confiscated pursuant to subsection (5) of this section shall be automatically revoked upon the expiration of fifteen days after the date of mailing of the notice of revocation by the director, and the arrested person shall postmark or return to the director a petition within ten days after the mailing of the notice of revocation if the arrested person desires an administrative license revocation hearing. The petition shall be in writing and shall state the grounds on which the person is relying to prevent the revocation from becoming effective. The hearing and any prehearing conference may be conducted in person or by telephone, television, or other electronic means at the discretion of the director, and all parties may participate by such means at the discretion of the director.

(b) The director shall conduct the hearing within twenty days after a petition is received by the director. Upon receipt of a petition, the director shall notify the petitioner of the date and location for the hearing by mail postmarked at least seven days prior to the hearing date. The filing of the petition shall not prevent the automatic revocation of the petitioner's operator's license at the expiration of the fifteen-day period. A continuance of the hearing to a date beyond the expiration of the temporary operator's license shall stay the expiration of the temporary license when the request for continuance is made by the director.

(c) At hearing the issues under dispute shall be limited to:

(i) In the case of a refusal to submit to a chemical test of blood, breath, or urine:

(A) Did the peace officer have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section; and

(B) Did the person refuse to submit to or fail to complete a chemical test after being requested to do so by the peace officer; or

(ii) If the chemical test discloses the presence of alcohol in a concentration specified in section 60-6,196:

(A) Did the peace officer have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section; and

(B) Was the person operating or in the actual physical control of a motor vehicle while having an alcohol concentration in violation of subsection (1) of section 60-6,196.

(7)(a) Any arrested person who submits an application for an ignition interlock permit in lieu of a petition for an administrative license revocation hearing regarding the revocation of his or her operator's license pursuant to this section shall complete the application for an ignition interlock permit in which such person acknowledges that he or she understands that he or she will have his or her license administratively revoked pursuant to this section, that he or she waives his or her right to a hearing to contest the revocation, and that he or she understands that he or she is required to have an ignition interlock permit in order to operate a motor vehicle for the period of the revocation and shall include sufficient evidence that an ignition interlock device is installed on one or more vehicles that will be operated by the arrested person. Upon the arrested person's completion of the ignition interlock permit application process, the department shall issue the person an ignition interlock permit, subject to any applicable requirements and any applicable no-drive period if the person is otherwise eligible.

(b) An arrested person who is issued an ignition interlock permit pursuant to this section shall receive day-for-day credit for the period he or she has a valid ignition interlock permit against the license revocation period imposed by the court arising from the same incident.

(c) If a person files a completed application for an ignition interlock permit, the person waives his or her right to contest the revocation of his or her operator's license.

(8) Any person who has not petitioned for an administrative license revocation hearing and is subject to an administrative license revocation may immediately apply for an ignition interlock permit to use during the applicable period of revocation set forth in section 60-498.02, subject to the following additional restrictions:

(a) If such person submitted to a chemical test which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 and has no prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of revocation is issued, the ignition interlock permit will be immediately available fifteen days after the date of arrest or the date notice of revocation was provided to the arrested person, as long as he or she is otherwise eligible for an

ignition interlock permit, upon completion of an application process for an ignition interlock permit;

(b) If such person submitted to a chemical test which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 and has one or more prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of revocation is issued, the ignition interlock permit will be available beginning fifteen days after the date of arrest or the date notice of revocation was provided to the arrested person plus forty-five additional days of no driving, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit;

(c) If such person refused to submit to a chemical test of blood, breath, or urine as required by section 60-6,197, the ignition interlock permit will be available beginning fifteen days after the date of arrest plus ninety additional days of no driving, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit; and

(d) Any person who petitions for an administrative license revocation hearing shall not be eligible for an ignition interlock permit unless ordered by the court at the time of sentencing for the related criminal proceeding.

(9) The director shall adopt and promulgate rules and regulations to govern the conduct of the administrative license revocation hearing and insure that the hearing will proceed in an orderly manner. The director may appoint a hearing officer to preside at the hearing, administer oaths, examine witnesses, take testimony, and report to the director. Any motion for discovery filed by the petitioner shall entitle the prosecutor to receive full statutory discovery from the petitioner upon a prosecutor's request to the relevant court pursuant to section 29-1912 in any criminal proceeding arising from the same arrest. A copy of the motion for discovery shall be filed with the department and a copy provided to the prosecutor in the jurisdiction in which the petitioner was arrested. Incomplete discovery shall not stay the hearing unless the petitioner requests a continuance. All proceedings before the hearing officer shall be recorded. Upon receipt of the arresting peace officer's sworn report, the director's order of revocation has prima facie validity and it becomes the petitioner's burden to establish by a preponderance of the evidence grounds upon which the operator's license revocation should not take effect. The director shall make a determination of the issue within seven days after the conclusion of the hearing. A person whose operator's license is revoked following a hearing requested pursuant to this section may appeal the order of revocation as provided in section 60-498.04.

(10) Any person who tampers with or circumvents an ignition interlock device installed pursuant to sections 60-498.01 to 60-498.04 or who operates a motor vehicle not equipped with a functioning ignition interlock device required pursuant to such sections or otherwise is in violation of the purposes for operation indicated on the ignition interlock permit under such sections shall, in addition to any possible criminal charges, have his or her revocation period and ignition interlock permit extended for six months beyond the end of the original revocation period.

(11) A person under the age of eighteen years who holds any license or permit issued under the Motor Vehicle Operator's License Act and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

Source: Laws 1972, LB 1095, § 5; C.S.Supp.,1972, § 39-727.16; Laws 1992, LB 872, § 4; Laws 1992, LB 291, § 9; R.S.Supp.,1992, § 39-669.15; Laws 1993, LB 370, § 300; Laws 1996, LB 939, § 3; Laws 1998, LB 309, § 15; Laws 2001, LB 38, § 51; R.S.Supp.,2002, § 60-6,205; Laws 2003, LB 209, § 4; Laws 2004, LB 208, § 5; Laws 2011, LB667, § 24; Laws 2012, LB751, § 20; Laws 2019, LB269, § 2.

Effective date September 1, 2019.

60-4,111.01 Storage or compilation of information; retailer; seller; authorized acts; sign posted; use of stored information; approval of negotiable instrument or certain payments; authorized acts; violations; penalty.

(1) The Department of Motor Vehicles, the courts, or law enforcement agencies may store or compile information acquired from an operator's license or a state identification card for their statutorily authorized purposes.

(2) Except as otherwise provided in subsection (3) or (4) of this section, no person having use of or access to machine-readable information encoded on an operator's license or a state identification card shall compile, store, preserve, trade, sell, or share such information. Any person who trades, sells, or shares such information shall be guilty of a Class IV felony. Any person who compiles, stores, or preserves such information except as authorized in subsection (3) or (4) of this section shall be guilty of a Class IV felony.

(3)(a) For purposes of compliance with and enforcement of restrictions on the purchase of alcohol, lottery tickets, and tobacco products, a retailer who sells any of such items pursuant to a license issued or a contract under the applicable statutory provision may scan machine-readable information encoded on an operator's license or a state identification card presented for the purpose of such a sale. The retailer may store only the following information obtained from the license or card: Age and license or card identification number. The retailer shall post a sign at the point of sale of any of such items stating that the license or card will be scanned and that the age and identification number will be stored. The stored information may only be used by a law enforcement agency for purposes of enforcement of the restrictions on the purchase of alcohol, lottery tickets, and tobacco products and may not be shared with any other person or entity.

(b) For purposes of compliance with the provisions of sections 28-458 to 28-462, a seller who sells methamphetamine precursors pursuant to such sections may scan machine-readable information encoded on an operator's license or a state identification card presented for the purpose of such a sale. The seller may store only the following information obtained from the license or card: Name, age, address, type of identification presented by the customer, the governmental entity that issued the identification, and the number on the identification. The seller shall post a sign at the point of sale stating that the license or card will be scanned and stating what information will be stored. The stored information may only be used by law enforcement agencies, regulatory

agencies, and the exchange for purposes of enforcement of the restrictions on the sale or purchase of methamphetamine precursors pursuant to sections 28-458 to 28-462 and may not be shared with any other person or entity. For purposes of this subsection, the terms exchange, methamphetamine precursor, and seller have the same meanings as in section 28-458.

(c) The retailer or seller shall utilize software that stores only the information allowed by this subsection. A programmer for computer software designed to store such information shall certify to the retailer that the software stores only the information allowed by this subsection. Intentional or grossly negligent programming by the programmer which allows for the storage of more than the age and identification number or wrongfully certifying the software shall be a Class IV felony.

(d) A retailer or seller who knowingly stores more information than authorized under this subsection from the operator's license or state identification card shall be guilty of a Class IV felony.

(e) Information scanned, compiled, stored, or preserved pursuant to subdivision (a) of this subsection may not be retained longer than eighteen months unless required by state or federal law.

(4) In order to approve a negotiable instrument, an electronic funds transfer, or a similar method of payment, a person having use of or access to machine-readable information encoded on an operator's license or a state identification card may:

(a) Scan, compile, store, or preserve such information in order to provide the information to a check services company subject to and in compliance with the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as such act existed on January 1, 2019, for the purpose of effecting, administering, or enforcing a transaction requested by the holder of the license or card or preventing fraud or other criminal activity; or

(b) Scan and store such information only as necessary to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability or to resolve a dispute or inquiry by the holder of the license or card.

(5) Except as provided in subdivision (4)(a) of this section, information scanned, compiled, stored, or preserved pursuant to this section may not be traded or sold to or shared with a third party; used for any marketing or sales purpose by any person, including the retailer who obtained the information; or, unless pursuant to a court order, reported to or shared with any third party. A person who violates this subsection shall be guilty of a Class IV felony.

Source: Laws 2001, LB 574, § 30; Laws 2010, LB261, § 1; Laws 2011, LB20, § 9; Laws 2019, LB79, § 13.
Effective date March 7, 2019.

(g) PROVISIONS APPLICABLE TO OPERATION OF MOTOR
VEHICLES OTHER THAN COMMERCIAL

60-4,117 Operator's license or state identification card; form; department personnel or county treasurer; duties.

(1) An applicant shall present an issuance certificate to the county treasurer for an operator's license or state identification card. Department personnel or the county treasurer shall collect the applicable fee and surcharge as prescribed

in section 60-4,115 and issue a receipt which is valid for up to thirty days. If there is cause for an operator's license to be issued, the receipt shall also authorize driving privileges for such thirty-day period. The license or card shall be delivered as provided in section 60-4,113.

(2) The operator's license and state identification card shall be in a form prescribed by the department. The license and card may include security features prescribed by the department. The license and card shall be conspicuously marked Nebraska Operator's License or Nebraska Identification Card, shall be, to the maximum extent practicable, tamper and forgery proof, and shall include the following information:

- (a) The full legal name and principal residence address of the holder;
- (b) The holder's full facial digital image;
- (c) A physical description of the holder, including gender, height, weight, and eye and hair colors;
- (d) The holder's date of birth;
- (e) The holder's signature;
- (f) The class of motor vehicle which the holder is authorized to operate and any applicable endorsements or restrictions;
- (g) The issuance and expiration date of the license or card;
- (h) The organ and tissue donation information specified in section 60-494;
- (i) A veteran designation as provided in section 60-4,189; and
- (j) Such other marks and information as the director may determine.

(3) Each operator's license and state identification card shall contain the following encoded, machine-readable information: The holder's full legal name; date of birth; gender; race or ethnicity; document issue date; document expiration date; principal residence address; unique identification number; revision date; inventory control number; and state of issuance.

Source: Laws 1929, c. 148, § 4, p. 513; C.S.1929, § 60-404; Laws 1937, c. 141, § 14, p. 512; C.S.Supp.,1941, § 60-404; R.S.1943, § 60-406; Laws 1959, c. 286, § 2, p. 1082; Laws 1961, c. 315, § 4, p. 1000; Laws 1961, c. 316, § 4, p. 1008; Laws 1977, LB 90, § 4; R.S. 1943, (1988), § 60-406; Laws 1989, LB 285, § 67; Laws 2001, LB 34, § 4; Laws 2001, LB 38, § 29; Laws 2001, LB 574, § 12; Laws 2008, LB911, § 13; Laws 2011, LB215, § 14; Laws 2013, LB93, § 5; Laws 2016, LB311, § 12; Laws 2019, LB192, § 2.
Operative date January 1, 2021.

60-4,118 Vision requirements; persons with physical impairments; physical or mental incompetence; prohibited act; penalty.

(1)(a) No operator's license shall be granted to any applicant until such applicant satisfies the examiner that he or she possesses sufficient powers of eyesight to enable him or her to obtain a Class O license and to operate a motor vehicle on the highways of this state with a reasonable degree of safety, including:

- (i) A minimum acuity level of vision. Such level may be obtained through the use of standard eyeglasses, contact lenses, or bioptic or telescopic lenses which are specially constructed vision correction devices which include a lens system attached to or used in conjunction with a carrier lens; and

(ii) A minimum field of vision. Such field of vision may be obtained through standard eyeglasses, contact lenses, or the carrier lens of the bioptic or telescopic lenses.

(b) The department may adopt and promulgate rules and regulations specifying such requirements.

(2) If a vision aid is used by the applicant to meet the vision requirements of this section, the operator's license of the applicant shall be restricted to the use of such vision aid when operating the motor vehicle. If the applicant fails to meet the vision requirements, the examiner shall require the applicant to present an optometrist's or ophthalmologist's statement certifying the vision reading obtained when testing the applicant within ninety days of the applicant's license examination. If the vision reading meets the vision requirements prescribed by the department, the vision requirements of this section shall have been met. If the vision reading demonstrates that the applicant is required to use bioptic or telescopic lenses to operate a motor vehicle, the statement from the optometrist or ophthalmologist shall also indicate when the applicant needs to be reexamined for purposes of meeting the vision requirements for an operator's license as prescribed by the department. If such time period is two years or more after the date of the application, the license shall be valid for two years. If such time period is less than two years, the license shall be valid for such time period.

(3) If the applicant for an operator's license discloses that he or she has any other physical impairment which may affect the safety of operation by such applicant of a motor vehicle, the examiner shall require the applicant to show cause why such license should be granted and, through such personal examination and demonstration as may be prescribed by the director, to show the necessary ability to safely operate a motor vehicle on the highways. If the examiner is then satisfied that such applicant has the ability to safely operate a motor vehicle, an operator's license may be issued to the applicant subject, at the discretion of the director, to a limitation to operate only such motor vehicles at such time, for such purpose, and within such area as the license shall designate.

(4)(a) The director may, when requested by a law enforcement officer, when the director has reason to believe that a person may be physically or mentally incompetent to operate a motor vehicle, or when a person's driving record appears to the department to justify an examination, give notice to the person to appear before an examiner or a designee of the director for examination concerning the person's ability to operate a motor vehicle safely. Any such request by a law enforcement officer shall be accompanied by written justification for such request and shall be approved by a supervisory law enforcement officer, police chief, or county sheriff.

(b) A refusal to appear before an examiner or a designee of the director for an examination after notice to do so shall be unlawful and shall result in the immediate cancellation of the person's operator's license by the director.

(c) If the person cannot qualify at the examination by an examiner, his or her operator's license shall be immediately surrendered to the examiner and forwarded to the director who shall cancel the person's operator's license.

(d) If the director determines that the person lacks the physical or mental ability to operate a motor vehicle, the director shall notify the person in writing of the decision. Upon receipt of the notice, the person shall immediately

surrender his or her operator's license to the director who shall cancel the person's operator's license.

(e) Refusal to surrender an operator's license on demand shall be unlawful, and any person failing to surrender his or her operator's license as required by this subsection shall be guilty of a Class III misdemeanor.

Source: Laws 1929, c. 148, § 5, p. 514; C.S.1929, § 60-405; Laws 1931, c. 104, § 2, p. 277; Laws 1937, c. 141, § 15, p. 512; C.S.Supp.,1941, § 60-405; R.S.1943, § 60-407; Laws 1945, c. 141, § 4, p. 449; Laws 1949, c. 179, § 11, p. 511; Laws 1951, c. 200, § 1, p. 753; Laws 1955, c. 240, § 1, p. 751; Laws 1955, c. 241, § 1, p. 754; Laws 1957, c. 272, § 1, p. 995; Laws 1959, c. 286, § 3, p. 1082; Laws 1959, c. 292, § 1, p. 1094; Laws 1961, c. 315, § 5, p. 1000; Laws 1961, c. 316, § 5, p. 1009; Laws 1963, c. 358, § 1, p. 1144; Laws 1963, c. 359, § 1, p. 1148; Laws 1965, c. 219, § 2, p. 637; Laws 1965, c. 381, § 1, p. 1230; Laws 1967, c. 234, § 2, p. 621; Laws 1971, LB 725, § 1; Laws 1973, LB 90, § 1; Laws 1974, LB 611, § 1; Laws 1974, LB 821, § 14; Laws 1977, LB 39, § 76; Laws 1984, LB 710, § 1; Laws 1984, LB 811, § 4; Laws 1987, LB 224, § 22; Laws 1988, LB 1093, § 1; Laws 1989, LB 284, § 5; R.S.1943, (1988), § 60-407; Laws 1989, LB 285, § 68; Laws 1990, LB 742, § 3; Laws 1993, LB 564, § 15; Laws 1994, LB 211, § 10; Laws 1995, LB 37, § 9; Laws 1995, LB 467, § 12; Laws 1998, LB 309, § 6; Laws 1998, LB 320, § 6; Laws 1999, LB 585, § 2; Laws 1999, LB 704, § 18; Laws 2001, LB 38, § 30; Laws 2001, LB 387, § 5; Laws 2006, LB 1008, § 3; Laws 2017, LB644, § 13; Laws 2019, LB270, § 34.

Effective date September 1, 2019.

60-4,118.06 Ignition interlock permit; issued; when; operation restriction; revocation of permit by director; when.

(1) Upon receipt by the director of (a) a certified copy of a court order issued pursuant to section 60-6,211.05, a certified copy of an order for installation of an ignition interlock device and issuance of an ignition interlock permit pursuant to section 60-6,197.03, or a copy of an order from the Board of Pardons pursuant to section 83-1,127.02, (b) sufficient evidence that the person has surrendered his or her operator's license to the department and installed an approved ignition interlock device in accordance with such order, and (c) payment of the fee provided in section 60-4,115, such person may apply for an ignition interlock permit. A person subject to administrative license revocation under sections 60-498.01 to 60-498.04 shall be eligible for an ignition interlock permit as provided in such sections. The director shall issue an ignition interlock permit only for the operation of a motor vehicle equipped with an ignition interlock device. All permits issued pursuant to this subsection shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

(2) Upon expiration of the revocation period or upon expiration of an order issued by the Board of Pardons pursuant to section 83-1,127.02, a person may apply to the department in writing for issuance of an operator's license. Regardless of whether the license surrendered by such person under subsection

(1) of this section has expired, the person shall apply for a new operator's license pursuant to the Motor Vehicle Operator's License Act.

(3)(a) An ignition interlock permit shall not be issued under this section or sections 60-498.01 to 60-498.04 to any person except in cases of a violation of subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198.

(b) An ignition interlock permit shall only be available to a holder of a Class M or O operator's license.

(4) The director shall revoke a person's ignition interlock permit issued under this section or sections 60-498.01 to 60-498.04 upon receipt of an (a) abstract of conviction indicating that the person had his or her operating privileges revoked or canceled or (b) administrative order revoking or canceling the person's operating privileges, if such conviction or order resulted from an incident other than the incident which resulted in the application for the ignition interlock permit.

Source: Laws 2001, LB 38, § 32; Laws 2003, LB 209, § 9; Laws 2008, LB736, § 5; Laws 2009, LB497, § 4; Laws 2010, LB924, § 2; Laws 2011, LB667, § 29; Laws 2012, LB751, § 25; Laws 2013, LB158, § 2; Laws 2019, LB269, § 3.
Effective date September 1, 2019.

60-4,120.02 Provisional operator's permit; violations; revocation; not eligible for ignition interlock permit.

(1) Any person convicted of violating a provisional operator's permit issued pursuant to section 60-4,120.01 by operating a motor vehicle in violation of subsection (3) of such section shall be guilty of an infraction and may have his or her provisional operator's permit revoked by the court pursuant to section 60-496 for a time period specified by the court. Before such person applies for another provisional operator's permit, he or she shall pay a reinstatement fee as provided in section 60-499.01 after the period of revocation has expired.

(2) A copy of an abstract of the court's conviction, including an adjudication, shall be transmitted to the director pursuant to sections 60-497.01 to 60-497.04.

(3) Any person who holds a provisional operator's permit and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

(4) For purposes of this section, conviction includes any adjudication of a juvenile.

Source: Laws 1998, LB 320, § 8; Laws 1999, LB 704, § 21; Laws 2001, LB 38, § 33; Laws 2012, LB751, § 27; Laws 2019, LB269, § 4.
Effective date September 1, 2019.

60-4,122 Operator's license; state identification card; renewal procedure; law examination; exceptions; department; powers.

(1) Except as otherwise provided in subsections (2), (3), and (8) of this section, no original or renewal operator's license shall be issued to any person until such person has demonstrated his or her ability to operate a motor vehicle safely as provided in section 60-4,114.

(2) Except as otherwise provided in this section and section 60-4,127, any person who renews his or her Class O or Class M license shall demonstrate his or her ability to drive and maneuver a motor vehicle safely as provided in subdivision (3)(b) of section 60-4,114 only at the discretion of department personnel, except that a person required to use bioptic or telescopic lenses shall be required to demonstrate his or her ability to drive and maneuver a motor vehicle safely each time he or she renews his or her license.

(3) Any person who renews his or her Class O or Class M license prior to or within one year after its expiration may not be required to demonstrate his or her knowledge of the motor vehicle laws of this state as provided in subdivision (3)(c) of section 60-4,114 if his or her driving record abstract maintained in the computerized records of the department shows that such person's license is not impounded, suspended, revoked, or canceled.

(4) Except for operators' licenses issued to persons required to use bioptic or telescopic lenses, any person who renews his or her operator's license which has been valid for fifteen months or less shall not be required to take any examination required under section 60-4,114.

(5) Any person who renews a state identification card shall appear before department personnel and present his or her current state identification card or shall follow the procedure for electronic renewal in subsection (9) of this section. Proof of identification shall be required as prescribed in sections 60-484 and 60-4,181 and the information and documentation required by section 60-484.04.

(6) A nonresident who applies for an initial operator's license in this state and who holds a valid operator's license from another state which is his or her state of residence may not be required to demonstrate his or her knowledge of the motor vehicle laws of this state if he or she surrenders to the department his or her valid out-of-state operator's license.

(7) An applicant for an original operator's license may not be required to demonstrate his or her knowledge of the motor vehicle laws of this state if he or she has been issued a Nebraska LPD-learner's permit that is valid or has been expired for no more than one year. The written examination shall not be waived if the original operator's license being applied for contains a class or endorsement which is different from the class or endorsement of the Nebraska LPD-learner's permit.

(8)(a) A qualified licensee as determined by the department who is twenty-one years of age or older, whose license expires prior to his or her seventy-second birthday, and who has a digital image and digital signature preserved in the digital system may renew his or her Class O or Class M license twice by electronic means in a manner prescribed by the department using the preserved digital image and digital signature without taking any examination required under section 60-4,114 if such renewal is prior to or within one year after the expiration of the license, if his or her driving record abstract maintained in the records of the department shows that such person's license is not impounded, suspended, revoked, or canceled, and if his or her driving record indicates that he or she is otherwise eligible. Every licensee, including a licensee who is out of the state at the time of renewal, must apply for renewal in person at least once every sixteen years and have a new digital image and digital signature captured.

(b) In order to allow for an orderly progression through the various types of operators' licenses issued to persons under twenty-one years of age, a qualified holder of an operator's license who is under twenty-one years of age and who has a digital image and digital signature preserved in the digital system may apply for an operator's license by electronic means in a manner prescribed by the department using the preserved digital image and digital signature if the applicant has passed any required examinations prior to application, if his or her driving record abstract maintained in the records of the department shows that such person's operator's license is not impounded, suspended, revoked, or canceled, and if his or her driving record indicates that he or she is otherwise eligible.

(9) Any person who is twenty-one years of age or older and who has been issued a state identification card with a digital image and digital signature may electronically renew his or her state identification card by electronic means in a manner prescribed by the department using the preserved digital image and digital signature. Every person renewing a state identification card under this subsection, including a person who is out of the state at the time of renewal, must apply for renewal in person at least once every sixteen years and have a new digital image and digital signature captured.

(10) In addition to services available at driver license offices, the department may develop requirements for using electronic means for online issuance of operators' licenses and state identification cards to qualified holders as determined by the department.

Source: Laws 1967, c. 234, § 6, p. 625; Laws 1984, LB 694, § 1; Laws 1989, LB 284, § 8; R.S.1943, (1988), § 60-411.01; Laws 1989, LB 285, § 72; Laws 1990, LB 369, § 16; Laws 1990, LB 742, § 4; Laws 1990, LB 980, § 10; Laws 1993, LB 370, § 87; Laws 1998, LB 320, § 9; Laws 1999, LB 704, § 23; Laws 2001, LB 387, § 7; Laws 2001, LB 574, § 16; Laws 2008, LB911, § 16; Laws 2011, LB158, § 4; Laws 2011, LB215, § 17; Laws 2014, LB777, § 8; Laws 2018, LB909, § 79; Laws 2019, LB270, § 35.
Effective date September 1, 2019.

60-4,124 School permit; LPE-learner's permit; issuance; operation restrictions; violations; penalty; not eligible for ignition interlock permit.

(1) A person who is younger than sixteen years and three months of age but is older than fourteen years and two months of age may be issued a school permit if such person either resides outside a city of the metropolitan, primary, or first class or attends a school which is outside a city of the metropolitan, primary, or first class and if such person has held an LPE-learner's permit for two months. A school permit shall not be issued until such person has demonstrated that he or she is capable of successfully operating a motor vehicle, moped, or motorcycle and has in his or her possession an issuance certificate authorizing the county treasurer to issue a school permit. In order to obtain an issuance certificate, the applicant shall present (a) proof of successful completion of a department-approved driver safety course which includes behind-the-wheel driving specifically emphasizing (i) the effects of the consumption of alcohol on a person operating a motor vehicle, (ii) occupant protection systems, (iii) risk assessment, and (iv) railroad crossing safety and (b)(i) proof of successful completion of a written examination and driving test administered by a driver

safety course instructor or (ii) a certificate in a form prescribed by the department, signed by a parent, guardian, or licensed driver at least twenty-one years of age, verifying that the applicant has completed fifty hours of lawful motor vehicle operation, under conditions that reflect department-approved driver safety course curriculum, with a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state. The department may waive the written examination if the applicant has been issued an LPE-learner's permit or LPD-learner's permit and if such permit is valid or has expired no more than one year prior to application. The written examination shall not be waived if the permit being applied for contains a class or endorsement which is different from the class or endorsement of the LPE-learner's permit.

(2) A person holding a school permit may operate a motor vehicle, moped, or motorcycle or an autocycle:

(a) To and from where he or she attends school, or property used by the school he or she attends for purposes of school events or functions, over the most direct and accessible route by the nearest highway from his or her place of residence to transport such person or any family member who resides with such person to attend duly scheduled courses of instruction and extracurricular or school-related activities at the school he or she attends or on property used by the school he or she attends; or

(b) Under the personal supervision of a licensed operator. Such licensed operator shall be at least twenty-one years of age and licensed by this state or another state and shall (i) for all motor vehicles other than autocycles, motorcycles, or mopeds, actually occupy the seat beside the permitholder, (ii) in the case of an autocycle, actually occupy the seat beside or behind the permitholder, or (iii) in the case of a motorcycle, other than an autocycle, or a moped, if the permitholder is within visual contact of and under the supervision of, in the case of a motorcycle, a licensed motorcycle operator or, in the case of a moped, a licensed motor vehicle operator.

(3) The holder of a school permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subsection shall be accomplished only as a secondary action when the holder of the school permit has been cited or charged with a violation of some other law.

(4) A person who is younger than sixteen years of age but is over fourteen years of age may be issued an LPE-learner's permit, which permit shall be valid for a period of three months. An LPE-learner's permit shall not be issued until such person successfully completes a written examination prescribed by the department and demonstrates that he or she has sufficient powers of eyesight to safely operate a motor vehicle, moped, or motorcycle or an autocycle.

(5)(a) While holding the LPE-learner's permit, the person may operate a motor vehicle on the highways of this state if (i) for all motor vehicles other than autocycles, motorcycles, or mopeds, he or she has seated next to him or her a person who is a licensed operator, (ii) in the case of an autocycle, he or she has seated next to or behind him or her a person who is a licensed operator, or (iii) in the case of a motorcycle, other than an autocycle, or a moped, he or she is within visual contact of and is under the supervision of a person who, in the case of a motorcycle, is a licensed motorcycle operator or, in the case of a moped, is a licensed motor vehicle operator. Such licensed

motor vehicle or motorcycle operator shall be at least twenty-one years of age and licensed by this state or another state.

(b) The holder of an LPE-learner's permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subdivision shall be accomplished only as a secondary action when the holder of the LPE-learner's permit has been cited or charged with a violation of some other law.

(6) Department personnel or the county treasurer shall collect the fee and surcharge prescribed in section 60-4,115 from each successful applicant for a school or LPE-learner's permit. All school permits shall be subject to impoundment or revocation under the terms of section 60-496. Any person who violates the terms of a school permit shall be guilty of an infraction and shall not be eligible for another school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

(7) Any person who holds a permit issued under this section and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

Source: Laws 1989, LB 285, § 74; Laws 1998, LB 320, § 11; Laws 2001, LB 387, § 8; Laws 2001, LB 574, § 18; Laws 2005, LB 675, § 4; Laws 2006, LB 853, § 9; Laws 2007, LB415, § 6; Laws 2008, LB911, § 18; Laws 2012, LB751, § 28; Laws 2015, LB231, § 25; Laws 2016, LB311, § 15; Laws 2016, LB814, § 1; Laws 2018, LB909, § 82; Laws 2019, LB269, § 5.
Effective date September 1, 2019.

60-4,125 LPD-learner's permit; LPE-learner's permit; violations; impoundment or revocation of permit; effect on eligibility for operator's license; not eligible for ignition interlock permit.

(1) For any minor convicted or adjudicated of violating the terms of an LPD-learner's permit issued pursuant to section 60-4,123 or an LPE-learner's permit issued pursuant to section 60-4,124, the court shall, in addition to any other penalty or disposition, order the impoundment or revocation of such learner's permit and order that such minor shall not be eligible for another operator's license or school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

(2) Any person who holds an LPD-learner's permit issued pursuant to section 60-4,123 and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

(3) A copy of the court's abstract or adjudication shall be transmitted to the director who shall place in an impound status or revoke the LPD-learner's or LPE-learner's permit of such minor in accordance with the order of the court and not again issue another operator's license or school, farm, LPD-learner's, or LPE-learner's permit to such minor until such minor has attained the age of sixteen years.

Source: Laws 1963, c. 359, § 7, p. 1153; R.S.1943, (1988), § 60-409.05; Laws 1989, LB 285, § 75; Laws 1991, LB 420, § 13; Laws 1998,

LB 320, § 12; Laws 2001, LB 38, § 34; Laws 2004, LB 353, § 1; Laws 2012, LB751, § 29; Laws 2019, LB269, § 6.
Effective date September 1, 2019.

60-4,126 Farm permit; issuance; violations; penalty; not eligible for ignition interlock permit.

(1) Any person who is younger than sixteen years of age but is over thirteen years of age and resides upon a farm in this state or is fourteen years of age or older and is employed for compensation upon a farm in this state may obtain a farm permit authorizing the operation of farm tractors, minitrucks, and other motorized implements of farm husbandry upon the highways of this state if the applicant for such farm permit furnishes satisfactory proof of age and satisfactorily demonstrates that he or she has knowledge of the operation of such equipment and of the rules of the road and laws respecting the operation of motor vehicles upon the highways of this state. Any person under sixteen years of age but not less than thirteen years of age may obtain a temporary permit to operate such equipment for a six-month period after presentation to the department of a request for the temporary permit signed by the person's parent or guardian and payment of the fee and surcharge prescribed in section 60-4,115. After the expiration of the six-month period, it shall be unlawful for such person to operate such equipment upon the highways of this state unless he or she has been issued a farm permit under this section. The fee for an original, renewal, or replacement farm permit shall be the fee and surcharge prescribed in section 60-4,115. All farm permits shall be subject to revocation under the terms of section 60-496. Any person who violates the terms of a farm permit shall be guilty of an infraction and shall not be eligible for another school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

(2) Any person who holds a permit issued under this section and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

Source: Laws 1989, LB 285, § 76; Laws 1993, LB 491, § 13; Laws 1998, LB 320, § 13; Laws 2001, LB 574, § 19; Laws 2008, LB911, § 19; Laws 2010, LB650, § 31; Laws 2012, LB751, § 30; Laws 2014, LB777, § 9; Laws 2019, LB269, § 7.
Effective date September 1, 2019.

(h) PROVISIONS APPLICABLE TO OPERATION
OF COMMERCIAL MOTOR VEHICLES

60-4,132 Purposes of sections.

The purposes of sections 60-462.01, 60-4,133, and 60-4,137 to 60-4,172 are to implement the requirements mandated by the federal Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31100 et seq., the federal Motor Carrier Safety Improvement Act of 1999, Public Law 106-159, section 1012 of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, and federal regulations as such acts and regulations existed on January 1, 2019, and to reduce or prevent commercial motor vehicle accidents, fatali-

ties, and injuries by: (1) Permitting drivers to hold only one operator's license; (2) disqualifying drivers for specified offenses and serious traffic violations; and (3) strengthening licensing and testing standards.

Source: Laws 1989, LB 285, § 82; Laws 1993, LB 7, § 2; Laws 1993, LB 420, § 6; Laws 2002, LB 499, § 1; Laws 2003, LB 562, § 8; Laws 2005, LB 76, § 8; Laws 2011, LB178, § 7; Laws 2014, LB983, § 22; Laws 2018, LB629, § 4; Laws 2018, LB909, § 88; Laws 2019, LB79, § 14.
Effective date March 7, 2019.

60-4,134 Holder of Class A commercial driver's license; hazardous materials endorsement not required; conditions.

In conformance with section 7208 of the federal Fixing America's Surface Transportation Act and 49 C.F.R. 383.3(i), as such section and regulation existed on January 1, 2019, no hazardous materials endorsement authorizing the holder of a Class A commercial driver's license to operate a commercial motor vehicle transporting diesel fuel shall be required if such driver is (1) operating within the state and acting within the scope of his or her employment as an employee of a custom harvester operation, an agrichemical business, a farm retail outlet and supplier, or a livestock feeder and (2) operating a service vehicle that is (a) transporting diesel in a quantity of one thousand gallons or less and (b) clearly marked with a flammable or combustible placard, as appropriate.

Source: Laws 2018, LB909, § 90; Laws 2019, LB79, § 15.
Effective date March 7, 2019.

60-4,144 Commercial driver's license; CLP-commercial learner's permit; applications; contents; application; demonstration of knowledge and skills; information and documentation required; verification.

(1) An applicant for issuance of any original or renewal commercial driver's license or an applicant for a change of class of commercial motor vehicle, endorsement, or restriction shall demonstrate his or her knowledge and skills for operating a commercial motor vehicle as prescribed in the Motor Vehicle Operator's License Act. An applicant for a commercial driver's license shall provide the information and documentation required by this section and section 60-4,144.01. Such information and documentation shall include any additional information required by 49 C.F.R. parts 383 and 391 and also include:

(a) Certification that the commercial motor vehicle in which the applicant takes any driving skills examination is representative of the class of commercial motor vehicle that the applicant operates or expects to operate; and

(b) The names of all states where the applicant has been licensed to operate any type of motor vehicle in the ten years prior to the date of application.

(2)(a) Before being issued a CLP-commercial learner's permit or commercial driver's license, the applicant shall provide (i) his or her full legal name, date of birth, mailing address, gender, race or ethnicity, and social security number, (ii) two forms of proof of address of his or her principal residence unless the applicant is a program participant under the Address Confidentiality Act, except that a nondomiciled applicant for a CLP-commercial learner's permit or nondomiciled commercial driver's license holder does not have to provide

proof of residence in Nebraska, (iii) evidence of identity as required by this section, and (iv) a brief physical description of himself or herself.

(b) The applicant's social security number shall not be printed on the CLP-commercial learner's permit or commercial driver's license and shall be used only (i) to furnish information to the United States Selective Service System under section 60-483, (ii) with the permission of the director in connection with the certification of the status of an individual's driving record in this state or any other state, (iii) for purposes of child support enforcement pursuant to section 42-358.08 or 43-512.06, (iv) to furnish information regarding an applicant for or holder of a commercial driver's license with a hazardous materials endorsement to the Transportation Security Administration of the United States Department of Homeland Security or its agent, (v) to furnish information to the Department of Revenue under section 77-362.02, or (vi) to furnish information to the Secretary of State for purposes of the Election Act.

(c) No person shall be a holder of a CLP-commercial learner's permit or commercial driver's license and a state identification card at the same time.

(3) Before being issued a CLP-commercial learner's permit or commercial driver's license, an applicant, except a nondomiciled applicant, shall provide proof that this state is his or her state of residence. Acceptable proof of residence is a document with the person's name and residential address within this state.

(4)(a) Before being issued a CLP-commercial learner's permit or commercial driver's license, an applicant shall provide proof of identity.

(b) The following are acceptable as proof of identity:

(i) A valid, unexpired United States passport;

(ii) A certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth;

(iii) A Consular Report of Birth Abroad issued by the United States Department of State;

(iv) A valid, unexpired permanent resident card issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services;

(v) An unexpired employment authorization document issued by the United States Department of Homeland Security;

(vi) An unexpired foreign passport with a valid, unexpired United States visa affixed accompanied by the approved form documenting the applicant's most recent admittance into the United States;

(vii) A Certificate of Naturalization issued by the United States Department of Homeland Security;

(viii) A Certificate of Citizenship issued by the United States Department of Homeland Security;

(ix) A driver's license or identification card issued in compliance with the standards established by the REAL ID Act of 2005, Public Law 109-13, division B, section 1, 119 Stat. 302; or

(x) Such other documents as the director may approve.

(c) If an applicant presents one of the documents listed under subdivision (b)(i), (ii), (iii), (iv), (vii), or (viii) of this subsection, the verification of the applicant's identity will also provide satisfactory evidence of lawful status.

(d) If the applicant presents one of the identity documents listed under subdivision (b)(v), (vi), or (ix) of this subsection, the verification of the identity documents does not provide satisfactory evidence of lawful status. The applicant must also present a second document from subdivision (4)(b) of this section, a document from subsection (5) of this section, or documentation issued by the United States Department of Homeland Security or other federal agencies demonstrating lawful status as determined by the United States Citizenship and Immigration Services.

(e) An applicant may present other documents as designated by the director as proof of identity. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(5)(a) Whenever a person is renewing, replacing, upgrading, transferring, or applying as a nondomiciled individual to this state for a CLP-commercial learner's permit or commercial driver's license, the Department of Motor Vehicles shall verify the citizenship in the United States of the person or the lawful status in the United States of the person.

(b) The following are acceptable as proof of citizenship or lawful status:

(i) A valid, unexpired United States passport;

(ii) A certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(iii) A Consular Report of Birth Abroad issued by the United States Department of State;

(iv) A Certificate of Naturalization issued by the United States Department of Homeland Security;

(v) A Certificate of Citizenship issued by the United States Department of Homeland Security; or

(vi) A valid, unexpired Permanent Resident Card issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services.

(6) An applicant may present other documents as designated by the director as proof of lawful status. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(7)(a) An applicant shall obtain a nondomiciled CLP-commercial driver's license or nondomiciled CLP-commercial learner's permit:

(i) If the applicant is domiciled in a foreign jurisdiction and the Federal Motor Carrier Safety Administrator has not determined that the commercial motor vehicle operator testing and licensing standards of that jurisdiction meet the standards contained in subparts G and H of 49 C.F.R. part 383; or

(ii) If the applicant is domiciled in a state that is prohibited from issuing commercial learners' permits and commercial drivers' licenses in accordance with 49 C.F.R. 384.405. Such person is eligible to obtain a nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license from Nebraska that complies with the testing and licensing standards contained in subparts F, G, and H of 49 C.F.R. part 383.

(b) An applicant for a nondomiciled CLP-commercial learner's permit and nondomiciled commercial driver's license must do the following:

(i) Complete the requirements to obtain a CLP-commercial learner's permit or a commercial driver's license under the Motor Vehicle Operator's License Act, except that an applicant domiciled in a foreign jurisdiction must provide an unexpired employment authorization document issued by the United States Citizenship and Immigration Services or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States. No proof of domicile is required;

(ii) After receipt of the nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license and, for as long as the permit or license is valid, notify the Department of Motor Vehicles of any adverse action taken by any jurisdiction or governmental agency, foreign or domestic, against his or her driving privileges. Such adverse actions include, but are not limited to, license disqualification or disqualification from operating a commercial motor vehicle for the convictions described in 49 C.F.R. 383.51. Notifications must be made within the time periods specified in 49 C.F.R. 383.33; and

(iii) Provide a mailing address to the Department of Motor Vehicles. If the applicant is applying for a foreign nondomiciled CLP-commercial learner's permit or foreign nondomiciled commercial driver's license, he or she must provide a Nebraska mailing address and his or her employer's mailing address to the Department of Motor Vehicles.

(c) An applicant for a nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license who holds a foreign operator's license is not required to surrender his or her foreign operator's license.

(8) Any person applying for a CLP-commercial learner's permit or commercial driver's license may answer the following:

(a) Do you wish to register to vote as part of this application process?

(b) Do you wish to have a veteran designation displayed on the front of your operator's license to show that you served in the armed forces of the United States? (To be eligible you must register with the Nebraska Department of Veterans' Affairs registry.)

(c) Do you wish to include your name in the Donor Registry of Nebraska and donate your organs and tissues at the time of your death?

(d) Do you wish to receive any additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska?

(e) Do you wish to donate \$1 to promote the Organ and Tissue Donor Awareness and Education Fund?

(9) Application for a CLP-commercial learner's permit or commercial driver's license shall include a signed oath, affirmation, or declaration of the applicant that the information provided on the application for the permit or license is true and correct.

(10) Any person applying for a CLP-commercial learner's permit or commercial driver's license must make one of the certifications in section 60-4,144.01 and any certification required under section 60-4,146 and must provide such certifications to the Department of Motor Vehicles in order to be issued a CLP-commercial learner's permit or a commercial driver's license.

(11) Every person who holds any commercial driver's license must provide to the department medical certification as required by section 60-4,144.01. The department may provide notice and prescribe medical certification compliance requirements for all holders of commercial drivers' licenses. Holders of com-

mercial drivers' licenses who fail to meet the prescribed medical certification compliance requirements may be subject to downgrade.

Source: Laws 1989, LB 285, § 94; Laws 1992, LB 1178, § 4; Laws 1994, LB 76, § 575; Laws 1997, LB 635, § 21; Laws 1999, LB 147, § 3; Laws 1999, LB 704, § 29; Laws 2000, LB 1317, § 8; Laws 2001, LB 34, § 5; Laws 2003, LB 228, § 13; Laws 2003, LB 562, § 14; Laws 2004, LB 208, § 7; Laws 2004, LB 559, § 4; Laws 2005, LB 76, § 12; Laws 2008, LB911, § 21; Laws 2011, LB178, § 12; Laws 2011, LB215, § 19; Laws 2012, LB751, § 33; Laws 2014, LB983, § 29; Laws 2015, LB575, § 29; Laws 2016, LB47, § 3; Laws 2016, LB311, § 18; Laws 2019, LB192, § 3.
Operative date January 1, 2021.

Cross References

Address Confidentiality Act, see section 42-1201.

Donor Registry of Nebraska, see section 71-4822.

Election Act, see section 32-101.

Nebraska Department of Veterans' Affairs registry, see section 80-414.

60-4,146.01 Restricted commercial driver's license; seasonal permit; application or examiner's certificate; operation permitted; term; violation; penalty.

(1) Any resident of this state who is a seasonal commercial motor vehicle operator for a farm-related or ranch-related service industry may apply for a restricted commercial driver's license. If the applicant is an individual, the application or examiner's certificate shall include the applicant's social security number. A restricted commercial driver's license shall authorize the holder to operate any Class B Heavy Straight Vehicle commercial motor vehicle or any Class B Heavy Straight Vehicle or Class C Small Vehicle commercial motor vehicle required to be placarded pursuant to section 75-364 when the hazardous material being transported is (a) diesel fuel in quantities of one thousand gallons or less, (b) liquid fertilizers in vehicles or implements of husbandry with total capacities of three thousand gallons or less, or (c) solid fertilizers that are not transported or mixed with any organic substance within one hundred fifty miles of the employer's place of business or the farm or ranch being served.

(2) Any applicant for a restricted commercial driver's license or seasonal permit shall be eighteen years of age or older, shall have possessed a valid operator's license during the twelve-month period immediately preceding application, and shall demonstrate, in a manner to be prescribed by the director, that:

(a) If the applicant has possessed a valid operator's license for two or more years, that in the two-year period immediately preceding application the applicant:

- (i) Has not possessed more than one operator's license at one time;
- (ii) Has not been subject to any order of suspension, revocation, or cancellation of any type;
- (iii) Has no convictions involving any type or classification of motor vehicle of the disqualification offenses enumerated in sections 60-4,168 and 60-4,168.01; and

(iv) Has no convictions for traffic law violations that are accident-connected and no record of at-fault accidents; and

(b) If the applicant has possessed a valid operator's license for more than one but less than two years, the applicant shall demonstrate that he or she meets the requirements prescribed in subdivision (a) of this subsection for the entire period of his or her driving record history.

(3) The commercial motor vehicle operating privilege as conferred by the restricted commercial driver's license shall be valid for five years if annually revalidated by the seasonal permit which shall be valid for no more than one hundred eighty consecutive days in any twelve-month period. To revalidate the restricted commercial driver's license, the applicant shall meet the requirements of subsection (2) of this section and shall designate a time period he or she desires the commercial motor vehicle operating privilege to be valid. The time period designated by the applicant shall appear and be clearly indicated on the seasonal permit. A seasonal permit shall not be issued to any person more than once in any twelve-month period. The holder of a restricted commercial driver's license shall operate commercial motor vehicles in the course or scope of his or her employment within one hundred fifty miles of the employer's place of business or the farm or ranch currently being served.

(4) Any person who violates any provision of this section shall, upon conviction, be guilty of a Class III misdemeanor. In addition to any penalty imposed by the court, the director shall also revoke such person's restricted commercial driver's license and shall disqualify such person from operating any commercial motor vehicle in Nebraska for a period of five years.

(5) The Department of Motor Vehicles may adopt and promulgate rules and regulations to carry out the requirements of this section.

(6) For purposes of this section:

(a) Agricultural chemical business means any business that transports agricultural chemicals predominately to or from a farm or ranch;

(b) Farm-related or ranch-related service industry means any custom harvester, retail agricultural outlet or supplier, agricultural chemical business, or livestock feeder which operates commercial motor vehicles for the purpose of transporting agricultural products, livestock, farm machinery and equipment, or farm supplies to or from a farm or ranch;

(c) Retail agricultural outlet or supplier means any retail outlet or supplier that transports either agricultural products, farm machinery, farm supplies, or both, predominately to or from a farm or ranch; and

(d) Seasonal commercial motor vehicle operator means any person who, exclusively on a seasonal basis, operates a commercial motor vehicle for a farm-related or ranch-related service industry.

Source: Laws 1993, LB 420, § 13; Laws 1996, LB 323, § 3; Laws 1997, LB 752, § 142; Laws 1998, LB 309, § 8; Laws 1999, LB 704, § 32; Laws 2019, LB270, § 36.
Effective date September 1, 2019.

60-4,147.02 Hazardous materials endorsement; USA PATRIOT Act requirements.

No endorsement authorizing the driver to operate a commercial motor vehicle transporting hazardous materials shall be issued, renewed, or transferred by the Department of Motor Vehicles unless the endorsement is issued, renewed, or transferred in conformance with the requirements of section 1012

of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, including all amendments and federal regulations adopted pursuant thereto as of January 1, 2019, for the issuance of licenses to operate commercial motor vehicles transporting hazardous materials.

Source: Laws 2005, LB 76, § 17; Laws 2006, LB 853, § 12; Laws 2007, LB239, § 5; Laws 2008, LB756, § 17; Laws 2009, LB331, § 10; Laws 2010, LB805, § 7; Laws 2011, LB212, § 6; Laws 2012, LB751, § 35; Laws 2013, LB35, § 5; Laws 2014, LB776, § 6; Laws 2015, LB313, § 6; Laws 2016, LB929, § 8; Laws 2017, LB263, § 67; Laws 2018, LB909, § 89; Laws 2019, LB79, § 16. Effective date March 7, 2019.

60-4,155 Department; duties; rules and regulations.

The Department of Motor Vehicles shall establish standards and requirements for the testing of applicants for commercial drivers' licenses, endorsements, and restrictions. The standards and requirements developed by the department for written knowledge and driving skills examinations for commercial drivers' licenses shall substantially comply with the requirements of the Commercial Driver's License Standards, 49 C.F.R. part 383, subparts G and H. The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 1989, LB 285, § 105; Laws 2019, LB270, § 37. Effective date September 1, 2019.

(k) POINT SYSTEM

60-4,182 Point system; offenses enumerated.

In order to prevent and eliminate successive traffic violations, there is hereby provided a point system dealing with traffic violations as disclosed by the files of the director. The following point system shall be adopted:

- (1) Conviction of motor vehicle homicide — 12 points;
- (2) Third offense drunken driving in violation of any city or village ordinance or of section 60-6,196, as disclosed by the conviction record of the court's order — 12 points;
- (3) Failure to stop and render aid as required under section 60-697 in the event of involvement in a motor vehicle accident resulting in the death or personal injury of another — 6 points;
- (4) Failure to stop and report as required under section 60-696 or any city or village ordinance in the event of a motor vehicle accident resulting in property damage — 6 points;
- (5) Driving a motor vehicle while under the influence of alcoholic liquor or any drug or when such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or per two hundred ten liters of his or her breath in violation of any city or village ordinance or of section 60-6,196 — 6 points;
- (6) Willful reckless driving in violation of any city or village ordinance or of section 60-6,214 or 60-6,217 — 6 points;

(7) Careless driving in violation of any city or village ordinance or of section 60-6,212 — 4 points;

(8) Negligent driving in violation of any city or village ordinance — 3 points;

(9) Reckless driving in violation of any city or village ordinance or of section 60-6,213 — 5 points;

(10) Speeding in violation of any city or village ordinance or any of sections 60-6,185 to 60-6,190 and 60-6,313:

(a) Not more than five miles per hour over the speed limit — 1 point;

(b) More than five miles per hour but not more than ten miles per hour over the speed limit — 2 points;

(c) More than ten miles per hour but not more than thirty-five miles per hour over the speed limit - 3 points, except that one point shall be assessed upon conviction of exceeding by not more than ten miles per hour, two points shall be assessed upon conviction of exceeding by more than ten miles per hour but not more than fifteen miles per hour, and three points shall be assessed upon conviction of exceeding by more than fifteen miles per hour but not more than thirty-five miles per hour the speed limits provided for in subdivision (1)(f), (g), (h), or (i) of section 60-6,186; and

(d) More than thirty-five miles per hour over the speed limit — 4 points;

(11) Failure to yield to a pedestrian not resulting in bodily injury to a pedestrian — 2 points;

(12) Failure to yield to a pedestrian resulting in bodily injury to a pedestrian — 4 points;

(13) Using a handheld wireless communication device in violation of section 60-6,179.01 or texting while driving in violation of subsection (1) or (3) of section 60-6,179.02 — 3 points;

(14) Using a handheld mobile telephone in violation of subsection (2) or (4) of section 60-6,179.02 — 3 points;

(15) Unlawful obstruction or interference of the view of an operator in violation of section 60-6,256 — 1 point;

(16) A violation of subsection (1) of section 60-6,175 — 3 points; and

(17) All other traffic violations involving the operation of motor vehicles by the operator for which reports to the Department of Motor Vehicles are required under sections 60-497.01 and 60-497.02 — 1 point.

Subdivision (17) of this section does not include violations involving an occupant protection system or a three-point safety belt system pursuant to section 60-6,270; parking violations; violations for operating a motor vehicle without a valid operator's license in the operator's possession; muffler violations; overwidth, overheight, or overlength violations; autocycle, motorcycle, or moped protective helmet violations; or overloading of trucks.

All such points shall be assessed against the driving record of the operator as of the date of the violation for which conviction was had. Points may be reduced by the department under section 60-4,188.

In all cases, the forfeiture of bail not vacated shall be regarded as equivalent to the conviction of the offense with which the operator was charged.

The point system shall not apply to persons convicted of traffic violations committed while operating a bicycle as defined in section 60-611 or an electric personal assistive mobility device as defined in section 60-618.02.

Source: Laws 1953, c. 219, § 1, p. 768; Laws 1955, c. 156, § 1, p. 457; Laws 1957, c. 168, § 1, p. 587; Laws 1957, c. 366, § 26, p. 1261; Laws 1959, c. 169, § 2, p. 617; Laws 1959, c. 174, § 1, p. 625; Laws 1961, c. 185, § 3, p. 571; Laws 1967, c. 235, § 2, p. 630; R.R.S.1943, § 39-7,128; Laws 1974, LB 590, § 1; Laws 1974, LB 873, § 4; Laws 1975, LB 328, § 1; Laws 1975, LB 381, § 4; Laws 1976, LB 265, § 1; Laws 1983, LB 204, § 1; Laws 1985, LB 496, § 2; Laws 1987, LB 224, § 3; Laws 1987, LB 430, § 3; Laws 1988, LB 428, § 6; Laws 1992, LB 958, § 2; R.S.Supp.,1992, § 39-669.26; Laws 1993, LB 370, § 80; Laws 1993, LB 575, § 17; Laws 1996, LB 901, § 2; Laws 2001, LB 166, § 3; Laws 2001, LB 773, § 14; Laws 2002, LB 1105, § 446; Laws 2006, LB 925, § 3; Laws 2007, LB35, § 1; Laws 2008, LB621, § 1; Laws 2010, LB945, § 1; Laws 2011, LB500, § 1; Laws 2012, LB751, § 40; Laws 2012, LB1039, § 1; Laws 2014, LB983, § 54; Laws 2015, LB95, § 8; Laws 2015, LB231, § 26; Laws 2018, LB909, § 91; Laws 2018, LB1009, § 2; Laws 2019, LB270, § 38.
Effective date September 1, 2019.

Cross References

Assessment of points when person is placed on probation, see section 60-497.01.

(I) VETERAN NOTATION

60-4,189 Operator's license; state identification card; veteran designation; Department of Motor Vehicles; duties; replacement license or card.

(1) An operator's license or a state identification card shall include a veteran designation on the front of the license or card as directed by the department if the individual applying for such license or card is eligible for the license or card and:

(a)(i) Has served in the United States Army, United States Army Reserve, United States Navy, United States Navy Reserve, United States Marine Corps, United States Marine Corps Reserve, United States Coast Guard, United States Coast Guard Reserve, United States Air Force, United States Air Force Reserve, or National Guard and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) from such service; or

(ii) Has served as a commissioned officer in the United States Public Health Service or the National Oceanic and Atmospheric Administration, was detailed to any branch of the armed forces of the United States for service on active or reserve duty, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) as proven with valid orders from the United States Department of Defense, a statement of service provided by the United States Public Health Service, or a report of transfer or discharge provided by the National Oceanic and Atmospheric Administration;

(b) Registers with the Department of Veterans' Affairs pursuant to section 80-414 as verification of such service; and

(c) Indicates on the application under section 60-484 his or her wish to include such veteran designation on his or her license or card.

(2) The Department of Motor Vehicles shall consult the registry established pursuant to section 80-414 before placing the veteran designation on the operator's license or state identification card issued to the applicant. Such designation shall not be authorized unless the registry verifies the applicant's eligibility. If eligible, the designation to be placed on the applicant's license or card shall be as follows:

(a) The words "Guard-Veteran" for any veteran of the National Guard;

(b) The words "Reserve-Veteran" for any veteran who served on reserve duty;
or

(c) The word "Veteran" for all other veterans.

(3) If the Director of Motor Vehicles discovers evidence of fraud in an application under this section, the director may summarily cancel the license or state identification card and send notice of the cancellation to the licensee or cardholder. If the Department of Motor Vehicles has information that an individual is no longer eligible for the veteran designation, the department may summarily cancel the license and send notice of the cancellation to the licensee or cardholder. The veteran designation shall not be restored until the Department of Motor Vehicles subsequently verifies the applicant's eligibility by consulting the registry of the Department of Veterans' Affairs.

(4) The veteran designation authorized in this section shall continue to be included on the license or card upon renewal of such license or card if the licensee or cardholder, at the time of renewal, indicates the desire to include the veteran designation.

(5) An individual may obtain a replacement operator's license or state identification card to add or remove the veteran designation authorized in this section by applying to the Department of Motor Vehicles for such replacement license or card and, if adding the veteran designation, by meeting the requirements of subsection (1) of this section. The fee for such replacement license or card shall be the fee provided in section 60-4,115.

Source: Laws 2013, LB93, § 4; Laws 2019, LB192, § 4.
Operative date January 1, 2021.

ARTICLE 5

MOTOR VEHICLE SAFETY RESPONSIBILITY

(a) DEFINITIONS

Section

60-501. Terms, defined.

(d) PROOF OF FINANCIAL RESPONSIBILITY

60-520. Judgments; payments sufficient to satisfy requirements.

60-547. Bond; proof of financial responsibility.

(a) DEFINITIONS

60-501 Terms, defined.

For purposes of the Motor Vehicle Safety Responsibility Act, unless the context otherwise requires:

(1) Department means Department of Motor Vehicles;

(2) Former military vehicle means a motor vehicle that was manufactured for use in any country's military forces and is maintained to accurately represent its military design and markings, regardless of the vehicle's size or weight, but is no longer used, or never was used, by a military force;

(3) Golf car vehicle means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, and is designed and manufactured for operation on a golf course for sporting and recreational purposes;

(4) Judgment means any judgment which shall have become final by the expiration of the time within which an appeal might have been perfected without being appealed, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, (a) upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use thereof, or (b) upon a cause of action on an agreement of settlement for such damages;

(5) License means any license issued to any person under the laws of this state pertaining to operation of a motor vehicle within this state;

(6) Low-speed vehicle means a (a) four-wheeled motor vehicle (i) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (ii) whose gross vehicle weight rating is less than three thousand pounds, and (iii) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2019, or (b) three-wheeled motor vehicle (i) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (ii) whose gross vehicle weight rating is less than three thousand pounds, and (iii) which is equipped with a windshield and an occupant protection system. A motorcycle with a sidecar attached is not a low-speed vehicle;

(7) Minitruck means a foreign-manufactured import vehicle or domestic-manufactured vehicle which (a) is powered by an internal combustion engine with a piston or rotor displacement of one thousand five hundred cubic centimeters or less, (b) is sixty-seven inches or less in width, (c) has a dry weight of four thousand two hundred pounds or less, (d) travels on four or more tires, (e) has a top speed of approximately fifty-five miles per hour, (f) is equipped with a bed or compartment for hauling, (g) has an enclosed passenger cab, (h) is equipped with headlights, taillights, turnsignals, windshield wipers, a rearview mirror, and an occupant protection system, and (i) has a four-speed, five-speed, or automatic transmission;

(8) Motor vehicle means any self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles, mini-trucks, and low-speed vehicles. Motor vehicle includes a former military vehicle. Motor vehicle does not include (a) mopeds as defined in section 60-637, (b) traction engines, (c) road rollers, (d) farm tractors, (e) tractor cranes, (f) power shovels, (g) well drillers, (h) every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, (i) electric personal assistive mobility devices as defined in section 60-618.02, (j) off-road designed

vehicles, including, but not limited to, golf car vehicles, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles and utility-type vehicles as defined in section 60-6,355, minibikes as defined in section 60-636, and snowmobiles as defined in section 60-663, and (k) bicycles as defined in section 60-611;

(9) Nonresident means every person who is not a resident of this state;

(10) Nonresident's operating privilege means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him or her of a motor vehicle or the use of a motor vehicle owned by him or her in this state;

(11) Operator means every person who is in actual physical control of a motor vehicle;

(12) Owner means a person who holds the legal title of a motor vehicle, or in the event (a) a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or (b) a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of the act;

(13) Person means every natural person, firm, partnership, limited liability company, association, or corporation;

(14) Proof of financial responsibility means evidence of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance, or use of a motor vehicle, (a) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, (b) subject to such limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and (c) in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident;

(15) Registration means registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles;

(16) State means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada; and

(17) The forfeiture of bail, not vacated, or of collateral deposited to secure an appearance for trial shall be regarded as equivalent to conviction of the offense charged.

Source: Laws 1949, c. 178, § 1, p. 482; Laws 1957, c. 366, § 42, p. 1275; Laws 1959, c. 298, § 1, p. 1107; Laws 1959, c. 299, § 1, p. 1123; Laws 1971, LB 644, § 4; Laws 1972, LB 1196, § 4; Laws 1973, LB 365, § 1; Laws 1979, LB 23, § 14; Laws 1983, LB 253, § 1; Laws 1987, LB 80, § 11; Laws 1993, LB 121, § 385; Laws 1993, LB 370, § 94; Laws 2002, LB 1105, § 447; Laws 2010, LB650, § 32; Laws 2011, LB289, § 26; Laws 2012, LB898, § 3; Laws 2012, LB1155, § 15; Laws 2015, LB95, § 9; Laws 2016, LB929, § 9; Laws 2017, LB263, § 70; Laws 2018, LB909, § 92; Laws 2019, LB79, § 17; Laws 2019, LB156, § 13; Laws 2019, LB270, § 39.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB79, section 17, with LB156, section 13, and LB270, section 39, to reflect all amendments.

Note: Changes made by LB79 became effective March 7, 2019. Changes made by LB156 and LB270 became effective September 1, 2019.

(d) PROOF OF FINANCIAL RESPONSIBILITY

60-520 Judgments; payments sufficient to satisfy requirements.

Judgments in excess of the amounts specified in subdivision (14) of section 60-501 shall, for the purpose of the Motor Vehicle Safety Responsibility Act only, be deemed satisfied when payments in the amounts so specified have been credited thereon. Payments made in settlement of any claims because of bodily injury, death, or property damage arising from a motor vehicle accident shall be credited in reduction of the respective amounts so specified.

Source: Laws 1949, c. 178, § 20, p. 492; Laws 2010, LB650, § 33; Laws 2011, LB289, § 27; Laws 2012, LB1155, § 16; Laws 2019, LB156, § 14.

Effective date September 1, 2019.

60-547 Bond; proof of financial responsibility.

Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this state, or a bond with at least two individual sureties who each own real estate within this state, which real estate shall be scheduled in the bond approved by a judge of a court of record. The bond shall be conditioned for the payment of the amounts specified in subdivision (14) of section 60-501. It shall be filed with the department and shall not be cancelable except after ten days' written notice to the department. Such bond shall constitute a lien in favor of the state upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after such bond was filed, upon the filing of notice to that effect by the department in the office of the register of deeds of the county where such real estate shall be located.

Source: Laws 1949, c. 178, § 47, p. 498; Laws 2010, LB650, § 34; Laws 2011, LB289, § 28; Laws 2012, LB1155, § 17; Laws 2019, LB156, § 15.

Effective date September 1, 2019.

ARTICLE 6

NEBRASKA RULES OF THE ROAD

(a) GENERAL PROVISIONS

Section

- 60-601. Rules, how cited.
- 60-605. Definitions, where found.
- 60-620.01. Former military vehicle, defined.
- 60-628.01. Low-speed vehicle, defined.
- 60-641.01. On-track equipment, defined.

(d) ACCIDENTS AND ACCIDENT REPORTING

- 60-6,102. Accident; death; driver; pedestrian sixteen years of age or older; coroner; examine body; amount of alcohol or drugs; report to Department of Transportation; public information.

Section

60-6,103. Accident; driver or pedestrian sixteen years of age or older; person killed; submit to chemical test; results in writing to Director-State Engineer; public information.

60-6,107. Accidents; Department of Health and Human Services; Department of Transportation; rules and regulations.

(l) SPECIAL STOPS

60-6,170. Obedience to signal indicating approach of train or on-track equipment; prohibited acts.

60-6,172. Buses and school buses required to stop at all railroad grade crossings; exceptions.

60-6,173. Grade crossings; certain carriers; required to stop; exceptions.

60-6,174. Moving heavy equipment at railroad grade crossings; required to stop.

60-6,175. School bus; safety requirements; use of stop signal arm; use of warning signal lights; violations; penalty.

60-6,176. Repealed. Laws 2019, LB190, § 8.

(o) ALCOHOL AND DRUG VIOLATIONS

60-6,209. License revocation; reinstatement; conditions; department; Board of Pardons; duties; fee.

(q) LIGHTING AND WARNING EQUIPMENT

60-6,233. Rotating or flashing red light or red and blue lights; when permitted; application; permit; expiration.

(u) OCCUPANT PROTECTION SYSTEMS AND
THREE-POINT SAFETY BELT SYSTEMS

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(y) SIZE, WEIGHT, AND LOAD

60-6,290. Vehicles; length; limit; exceptions.

60-6,304. Load; contents; requirements; vehicle that contained livestock; spill prohibited; violation; penalty.

(gg) SMOKE EMISSIONS AND NOISE

60-6,363. Terms, defined.

60-6,364. Applicability of sections.

60-6,367. Enforcement of sections; citations; use of smokemeter; results; admissible as evidence.

60-6,368. Director of Environment and Energy; powers; rules and regulations; control of noise or emissions.

(jj) SPECIAL RULES FOR MINITRUCKS

60-6,379. Minitrucks; former military vehicles; restrictions on use.

(a) GENERAL PROVISIONS

60-601 Rules, how cited.

Sections 60-601 to 60-6,383 shall be known and may be cited as the Nebraska Rules of the Road.

Source: Laws 1973, LB 45, § 122; Laws 1989, LB 285, § 9; Laws 1992, LB 291, § 14; Laws 1992, LB 872, § 5; R.S.Supp.,1992, § 39-6,122; Laws 1993, LB 370, § 97; Laws 1993, LB 564, § 14; Laws 1996, LB 901, § 3; Laws 1996, LB 1104, § 2; Laws 1997, LB 91, § 1; Laws 1998, LB 309, § 12; Laws 1999, LB 585, § 3; Laws 2001, LB 38, § 42; Laws 2002, LB 1105, § 448; Laws 2002, LB 1303, § 10; Laws 2004, LB 208, § 8; Laws 2006, LB 853, § 14; Laws 2006, LB 925, § 4; Laws 2008, LB736, § 6; Laws 2008, LB756, § 18; Laws 2009, LB92, § 1; Laws 2010, LB650,

§ 35; Laws 2010, LB945, § 2; Laws 2011, LB164, § 1; Laws 2011, LB289, § 29; Laws 2011, LB667, § 32; Laws 2011, LB675, § 4; Laws 2012, LB751, § 43; Laws 2012, LB1155, § 18; Laws 2014, LB1039, § 1; Laws 2015, LB231, § 27; Laws 2015, LB641, § 1; Laws 2016, LB977, § 20; Laws 2018, LB909, § 93; Laws 2018, LB1009, § 3; Laws 2019, LB81, § 1; Laws 2019, LB156, § 16.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB81, section 1, with LB156, section 16, to reflect all amendments.

60-605 Definitions, where found.

For purposes of the Nebraska Rules of the Road, the definitions found in sections 60-606 to 60-676 shall be used.

Source: Laws 1993, LB 370, § 101; Laws 1996, LB 901, § 4; Laws 1997, LB 91, § 2; Laws 2001, LB 38, § 43; Laws 2006, LB 853, § 15; Laws 2006, LB 925, § 5; Laws 2008, LB756, § 19; Laws 2010, LB650, § 36; Laws 2011, LB289, § 30; Laws 2012, LB1155, § 19; Laws 2015, LB231, § 28; Laws 2018, LB1009, § 4; Laws 2019, LB81, § 2; Laws 2019, LB156, § 17.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB81, section 2, with LB156, section 17, to reflect all amendments.

60-620.01 Former military vehicle, defined.

Former military vehicle means a motor vehicle that was manufactured for use in any country's military forces and is maintained to accurately represent its military design and markings, regardless of the vehicle's size or weight, but is no longer used, or never was used, by a military force.

Source: Laws 2019, LB156, § 18.

Effective date September 1, 2019.

60-628.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2019, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) which is equipped with a windshield and an occupant protection system. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2011, LB289, § 31; Laws 2016, LB929, § 10; Laws 2017, LB263, § 72; Laws 2018, LB909, § 95; Laws 2019, LB79, § 18; Laws 2019, LB270, § 40.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB79, section 18, with LB270, section 40, to reflect all amendments.

Note: Changes made by LB79 became effective March 7, 2019. Changes made by LB270 became effective September 1, 2019.

60-641.01 On-track equipment, defined.

On-track equipment means any railroad locomotive or any other car, rolling stock, equipment, or other device operated upon stationary rails either alone or coupled to other railroad locomotives, cars, rolling stock, equipment, or devices.

Source: Laws 2019, LB81, § 3.
Effective date September 1, 2019.

(d) ACCIDENTS AND ACCIDENT REPORTING

60-6,102 Accident; death; driver; pedestrian sixteen years of age or older; coroner; examine body; amount of alcohol or drugs; report to Department of Transportation; public information.

In the case of a driver who dies within four hours after being in a motor vehicle accident, including a motor vehicle accident in which one or more persons in addition to such driver is killed, and of a pedestrian sixteen years of age or older who dies within four hours after being struck by a motor vehicle, the coroner or other official performing the duties of coroner shall examine the body and cause such tests to be made as are necessary to determine the amount of alcohol or drugs in the body of such driver or pedestrian. Such information shall be included in each report submitted pursuant to sections 60-6,101 to 60-6,104 and shall be tabulated on a monthly basis by the Department of Transportation. Such information, including the identity of the deceased and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided by the department.

Source: Laws 1974, LB 66, § 2; R.S.1943, (1988), § 39-6,104.07; Laws 1993, LB 370, § 198; Laws 1993, LB 590, § 2; Laws 2017, LB339, § 188; Laws 2019, LB190, § 3.
Effective date September 1, 2019.

60-6,103 Accident; driver or pedestrian sixteen years of age or older; person killed; submit to chemical test; results in writing to Director-State Engineer; public information.

Any surviving driver or pedestrian sixteen years of age or older who is involved in a motor vehicle accident in which a person is killed shall be requested, if he or she has not otherwise been directed by a peace officer to submit to a chemical test under section 60-6,197, to submit to a chemical test of blood, urine, or breath as the peace officer directs for the purpose of determining the amount of alcohol or drugs in his or her body fluid. The results of such test shall be reported in writing to the Director-State Engineer who shall tabulate such results on a monthly basis. Such information, including the identity of such driver or pedestrian and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided by the Department of Transportation. The provisions of sections 60-6,199, 60-6,200, and 60-6,202 shall, when applicable, apply to the tests provided for in this section.

Source: Laws 1974, LB 66, § 3; R.S.1943, (1988), § 39-6,104.08; Laws 1993, LB 370, § 199; Laws 1993, LB 590, § 3; Laws 2017, LB339, § 189; Laws 2019, LB190, § 4.
Effective date September 1, 2019.

60-6,107 Accidents; Department of Health and Human Services; Department of Transportation; rules and regulations.

(1) Except as provided in subsection (2) of this section, the Department of Health and Human Services shall adopt necessary rules and regulations for the administration of the provisions of sections 60-6,101 to 60-6,106.

(2) The Department of Transportation may adopt and promulgate rules and regulations which provide for the release and disclosure of the results of tests conducted under sections 60-6,102 and 60-6,103.

Source: Laws 1974, LB 66, § 7; R.S.1943, (1988), § 39-6,104.12; Laws 1993, LB 370, § 203; Laws 1993, LB 590, § 5; Laws 1996, LB 1044, § 283; Laws 2007, LB296, § 233; Laws 2017, LB339, § 191; Laws 2019, LB190, § 5.
Effective date September 1, 2019.

(l) SPECIAL STOPS**60-6,170 Obedience to signal indicating approach of train or on-track equipment; prohibited acts.**

(1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances set forth in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall not proceed until he or she can do so safely. The requirements of this subsection shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or on-track equipment;

(b) A crossing gate is lowered or a flagperson gives or continues to give a signal of the approach or passage of a railroad train or on-track equipment;

(c) A railroad train or on-track equipment approaching within approximately one-quarter mile of the highway crossing emits a signal audible from such distance and such railroad train or on-track equipment, by reason of its speed or nearness to such crossing, is an immediate hazard;

(d) An approaching railroad train or on-track equipment is plainly visible and is in hazardous proximity to such crossing;

(e) A stop sign is erected at such crossing; or

(f) A passive warning device is located at or in advance of such crossing and an approaching railroad train or on-track equipment is audible as described in subdivision (c) of this subsection or plainly visible and in hazardous proximity to such crossing. For purposes of this subdivision, passive warning device means the type of traffic control device, including a sign, marking, or other device, located at or in advance of a railroad grade crossing to indicate the presence of such crossing but which does not change aspect upon the approach or presence of a railroad train or on-track equipment.

(2) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

Source: Laws 1973, LB 45, § 55; R.S.1943, (1988), § 39-655; Laws 1993, LB 370, § 266; Laws 2019, LB81, § 4.
Effective date September 1, 2019.

60-6,172 Buses and school buses required to stop at all railroad grade crossings; exceptions.

(1) The driver of any bus carrying passengers for hire or of any school bus, before crossing at grade any track of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching railroad train or on-track equipment and for signals indicating the approach of a railroad train or on-track equipment, except as otherwise provided in the Nebraska Rules of the Road. The driver shall not proceed until he or she can do so safely. After stopping as required by this section and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such track and the driver shall not shift gears while crossing such track.

(2) No stop shall be made at any such crossing when a peace officer or a flagperson directs traffic to proceed or at an abandoned or exempted grade crossing which is clearly marked as such by or with the consent of competent authority when such markings can be read from the driver's position.

Source: Laws 1973, LB 45, § 57; Laws 1974, LB 863, § 1; R.S.1943, (1988), § 39-657; Laws 1993, LB 370, § 268; Laws 2019, LB81, § 5.

Effective date September 1, 2019.

60-6,173 Grade crossings; certain carriers; required to stop; exceptions.

(1) The driver of any vehicle which is required to be placarded pursuant to section 75-364, before crossing at a grade any track of a railroad on streets and highways, shall stop such vehicle not more than fifty feet nor less than fifteen feet from the nearest rail or railroad and while stopped shall listen and look in both directions along the track for an approaching railroad train or on-track equipment. The driver shall not proceed until precaution has been taken to ascertain that the course is clear.

(2) The requirements of subsection (1) of this section shall not apply:

(a) When a peace officer or a flagperson directs traffic to proceed;

(b) At an abandoned or exempted grade crossing which is clearly marked as such by or with the consent of competent authority when such markings can be read from the driver's position; or

(c) At railroad tracks used exclusively for industrial switching purposes within a business district.

(3) Nothing in this section shall be deemed to exempt the driver of any vehicle from compliance with the other requirements contained in the Nebraska Rules of the Road.

Source: Laws 1973, LB 45, § 58; R.S.1943, (1988), § 39-658; Laws 1993, LB 370, § 269; Laws 1998, LB 1056, § 1; Laws 2019, LB81, § 6.
Effective date September 1, 2019.

60-6,174 Moving heavy equipment at railroad grade crossings; required to stop.

(1) No person shall operate or move any crawler-type tractor, any steam shovel, any derrick, any roller, or any equipment or structure having a normal

operating speed of ten miles per hour or less or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any track at a railroad grade crossing without first complying with this section.

(2) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching railroad train or on-track equipment and for signals indicating the approach of a railroad train or on-track equipment. The person shall not proceed until the crossing can be made safely.

(3) No such crossing shall be made while warning is given by an automatic signal, by crossing gates, by a flagperson, or otherwise of the immediate approach of a railroad train or on-track equipment. If a flagperson is provided by the railroad, movement over the crossing shall be under his or her direction.

Source: Laws 1973, LB 45, § 59; R.S.1943, (1988), § 39-659; Laws 1993, LB 370, § 270; Laws 2019, LB81, § 7.
Effective date September 1, 2019.

60-6,175 School bus; safety requirements; use of stop signal arm; use of warning signal lights; violations; penalty.

(1) Upon meeting or overtaking, from the front or rear, any school bus on which the yellow warning signal lights are flashing, the driver of a motor vehicle shall reduce the speed of such vehicle to not more than twenty-five miles per hour, shall bring such vehicle to a complete stop when the school bus is stopped, the stop signal arm is extended, and the flashing red signal lights are turned on, and shall remain stopped until the flashing red signal lights are turned off, the stop signal arm is retracted, and the school bus resumes motion. This section shall not apply to approaching traffic in the opposite direction on a divided highway or to approaching traffic when there is displayed a sign as provided in subsection (8) of this section directing traffic to proceed. Any person violating this subsection shall be guilty of a Class IV misdemeanor, shall be fined five hundred dollars, and shall be assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182.

(2) Except as provided in subsection (8) of this section, the driver of any school bus, when stopping to receive or discharge pupils, shall turn on flashing yellow warning signal lights at a distance of not less than three hundred feet when inside the corporate limits of any city or village and not less than five hundred feet nor more than one thousand feet in any area outside the corporate limits of any city or village from the point where such pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils, the bus driver shall bring the school bus to a stop, extend a stop signal arm, and turn on the flashing red signal lights. After receiving or discharging pupils, the bus driver shall turn off the flashing red signal lights, retract the stop signal arm, and then proceed on the route.

(3)(a) Except as provided in subdivision (b) of this subsection, no school bus shall stop to load or unload pupils outside of the corporate limits of any city or village or on any part of the state highway system within the corporate limits of

a city or village, unless there is at least four hundred feet of clear vision in each direction of travel.

(b) If four hundred feet of clear vision in each direction of travel is not possible as determined by the school district, a school bus may stop to load or unload pupils if there is proper signage installed indicating that a school bus stop is ahead.

(4) All pupils shall be received and discharged from the right front entrance of every school bus. If such pupils must cross a roadway, the bus driver shall instruct such pupils to cross in front of the school bus and the bus driver shall keep such school bus halted with the flashing red signal lights turned on and the stop signal arm extended until such pupils have reached the opposite side of such roadway.

(5) The driver of a vehicle upon a divided highway need not stop upon meeting or passing a school bus which is on a different roadway or when upon a freeway and such school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(6) Every school bus shall bear upon the front and rear thereof plainly visible signs containing the words school bus in letters not less than eight inches high.

(7) When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or school-sponsored activities, all markings thereon indicating school bus shall be covered or concealed. The stop signal arm and system of flashing yellow warning signal lights and flashing red signal lights shall not be operable through the usual controls.

(8) When a school bus is (a) parked in a designated school bus loading area which is out of the flow of traffic and which is adjacent to a school site or (b) parked on a roadway which possesses more than one lane of traffic flowing in the same direction and which is adjacent to a school site, the bus driver shall engage only the hazard warning flasher lights when receiving or discharging pupils if a school bus loading area warning sign is displayed. Such signs shall not be directly attached to any school bus but shall be free standing and placed at the rear of a parked school bus or line of parked school buses. No school district shall utilize a school bus loading area warning sign unless such sign complies with the manual. The manual shall include the requirements for size, material, construction, and required wording. The cost of any sign shall be an obligation of the school district.

Source: Laws 1973, LB 45, § 60; Laws 1974, LB 863, § 2; Laws 1977, LB 41, § 11; Laws 1987, LB 347, § 1; R.S.1943, (1988), § 39-660; Laws 1993, LB 370, § 271; Laws 1993, LB 575, § 10; Laws 2012, LB1039, § 2; Laws 2013, LB500, § 1; Laws 2019, LB190, § 6.
Effective date September 1, 2019.

60-6,176 Repealed. Laws 2019, LB190, § 8.

(o) ALCOHOL AND DRUG VIOLATIONS

60-6,209 License revocation; reinstatement; conditions; department; Board of Pardons; duties; fee.

(1) Any person whose operator's license has been revoked pursuant to a conviction for a violation of sections 60-6,196, 60-6,197, and 60-6,199 to

60-6,204 for a third or subsequent time for a period of fifteen years may apply to the Department of Motor Vehicles not more often than once per calendar year, on forms prescribed by the department, requesting the department to make a recommendation to the Board of Pardons for reinstatement of his or her eligibility for an operator's license. Upon receipt of the application and a nonrefundable application fee of one hundred dollars, the Director of Motor Vehicles shall review the application and make a recommendation for reinstatement or for denial of reinstatement. The department may recommend reinstatement if such person shows the following:

(a) Such person has completed a state-certified substance abuse program and is recovering or such person has substantially recovered from the dependency on or tendency to abuse alcohol or drugs, as determined by a counselor certified or licensed in this state;

(b) Such person has not been convicted, since the date of the revocation order, of any subsequent violations of section 60-6,196 or 60-6,197 or any comparable city or village ordinance and the applicant has not, since the date of the revocation order, submitted to a chemical test under section 60-6,197 that indicated an alcohol concentration in violation of section 60-6,196 or refused to submit to a chemical test under section 60-6,197;

(c) Such person has not been convicted, since the date of the revocation order, of driving while under suspension, revocation, or impoundment under section 60-4,109;

(d) Such person has abstained from the consumption of alcoholic beverages and the consumption of drugs except at the direction of a licensed physician or pursuant to a valid prescription;

(e) Such person's operator's license is not currently subject to suspension or revocation for any other reason; and

(f) Such person has agreed that, if the Board of Pardons reinstates such person's eligibility to apply for an ignition interlock permit, such person must provide proof, to the satisfaction of the department, that an ignition interlock device has been installed and is maintained on one or more motor vehicles such person operates for the duration of the original fifteen-year revocation period and such person must operate only motor vehicles so equipped for the duration of the original fifteen-year revocation period.

(2) In addition, the department may require other evidence from such person to show that restoring such person's privilege to drive will not present a danger to the health and safety of other persons using the highways.

(3) Upon review of the application, the director shall make the recommendation to the Board of Pardons in writing and shall briefly state the reasons for the recommendations. The recommendation shall include the original application and other evidence submitted by such person. The recommendation shall also include any record of any other applications such person has previously filed under this section.

(4) The department shall adopt and promulgate rules and regulations to govern the procedures for making a recommendation to the Board of Pardons.

(5) If the Board of Pardons reinstates such person's eligibility for an operator's license or an ignition interlock permit or orders a reprieve of such person's motor vehicle operator's license revocation, such reinstatement or reprieve may be conditioned for the duration of the original revocation period

on such person's continued recovery and, if such person is a holder of an ignition interlock permit, shall be conditioned for the duration of the original revocation period on such person's operation of only motor vehicles equipped with an ignition interlock device. If such person is convicted of any subsequent violation of section 60-6,196 or 60-6,197, the reinstatement of the person's eligibility for an operator's license shall be withdrawn and such person's operator's license will be revoked by the Department of Motor Vehicles for the time remaining under the original revocation, independent of any sentence imposed by the court, after thirty days' written notice to the person by first-class mail at his or her last-known mailing address as shown by the records of the department.

(6) If the Board of Pardons reinstates a person's eligibility for an operator's license or an ignition interlock permit or orders a reprieve of such person's motor vehicle operator's license revocation, the board shall notify the Department of Motor Vehicles of the reinstatement or reprieve. Such person may apply for an operator's license upon payment of a fee of one hundred twenty-five dollars and the filing of proof of financial responsibility. The fees paid pursuant to this section shall be collected by the department and remitted to the State Treasurer. The State Treasurer shall credit seventy-five dollars of each fee to the General Fund and fifty dollars of each fee to the Department of Motor Vehicles Cash Fund.

Source: Laws 1992, LB 291, § 10; R.S.Supp.,1992, § 39-669.19; Laws 1993, LB 370, § 304; Laws 1998, LB 309, § 18; Laws 2001, LB 38, § 54; Laws 2003, LB 209, § 13; Laws 2004, LB 208, § 12; Laws 2004, LB 1083, § 102; Laws 2008, LB736, § 9; Laws 2014, LB998, § 12; Laws 2019, LB270, § 41.

Effective date September 1, 2019.

(q) LIGHTING AND WARNING EQUIPMENT

60-6,233 Rotating or flashing red light or red and blue lights; when permitted; application; permit; expiration.

(1)(a) A rotating or flashing red light or lights or such light or lights in combination with a blue light or lights may be displayed on any motor vehicle operated by any volunteer firefighter, peace officer, or physician medical director anywhere in this state while actually en route to the scene of a fire or other emergency requiring his or her services as a volunteer firefighter, peace officer, or physician medical director, but only after its use has been authorized in writing by the county sheriff and, with respect to a physician medical director, such person has successfully completed an emergency vehicle operator course.

(b) Application for a permit to display such light shall be made in writing to the sheriff on forms to be prescribed and furnished by the Superintendent of Law Enforcement and Public Safety. The application shall be accompanied by a statement that the applicant is a volunteer firefighter, peace officer, or physician medical director and is requesting issuance of the permit. The statement shall be signed by the applicant's superior.

(c) The permit shall be carried at all times in the vehicle named in the permit. Each such permit shall expire on December 31 of each year and shall be renewed in the same manner as it was originally issued.

(d) The sheriff may at any time revoke such permit upon a showing of abuse thereof or upon receipt of notice from the applicant's superior that the holder thereof is no longer an active volunteer firefighter, peace officer, or physician medical director. Any person whose permit has been so revoked shall upon demand surrender it to the sheriff or his or her authorized agent.

(2) A rotating or flashing red light or lights or such light or lights in combination with a blue light or lights may be displayed on any motor vehicle being used by rescue squads actually en route to, at, or returning from any emergency requiring their services, or by any privately owned wrecker when engaged in emergency services at the scene of an accident, or at a disabled vehicle, located outside the city limits of a city of the metropolitan or primary class, but only after its use has been authorized in writing by the county sheriff. Applications shall be made and may be revoked in the same manner as for volunteer firefighters as provided in subsection (1) of this section.

(3) For purposes of this section, physician medical director has the same meaning as in section 38-1210.

Source: Laws 1969, c. 327, § 5, p. 1171; Laws 1971, LB 365, § 2; R.S.Supp.,1972, § 39-788.04; Laws 1981, LB 64, § 2; Laws 1989, LB 416, § 2; R.S.Supp.,1992, § 39-6,151; Laws 1993, LB 370, § 329; Laws 2019, LB8, § 1.
Effective date September 1, 2019.

(u) OCCUPANT PROTECTION SYSTEMS AND
THREE-POINT SAFETY BELT SYSTEMS

60-6,265 Occupant protection system and three-point safety belt system, defined.

For purposes of sections 60-6,266 to 60-6,273:

(1) Occupant protection system means a system utilizing a lap belt, a shoulder belt, or any combination of belts installed in a motor vehicle which (a) restrains drivers and passengers and (b) conforms to Federal Motor Vehicle Safety Standards, 49 C.F.R. 571.207, 571.208, 571.209, and 571.210, as such standards existed on January 1, 2019, or, as a minimum standard, to the federal motor vehicle safety standards for passenger restraint systems applicable for the motor vehicle's model year; and

(2) Three-point safety belt system means a system utilizing a combination of a lap belt and a shoulder belt installed in a motor vehicle which restrains drivers and passengers.

Source: Laws 1993, LB 370, § 361; Laws 2004, LB 227, § 1; Laws 2006, LB 853, § 19; Laws 2007, LB239, § 6; Laws 2008, LB756, § 21; Laws 2009, LB331, § 11; Laws 2015, LB231, § 33; Laws 2018, LB42, § 1; Laws 2019, LB79, § 19.
Effective date March 7, 2019.

(y) SIZE, WEIGHT, AND LOAD

60-6,290 Vehicles; length; limit; exceptions.

(1)(a) No vehicle shall exceed a length of forty feet, extreme overall dimensions, inclusive of front and rear bumpers including load, except that:

(i) A bus or a motor home, as defined in section 71-4603, may exceed the forty-foot limitation but shall not exceed a length of forty-five feet;

(ii) A truck-tractor may exceed the forty-foot limitation;

(iii) A semitrailer operating in a truck-tractor single semitrailer combination, which semitrailer was actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation;

(iv) A semitrailer operating in a truck-tractor single semitrailer combination, which semitrailer was not actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation but shall not exceed a length of fifty-three feet including load;

(v) A semitrailer operating in a truck-tractor single semitrailer combination, while transporting baled livestock forage, may exceed the forty-foot limitation but shall not exceed a length of fifty-nine feet six inches including load; and

(vi) An articulated bus vehicle operated by a transit authority established under the Transit Authority Law or regional metropolitan transit authority established pursuant to section 18-804 may exceed the forty-foot limitation. For purposes of this subdivision (vi), an articulated bus vehicle shall not exceed sixty-five feet in length.

(b) No combination of vehicles shall exceed a length of sixty-five feet, extreme overall dimensions, inclusive of front and rear bumpers and including load, except:

(i) One truck and one trailer, loaded or unloaded, used in transporting implements of husbandry to be engaged in harvesting, while being transported into or through the state during daylight hours if the total length does not exceed seventy-five feet including load;

(ii) A truck-tractor single semitrailer combination;

(iii) A truck-tractor semitrailer trailer combination, but the semitrailer trailer portion of such combination shall not exceed sixty-five feet inclusive of connective devices; and

(iv) A driveaway saddlemount vehicle transporter combination and driveaway saddlemount with fullmount vehicle transporter combination, but the total overall length shall not exceed ninety-seven feet.

(c) A truck shall be construed to be one vehicle for the purpose of determining length.

(d) A trailer shall be construed to be one vehicle for the purpose of determining length.

(2) Subsection (1) of this section shall not apply to:

(a) Extra-long vehicles which have been issued a permit pursuant to section 60-6,292;

(b) Vehicles which have been issued a permit pursuant to section 60-6,299;

(c) The temporary moving of farm machinery during daylight hours in the normal course of farm operations;

(d) The movement of unbaled livestock forage vehicles, loaded or unloaded;

(e) The movement of public utility or other construction and maintenance material and equipment at any time;

(f) Farm equipment dealers or their representatives as authorized under section 60-6,382 driving, delivering, or picking up farm equipment or imple-

ments of husbandry within the county in which the dealer maintains his or her place of business, or in any adjoining county or counties, and return;

(g) The overhang of any motor vehicle being hauled upon any lawful combination of vehicles, but such overhang shall not exceed the distance from the rear axle of the hauled motor vehicle to the closest bumper thereof;

(h) The overhang of a combine to be engaged in harvesting, while being transported into or through the state driven during daylight hours by a truck-tractor semitrailer combination, but the length of the semitrailer, including overhang, shall not exceed sixty-three feet and the maximum semitrailer length shall not exceed fifty-three feet;

(i) Any self-propelled specialized mobile equipment with a fixed load when the requirements of subdivision (2)(i) of section 60-6,288 are met; or

(j) One truck-tractor two trailer combination or one truck-tractor semitrailer trailer combination used in transporting equipment utilized by custom harvesters under contract to agricultural producers to harvest wheat, soybeans, or milo during the months of April through November but the length of the property-carrying units, excluding load, shall not exceed eighty-one feet six inches.

(3) The length limitations of this section shall be exclusive of safety and energy conservation devices such as rearview mirrors, turnsignal lights, marker lights, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors, and other devices necessary for safe and efficient operation of commercial motor vehicles, except that no device excluded from the limitations of this section shall have by its design or use the capability to carry cargo.

Source: Laws 1933, c. 102, § 1, p. 414; Laws 1933, c. 105, § 3, p. 425; Laws 1935, c. 86, § 1, p. 277; Laws 1939, c. 50, § 1, p. 217; C.S.Supp.,1941, § 39-1034; R.S.1943, § 39-721; Laws 1947, c. 146, § 1, p. 402; Laws 1951, c. 117, § 2, p. 527; Laws 1953, c. 133, § 1, p. 413; Laws 1957, c. 156, § 3, p. 564; Laws 1959, c. 164, § 1, p. 599; Laws 1959, c. 165, § 1, p. 603; Laws 1961, c. 309, § 1, p. 980; Laws 1963, c. 220, § 2, p. 694; Laws 1963, c. 222, § 1, p. 699; Laws 1963, c. 223, § 1, p. 701; Laws 1965, c. 213, § 1, p. 625; Laws 1971, LB 530, § 1; C.S.Supp.,1972, § 39-721; Laws 1974, LB 920, § 2; Laws 1979, LB 112, § 1; Laws 1980, LB 284, § 3; Laws 1980, LB 785, § 2; Laws 1982, LB 383, § 1; Laws 1983, LB 411, § 1; Laws 1984, LB 983, § 3; Laws 1985, LB 553, § 5; Laws 1987, LB 224, § 13; R.S.1943, (1988), § 39-6,179; Laws 1993, LB 370, § 386; Laws 1993, LB 575, § 36; Laws 1996, LB 1104, § 3; Laws 1997, LB 720, § 18; Laws 2000, LB 1361, § 7; Laws 2001, LB 376, § 4; Laws 2006, LB 853, § 21; Laws 2008, LB756, § 25; Laws 2012, LB740, § 1; Laws 2014, LB1039, § 5; Laws 2016, LB735, § 1; Laws 2019, LB492, § 40. Effective date September 1, 2019.

Cross References

Transit Authority Law, see section 14-1826.

60-6,304 Load; contents; requirements; vehicle that contained livestock; spill prohibited; violation; penalty.

(1)(a) Except as provided in subsection (2) of this section for a vehicle that contained livestock, but still contains the manure or urine of such livestock, no vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping from the vehicle.

(b) Except as provided in subsection (2) of this section for a vehicle that contained livestock, but still contains the manure or urine of such livestock, no person shall transport any sand, gravel, rock less than two inches in diameter, or refuse in any vehicle on any hard-surfaced state highway if such material protrudes above the sides of that part of the vehicle in which it is being transported unless such material is enclosed or completely covered with canvas or similar covering.

(c) Except as provided in subsection (3) of this section for commercial motor vehicles and commercial trailers, no person shall drive or move a motor vehicle, trailer, or semitrailer upon any highway unless the cargo or contents carried by the motor vehicle, trailer, or semitrailer are properly distributed and adequately secured to prevent the falling of cargo or contents from the vehicle. The tailgate, doors, tarpaulins, and any other equipment used in the operation of the motor vehicle, trailer, or semitrailer or in the distributing or securing of the cargo or contents carried by the motor vehicle, trailer, or semitrailer shall be secured to prevent cargo or contents falling from the vehicle. The means of securement to the motor vehicle, trailer, or semitrailer must be either tiedowns and tiedown assemblies of adequate strength or sides, sideboards, or stakes and a rear endgate, endboard, or stakes strong enough and high enough to assure that cargo or contents will not fall from the vehicle.

(d) Any person who violates any provision of this subsection is guilty of a Class IV misdemeanor.

(2)(a) No person operating any vehicle that contained livestock, but still contains the manure or urine of livestock, on any highway located within the corporate limits of a city of the metropolitan class, shall spill manure or urine from the vehicle.

(b) Any person who violates this subsection is guilty of a Class IV misdemeanor and shall be assessed a minimum fine of at least two hundred fifty dollars.

(3)(a) No person shall drive or move a commercial motor vehicle or commercial trailer upon any highway unless the cargo or contents carried by the commercial motor vehicle or commercial trailer are properly distributed and adequately secured to prevent the falling of cargo or contents from the vehicle. The tailgate, doors, tarpaulins, and any other equipment used in the operation of the commercial motor vehicle or commercial trailer or in the distributing or securing of the cargo or contents carried by the commercial motor vehicle or commercial trailer shall be secured to prevent cargo or contents falling from the vehicle. The structures, systems, parts, and components used to secure the cargo or contents shall be in proper working order with no damaged or weakened components that affect performance so as to cause the cargo or contents to fall from the commercial motor vehicle or commercial trailer. The means of securement to the commercial motor vehicle or commercial trailer shall be either tiedowns and tiedown assemblies of adequate strength or sides, sideboards, or stakes and a rear endgate, endboard, or stakes strong enough and high enough to ensure that cargo or contents will not fall from the commercial motor vehicle or commercial trailer.

(b)(i) Violation of this subsection is an infraction, and the person driving or moving a commercial motor vehicle or commercial trailer in violation of this subsection shall be fined two hundred dollars for the first offense and five hundred dollars for a second or subsequent offense.

(ii) In addition to the issuance of a citation to an operator under subdivision (b)(i) of this subsection, the Superintendent of Law Enforcement and Public Safety may assess the owner of the vehicle a civil penalty for each violation of this subsection of one thousand dollars. The superintendent shall issue an order imposing a penalty under this subdivision in the same manner as an order issued under section 75-369.04 and any rules and regulations adopted and promulgated under section 75-368 and any applicable federal rules and regulations.

(c) For purposes of this subsection:

(i) Commercial motor vehicle has the same meaning as in section 60-316; and

(ii) Commercial trailer has the same meaning as in section 60-317.

Source: Laws 1969, c. 304, § 1, p. 1095; C.S.Supp.,1972, § 39-735.02; Laws 1974, LB 593, § 7; Laws 1977, LB 41, § 21; R.S.1943, (1988), § 39-6,129; Laws 1993, LB 370, § 400; Laws 1993, LB 575, § 28; Laws 2002, LB 1105, § 463; Laws 2007, LB147, § 1; Laws 2014, LB174, § 2; Laws 2019, LB698, § 1.
Effective date May 2, 2019.

(gg) SMOKE EMISSIONS AND NOISE

60-6,363 Terms, defined.

For purposes of sections 60-6,363 to 60-6,374:

(1) Diesel-powered motor vehicle shall mean a self-propelled vehicle which is designed primarily for transporting persons or property on a highway and which is powered by an internal combustion engine of the compression ignition type;

(2) Motor vehicle shall mean a self-propelled vehicle with a gross unloaded vehicle weight of ten thousand pounds or more or any combination of vehicles of a type subject to registration which is towed by such a vehicle;

(3) Smoke shall mean the solid or liquid matter, except water, discharged from a motor vehicle engine which obscures the transmission of light;

(4) Smokemeter shall mean a full-flow, light-extinction smokemeter of a type approved by the Department of Environment and Energy and operating on the principles described in the federal standards;

(5) Opacity shall mean the degree to which a smoke plume emitted from a diesel-powered motor vehicle engine will block the passage of a beam of light expressed as a percentage; and

(6) Smoke control system shall mean a system consisting of one or more devices and adjustments designed to control the discharge of smoke from diesel-powered motor vehicles.

Source: Laws 1972, LB 1360, § 1; Laws 1976, LB 823, § 3; R.S.1943, (1988), § 60-2201; Laws 1993, LB 370, § 459; Laws 1993, LB 3, § 35; Laws 2019, LB302, § 65.
Operative date July 1, 2019.

60-6,364 Applicability of sections.

Sections 60-6,363 to 60-6,374 shall apply to all diesel-powered motor vehicles operated within this state with the exception of the following:

- (1) Emergency vehicles operated by federal, state, and local governmental authorities;
- (2) Vehicles which are not required to be registered in accordance with the Motor Vehicle Registration Act;
- (3) Vehicles used for research and development which have been approved by the Director of Environment and Energy;
- (4) Vehicles being operated while undergoing maintenance;
- (5) Vehicles operated under emergency conditions;
- (6) Vehicles being operated in the course of training programs which have been approved by the director; and
- (7) Other vehicles expressly exempted by the director.

Source: Laws 1972, LB 1360, § 2; R.S.1943, (1988), § 60-2202; Laws 1993, LB 370, § 460; Laws 2005, LB 274, § 251; Laws 2019, LB302, § 66.

Operative date July 1, 2019.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-6,367 Enforcement of sections; citations; use of smokemeter; results; admissible as evidence.

(1) Officials of the Department of Environment and Energy and local enforcement officials shall have the authority to issue citations to suspected violators of sections 60-6,363 to 60-6,374 on the basis of their visual evaluation of the smoke emitted from a diesel-powered motor vehicle. A citation shall give the suspected violator a reasonable time to furnish evidence to the department that such alleged violation has been corrected or else such suspected violator shall be subject to the penalties set out in section 60-6,373. A suspected violator may demand that the suspected vehicle be tested by an approved smokemeter prior to a trial on the alleged violation.

(2) Smokemeter tests shall be conducted (a) by or under the supervision of a person or testing facility authorized by the Director of Environment and Energy to conduct such tests and (b) by installing an approved smokemeter on the exhaust pipe and operating the suspected vehicle at engine revolutions per minute equivalent to the engine revolutions per minute at the time of the alleged violation.

(3) The results of smokemeter tests run in accordance with this section and after the alleged violation shall be admissible as evidence in legal proceedings.

Source: Laws 1972, LB 1360, § 5; Laws 1976, LB 823, § 6; R.S.1943, (1988), § 60-2205; Laws 1993, LB 370, § 463; Laws 1993, LB 3, § 36; Laws 2019, LB302, § 67.

Operative date July 1, 2019.

60-6,368 Director of Environment and Energy; powers; rules and regulations; control of noise or emissions.

(1) The Director of Environment and Energy shall have the power, after public hearings on due notice, to adopt and promulgate, consistent with and in furtherance of the provisions of sections 60-6,363 to 60-6,374, rules and regulations in accordance with which he or she will carry out his or her responsibilities and obligations under such sections.

(2) Any rules or regulations promulgated by the director shall be consistent with the provisions of the federal standards, if any, relating to control of emissions from the diesel-powered motor vehicles affected by such rules and regulations. The director shall not require, as a condition for the sale of any diesel-powered motor vehicle covered by sections 60-6,363 to 60-6,374, the inspection, certification, or other approval of any feature or equipment designed for the control of noise or emissions from such diesel-powered motor vehicles if such feature or equipment has been certified, approved, or otherwise authorized pursuant to laws or regulations of any federal governmental body as sufficient to make lawful the sale of any diesel-powered motor vehicle covered by such sections.

Source: Laws 1972, LB 1360, § 6; Laws 1976, LB 823, § 7; R.S.1943, (1988), § 60-2206; Laws 1993, LB 370, § 464; Laws 2019, LB302, § 68.

Operative date July 1, 2019.

(jj) SPECIAL RULES FOR MINITRUCKS

60-6,379 Minitrucks; former military vehicles; restrictions on use.

(1) A minitruck or a former military vehicle shall not be operated on the National System of Interstate and Defense Highways, on expressways, or on freeways.

(2) A minitruck or a former military vehicle shall be operated with its headlights and taillights on.

Source: Laws 2010, LB650, § 38; Laws 2019, LB156, § 19.

Effective date September 1, 2019.

ARTICLE 27

MANUFACTURER'S WARRANTY DUTIES

Section

60-2705. Dispute settlement procedure; effect; director; duties.

60-2705 Dispute settlement procedure; effect; director; duties.

The Director of Motor Vehicles shall adopt standards for an informal dispute settlement procedure which substantially comply with the provisions of 16 C.F.R. part 703, as such part existed on January 1, 2019.

If a manufacturer has established or participates in a dispute settlement procedure certified by the Director of Motor Vehicles within the guidelines of such standards, the provisions of section 60-2703 concerning refunds or replacement shall not apply to any consumer who has not first resorted to such a procedure.

Source: Laws 1983, LB 155, § 5; Laws 2019, LB79, § 20.

Effective date March 7, 2019.

ARTICLE 29

UNIFORM MOTOR VEHICLE RECORDS DISCLOSURE ACT

Section

60-2909.01. Disclosure; purposes authorized.

60-2909.01 Disclosure; purposes authorized.

The department and any officer, employee, agent, or contractor of the department having custody of a motor vehicle record shall, upon the verification of identity and purpose of a requester, disclose and make available the requested motor vehicle record, including the sensitive personal information in the record, other than the social security number, for the following purposes:

(1) For use by any federal, state, or local governmental agency, including any court or law enforcement agency, in carrying out the agency's functions or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions;

(2) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or governmental agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body;

(3) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting;

(4) For use by an employer or the employer's agent or insurer to obtain or verify information relating to a holder of a commercial driver's license or CLP-commercial learner's permit that is required under the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31301 et seq., as such act existed on January 1, 2019, or pursuant to sections 60-4,132 and 60-4,141; and

(5) For use by employers of a holder of a commercial driver's license or CLP-commercial learner's permit and by the Commercial Driver License Information System as provided in section 60-4,144.02 and 49 C.F.R. 383.73, as such regulation existed on January 1, 2019.

Source: Laws 2000, LB 1317, § 14; Laws 2011, LB178, § 20; Laws 2014, LB983, § 59; Laws 2019, LB79, § 21.
Effective date March 7, 2019.



CHAPTER 61

NATURAL RESOURCES

Article.

2. Department of Natural Resources. 61-206, 61-218.

ARTICLE 2

DEPARTMENT OF NATURAL RESOURCES

Section

- 61-206. Department of Natural Resources; jurisdiction; rules and regulations; hearings; orders; powers and duties.
- 61-218. Water Resources Cash Fund; created; use; investment; eligibility for funding; annual report; contents; Nebraska Environmental Trust Fund; grant application; use of funds; legislative intent; department; establish subaccount.

61-206 Department of Natural Resources; jurisdiction; rules and regulations; hearings; orders; powers and duties.

(1) The Department of Natural Resources is given jurisdiction over all matters pertaining to water rights for irrigation, power, or other useful purposes except as such jurisdiction is specifically limited by statute. The department may adopt and promulgate rules and regulations governing matters coming before it. It may refuse to allow any water to be used by claimants until their rights have been determined and made of record. It may request information relative to irrigation and water power works from any county, irrigation, or power officers and from any other persons. It may have hearings on complaints, petitions, or applications in connection with any of such matters. Such hearings shall be had at the time and place designated by the department. The department shall have power to certify official acts, compel attendance of witnesses, take testimony by deposition as in suits at law, and examine books, papers, documents, and records of any county, party, or parties interested in any of the matters mentioned in this section or have such examinations made by its qualified representative and shall make and preserve a true and complete transcript of its proceedings and hearings. If a final decision is made without a hearing, a hearing shall be held at the request of any party to the proceeding if the request is made within thirty days after the decision is rendered. If a hearing is held at the request of one or more parties, the department may require each such requesting party and each person who requests to be made a party to such hearing to pay the proportional share of the cost of such transcript. Upon any hearing, the department shall receive any evidence relevant to the matter under investigation and the burden of proof shall be upon the person making the complaint, petition, and application. After such hearing and investigation, the department shall render a decision in the premises in writing and shall issue such order or orders duly certified as it may deem necessary.

(2) The department shall serve as the official agency of the state in connection with water resources development, soil and water conservation, flood prevention, watershed protection, and flood control.

(3) The department shall:

(a) Offer assistance as appropriate to the supervisors or directors of any subdivision of government with responsibilities in the area of natural resources conservation, development, and use in the carrying out of any of their powers and programs;

(b) Keep the supervisors or directors of each such subdivision informed of the activities and experience of all other such subdivisions and facilitate cooperation and an interchange of advice and experience between such subdivisions;

(c) Coordinate the programs of such subdivisions so far as this may be done by advice and consultation;

(d) Secure the cooperation and assistance of the United States, any of its agencies, and agencies of this state in the work of such subdivisions;

(e) Disseminate information throughout the state concerning the activities and programs of such subdivisions;

(f) Plan, develop, and promote the implementation of a comprehensive program of resource development, conservation, and utilization for the soil and water resources of this state in cooperation with other local, state, and federal agencies and organizations;

(g) When necessary for the proper administration of the functions of the department, rent or lease space outside the State Capitol; and

(h) Assist such local governmental organizations as villages, cities, counties, and natural resources districts in securing, planning, and developing information on flood plains to be used in developing regulations and ordinances on proper use of these flood plains.

Source: Laws 1919, c. 190, tit. VII, art. V, div. 2, § 14, p. 839; C.S.1922, § 8433; C.S.1929, § 81-6314; R.S.1943, § 46-209; Laws 1957, c. 197, § 1, p. 695; Laws 1959, c. 219, § 1, p. 766; Laws 1981, LB 109, § 1; Laws 1984, LB 897, § 2; Laws 1984, LB 1106, § 36; Laws 1991, LB 772, § 4; Laws 1995, LB 350, § 1; R.S.1943, (1998), § 46-209; Laws 2000, LB 900, § 6; Laws 2004, LB 962, § 102; Laws 2008, LB727, § 1; Laws 2019, LB319, § 3.
Effective date September 1, 2019.

61-218 Water Resources Cash Fund; created; use; investment; eligibility for funding; annual report; contents; Nebraska Environmental Trust Fund; grant application; use of funds; legislative intent; department; establish subaccount.

(1) The Water Resources Cash Fund is created. The fund shall be administered by the Department of Natural Resources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer shall credit to the fund such money as is (a) transferred to the fund by the Legislature, (b) paid to the state as fees, deposits, payments, and repayments relating to the fund, both principal and interest, (c) donated as gifts, bequests, or other contributions to such fund from public or private entities, (d) made available by any department or agency of the United States if so directed by such department or agency, (e) allocated pursuant to section 81-15,175, and (f) received by the state for settlement of claims regarding Colorado's past use of water under the Republican River Compact.

(3) The fund shall be expended by the department (a) to aid management actions taken to reduce consumptive uses of water or to enhance streamflows or ground water recharge in river basins, subbasins, or reaches which are deemed by the department overappropriated pursuant to section 46-713 or fully appropriated pursuant to section 46-714 or are bound by an interstate compact or decree or a formal state contract or agreement, (b) for purposes of projects or proposals described in the grant application as set forth in subdivision (2)(h) of section 81-15,175, and (c) to the extent funds are not expended pursuant to subdivisions (a) and (b) of this subsection, the department may conduct a statewide assessment of short-term and long-term water management activities and funding needs to meet statutory requirements in sections 46-713 to 46-718 and 46-739 and any requirements of an interstate compact or decree or formal state contract or agreement. The fund shall not be used to pay for administrative expenses or any salaries for the department or any political subdivision.

(4) It is the intent of the Legislature that three million three hundred thousand dollars be transferred each fiscal year from the General Fund to the Water Resources Cash Fund for FY2011-12 through FY2022-23, except that for FY2012-13 it is the intent of the Legislature that four million seven hundred thousand dollars be transferred from the General Fund to the Water Resources Cash Fund. It is the intent of the Legislature that the State Treasurer credit any money received from any Republican River Compact settlement to the Water Resources Cash Fund in the fiscal year in which it is received.

(5)(a) Expenditures from the Water Resources Cash Fund may be made to natural resources districts eligible under subsection (3) of this section for activities to either achieve a sustainable balance of consumptive water uses or assure compliance with an interstate compact or decree or a formal state contract or agreement and shall require a match of local funding in an amount equal to or greater than forty percent of the total cost of carrying out the eligible activity. The department shall, no later than August 1 of each year, beginning in 2007, determine the amount of funding that will be made available to natural resources districts from the Water Resources Cash Fund and notify natural resources districts of this determination. The department shall adopt and promulgate rules and regulations governing application for and use of the Water Resources Cash Fund by natural resources districts. Such rules and regulations shall, at a minimum, include the following components:

(i) Require an explanation of how the planned activity will achieve a sustainable balance of consumptive water uses or will assure compliance with an interstate compact or decree or a formal state contract or agreement as required by section 46-715 and the controls, rules, and regulations designed to carry out the activity; and

(ii) A schedule of implementation of the activity or its components, including the local match as set forth in subdivision (5)(a) of this section.

(b) Any natural resources district that fails to implement and enforce its controls, rules, and regulations as required by section 46-715 shall not be eligible for funding from the Water Resources Cash Fund until it is determined by the department that compliance with the provisions required by section 46-715 has been established.

(6) The Department of Natural Resources shall submit electronically an annual report to the Legislature no later than October 1 of each year, beginning

in the year 2007, that shall detail the use of the Water Resources Cash Fund in the previous year. The report shall provide:

(a) Details regarding the use and cost of activities carried out by the department; and

(b) Details regarding the use and cost of activities carried out by each natural resources district that received funds from the Water Resources Cash Fund.

(7)(a) Prior to the application deadline for fiscal year 2011-12, the Department of Natural Resources shall apply for a grant of nine million nine hundred thousand dollars from the Nebraska Environmental Trust Fund, to be paid out in three annual installments of three million three hundred thousand dollars. The purposes listed in the grant application shall be consistent with the uses of the Water Resources Cash Fund provided in this section and shall be used to aid management actions taken to reduce consumptive uses of water, to enhance streamflows, to recharge ground water, or to support wildlife habitat in any river basin determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713.

(b) If the application is granted, funds received from such grant shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund for the purpose of supporting the projects set forth in the grant application. The department shall include in its grant application documentation that the Legislature has authorized a transfer of three million three hundred thousand dollars from the General Fund into the Water Resources Cash Fund for each of fiscal years 2011-12 and 2012-13 and has stated its intent to transfer three million three hundred thousand dollars to the Water Resources Cash Fund for fiscal year 2013-14.

(c) It is the intent of the Legislature that the department apply for an additional three-year grant that would begin in fiscal year 2014-15, an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2017-18, and an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2020-21 if the criteria established in subsection (4) of section 81-15,175 are achieved.

(8) The department shall establish a subaccount within the Water Resources Cash Fund for the accounting of all money received as a grant from the Nebraska Environmental Trust Fund as the result of an application made pursuant to subsection (7) of this section. At the end of each calendar month, the department shall calculate the amount of interest earnings accruing to the subaccount and shall notify the State Treasurer who shall then transfer a like amount from the Water Resources Cash Fund to the Nebraska Environmental Trust Fund.

Source: Laws 2007, LB701, § 25; Laws 2009, First Spec. Sess., LB3, § 39; Laws 2010, LB689, § 1; Laws 2010, LB993, § 1; Laws 2011, LB229, § 1; Laws 2012, LB782, § 87; Laws 2012, LB950, § 1; Laws 2017, LB331, § 30; Laws 2018, LB945, § 15; Laws 2019, LB298, § 15.

Effective date May 28, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

CHAPTER 64

NOTARIES PUBLIC

Article.

1. General Provisions.
 - (a) Appointment and Powers. 64-105, 64-113.
2. Recognition of Acknowledgments. 64-203, 64-205.
4. Online Notary Public Act. 64-401 to 64-418.

ARTICLE 1

GENERAL PROVISIONS

(a) APPOINTMENT AND POWERS

Section

- 64-105. Notarial acts prohibited; when.
64-113. Removal; grounds; procedure; penalty.

(a) APPOINTMENT AND POWERS

64-105 Notarial acts prohibited; when.

(1) A notary public shall not perform any notarial act as authorized by Chapter 64, articles 1, 2, and 3 if the principal:

(a) Is not in the presence of the notary public at the time of the notarial act; and

(b) Is not personally known to the notary public or identified by the notary public through satisfactory evidence.

(2) For purposes of this section:

(a) Identified by the notary public through satisfactory evidence means identification of an individual based on:

(i) At least one document issued by a government agency that is current and that bears the photographic image of the individual's face and signature and a physical description of the individual, except that a properly stamped passport without a physical description is satisfactory evidence; or

(ii) The oath or affirmation of one credible witness unaffected by the document or transaction to be notarized who is personally known to the notary public and who personally knows the individual, or the oaths or affirmations of two credible witnesses unaffected by the document or transaction to be notarized who each personally knows the individual and shows to the notary public documentary identification as described in subdivision (a)(i) of this subsection; and

(b) Personal knowledge of identity or personally known means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.

(3) This section does not apply to online notarial acts under the Online Notary Public Act.

Source: Laws 2004, LB 315, § 6; Laws 2019, LB186, § 20.
Operative date July 1, 2020.

Cross References

Online Notary Public Act, see section 64-401.

64-113 Removal; grounds; procedure; penalty.

(1) Whenever charges of malfeasance in office are preferred to the Secretary of State against any notary public in this state, or whenever the Secretary of State has reasonable cause to believe any notary public in this state is guilty of acts of malfeasance in office, the Secretary of State may appoint any disinterested person, not related by consanguinity to either the notary public or person preferring the charges, and authorized by law to take testimony of witnesses by deposition, to notify such notary public to appear before him or her on a day and at an hour certain, after at least ten days from the day of service of such notice. At such appearance, the notary public may show cause as to why his or her commission should not be canceled or temporarily revoked. The appointee may issue subpoenas to require the attendance and testimony of witnesses and the production of any pertinent records, papers, or documents, may administer oaths, and may accept any evidence he or she deems pertinent to a proper determination of the charge. The notary public may appear, at such time and place, and cross-examine witnesses and produce witnesses in his or her behalf. Upon the receipt of such examination, duly certified in the manner prescribed for taking depositions to be used in suits in the district courts of this state, the Secretary of State shall examine the same, and if therefrom he or she finds that the notary public is guilty of acts of malfeasance in office, he or she may remove the person charged from the office of notary public or temporarily revoke such person's commission. Within fifteen days after such removal or revocation and notice thereof, such notary public shall deposit, with the Secretary of State, the commission as notary public and notarial seal. The commission shall be canceled or temporarily revoked by the Secretary of State. A person so removed from office shall be forever disqualified from holding the office of notary public. A person whose commission is temporarily revoked shall be returned his or her commission and seal upon completion of the revocation period and passing the examination described in section 64-101.01. The fees for taking such testimony shall be paid by the state at the same rate as fees for taking depositions by notaries public. The failure of the notary public to deposit his or her commission and seal with the Secretary of State as required by this section shall subject him or her to a penalty of one thousand dollars, to be recovered in the name of the state.

(2) For purposes of this section, malfeasance in office means, while serving as a notary public, (a) failure to follow the requirements and procedures for notarial acts provided for in Chapter 64, (b) violating the confidentiality provisions of section 71-6911, or (c) being convicted of a felony or other crime involving fraud or dishonesty.

Source: Laws 1869, § 14, p. 25; G.S.1873, p. 497; R.S.1913, § 5529; C.S.1922, § 4825; C.S.1929, § 64-113; R.S.1943, § 64-113; Laws 1945, c. 145, § 10, p. 493; Laws 1967, c. 396, § 8, p. 1244; Laws 2004, LB 315, § 11; Laws 2011, LB690, § 2; Laws 2012, LB398, § 6; Laws 2019, LB186, § 21.
Operative date July 1, 2020.

ARTICLE 2
RECOGNITION OF ACKNOWLEDGMENTS

Section

64-203. Certificate; contents.

64-205. Acknowledgment, defined.

64-203 Certificate; contents.

(1) The person taking an acknowledgment shall certify that:

(a) The person acknowledging appeared before him or her and acknowledged he or she executed the instrument; and

(b) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

(2) For purposes of this section, appearance before the person taking an acknowledgment includes an appearance outside the presence of a notary public if such acknowledgment was completed in accordance with the Online Notary Public Act.

Source: Laws 1969, c. 523, § 3, p. 2141; Laws 2019, LB186, § 22.
Operative date July 1, 2020.

Cross References

Online Notary Public Act, see section 64-401.

64-205 Acknowledgment, defined.

(1) The words acknowledged before me means:

(a) That the person acknowledging appeared before the person taking the acknowledgment;

(b) That he or she acknowledged he or she executed the instrument;

(c) That, in the case of:

(i) A natural person, he or she executed the instrument for the purposes therein stated;

(ii) A corporation, the officer or agent acknowledged he or she held the position or title set forth in the instrument and certificate, he or she signed the instrument on behalf of the corporation by proper authority and the instrument was the act of the corporation for the purpose therein stated;

(iii) A partnership, the partner or agent acknowledged he or she signed the instrument on behalf of the partnership by proper authority and he or she executed the instrument as the act of the partnership for the purposes therein stated;

(iv) A limited liability company, the member or agent acknowledged he or she signed the instrument on behalf of the limited liability company by proper authority and he or she executed the instrument as the act of the limited liability company for the purposes therein stated;

(v) A person acknowledging as principal by an attorney in fact, he or she executed the instrument by proper authority as the act of the principal for the purposes therein stated; or

(vi) A person acknowledging as a public officer, trustee, administrator, guardian, or other representative, he or she signed the instrument by proper authority and he or she executed the instrument in the capacity and for the purposes therein stated; and

(d) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

(2) For purposes of this section, appearance before the person taking an acknowledgment includes an appearance outside the presence of a notary public if such acknowledgment was completed in accordance with the Online Notary Public Act.

Source: Laws 1969, c. 523, § 5, p. 2141; Laws 1993, LB 121, § 393; Laws 2019, LB186, § 23.
Operative date July 1, 2020.

Cross References

Online Notary Public Act, see section 64-401.

ARTICLE 4 ONLINE NOTARY PUBLIC ACT

Section

- 64-401. Act, how cited.
- 64-402. Terms, defined.
- 64-403. Eligibility to register as online notary public; qualifications.
- 64-404. Course of instruction; examination.
- 64-405. Fee.
- 64-406. Registration with Secretary of State; contents; renewal.
- 64-407. Rules and regulations.
- 64-408. Types of online notarial acts.
- 64-409. Electronic record; contents; online notary public; duties; retention period.
- 64-410. Electronic signature and online notary seal; use; registered device; report of theft or vandalism.
- 64-411. Physical location of principal; verification of identity; manner; security of communication technology; online notarial certificate; notation required.
- 64-412. Fee.
- 64-413. Expiration of registration; resignation, cancellation, or revocation; death of online notary public; required actions.
- 64-414. Prohibited acts; penalty.
- 64-415. Electronic certificate of authority; form; fee.
- 64-416. Violation of act; removal of registration.
- 64-417. Effect of act on notary public that does not perform online notarial acts.
- 64-418. Provisions governing online notary public; online notarial act; not available for certain requirements.

64-401 Act, how cited.

Sections 64-401 to 64-418 shall be known as the Online Notary Public Act.

Source: Laws 2019, LB186, § 1.
Operative date July 1, 2020.

64-402 Terms, defined.

For purposes of the Online Notary Public Act:

(1) Communication technology means an electronic device or process that allows an online notary public and an individual who is not in the physical

presence of the online notary public to communicate with each other simultaneously by sight and sound;

(2) Credential analysis means a process or service operating according to criteria approved by the Secretary of State through which a third person affirms the validity of a government-issued identification credential through review of public and proprietary data sources;

(3) Electronic means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(4) Electronic document means information that is created, generated, sent, communicated, received, or stored by electronic means;

(5) Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document;

(6) Identity proofing means a process or service operating according to criteria approved by the Secretary of State through which a third person affirms the identity of an individual through review of personal information from public or proprietary data sources;

(7) Online notarial act means the performance by an online notary public of a function authorized under section 64-408 that is performed by means of communication technology that meets the standards developed under section 64-407;

(8) Online notarial certificate means the portion of a notarized electronic document that is completed by an online notary public and that contains the following:

(a) The online notary public's electronic signature, online notary seal, title, and commission expiration date;

(b) Other required information concerning the date and place of the online notarial act; and

(c) The completed wording of one of the following notarial certificates: (i) Acknowledgment, (ii) jurat, (iii) verification of proof, or (iv) oath or affirmation;

(9) Online notary public means a notary public registered with the Secretary of State who has the authority to perform online notarial acts under the Online Notary Public Act;

(10) Online notary seal means information within a notarized electronic document that confirms the online notary public's name, jurisdiction, identifying number, and commission expiration date and generally corresponds to the data in notary seals used on paper documents;

(11) Online notary solution provider means a provider of any credential analysis, identity proofing, online notary seals, electronic signatures, or communication technology;

(12) Personal knowledge or personally known means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed;

(13) Principal means an individual:

(a) Whose electronic signature is notarized in an online notarial act; or

(b) Taking an oath or affirmation from the online notary public other than in the capacity of a witness for the online notarial act; and

(14) Remote presentation means transmission to the online notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the online notary public to:

- (a) Identify the individual seeking the online notary public's services; and
- (b) Perform credential analysis.

Source: Laws 2019, LB186, § 2.
Operative date July 1, 2020.

64-403 Eligibility to register as online notary public; qualifications.

(1) To be eligible to register as an online notary public, a person shall:

- (a) Hold a valid commission as a notary public in the State of Nebraska;
- (b) Satisfy the education requirement of section 64-404; and
- (c) Pay the fee required under section 64-405.

(2) The Secretary of State shall not accept the registration if the requirements of subsection (1) of this section are not met.

Source: Laws 2019, LB186, § 3.
Operative date July 1, 2020.

64-404 Course of instruction; examination.

(1) Before registering as an online notary public, a notary public shall take a course of instruction and pass an examination approved by the Secretary of State. The course of instruction and examination shall be approved by the Secretary of State by July 31, 2020.

(2) The content of the course and the basis for the examination shall include notarial laws, procedures, technology, and the ethics of performing online notarial acts.

Source: Laws 2019, LB186, § 4.
Operative date July 1, 2020.

64-405 Fee.

The fee for registering or renewing a registration as an online notary public shall be in addition to the fee required in section 33-102. The Secretary of State shall establish the fee by rule and regulation in an amount sufficient to cover the costs of administering the Online Notary Public Act, but the fee shall not exceed fifty dollars. The Secretary of State shall remit fees received under this section to the State Treasurer for credit to the Administration Cash Fund for use in administering the Online Notary Public Act.

Source: Laws 2019, LB186, § 5.
Operative date July 1, 2020.

64-406 Registration with Secretary of State; contents; renewal.

(1) Before performing an online notarial act, a notary public shall register with the Secretary of State in a manner prescribed by the Secretary of State.

(2) In addition to any additional information prescribed by the Secretary of State, the registration shall include:

(a) The technology the notary public intends to use to perform an online notarial act. Such technology shall be provided by an online notary solution provider approved by the Secretary of State;

(b) A certification by the notary that he or she will comply with the standards developed under section 64-407; and

(c) An email address for the notary.

(3) The term of registration as an online notary public shall coincide with the term of the commission of the notary public.

(4) An application to renew registration as an online notary public shall specify any change in the technology the online notary public intends to use to perform online notarial acts. Such technology shall be provided by an online notary solution provider approved by the Secretary of State.

(5) A person registered as an online notary public may renew his or her online notary public registration at the same time he or she renews his or her notary public commission.

Source: Laws 2019, LB186, § 6.
Operative date July 1, 2020.

64-407 Rules and regulations.

(1) The Secretary of State shall adopt and promulgate rules and regulations:

(a) Creating standards for online notarial acts in accordance with the Online Notary Public Act, including standards for credential analysis, identity proofing, and communication technology used for online notarial acts; and

(b) To ensure the integrity, security, and authenticity of online notarial acts in accordance with the Online Notary Public Act. Such rules and regulations shall include procedures for the approval of online notary solution providers by the Secretary of State.

(2) The Secretary of State may adopt and promulgate rules and regulations to facilitate the utilization of online notarial acts.

Source: Laws 2019, LB186, § 7.
Operative date July 1, 2020.

64-408 Types of online notarial acts.

The following types of online notarial acts may be performed by an online notary public:

(1) Acknowledgments;

(2) Jurats;

(3) Verifications or proofs; and

(4) Oaths or affirmations.

Source: Laws 2019, LB186, § 8.
Operative date July 1, 2020.

64-409 Electronic record; contents; online notary public; duties; retention period.

(1) An online notary public shall keep a secure electronic record of electronic documents notarized by the online notary public. For each online notarial act, the electronic record shall contain:

- (a) The date and time of the online notarial act;
- (b) The type of online notarial act;
- (c) The type, title, or description of the electronic document or proceeding;
- (d) The printed name and address of each principal involved in the transaction or proceeding;
- (e) Evidence of identity of each principal involved in the transaction or proceeding in the form of:
 - (i) A statement that the principal is personally known to the online notary public;
 - (ii) A notation of the type of identification document provided to the online notary public;
 - (iii) A record of the identity verification made under section 64-411; or
 - (iv) The following:
 - (A) The printed name and address of each credible witness swearing to or affirming the principal's identity; and
 - (B) For each credible witness not personally known to the online notary public, a description of the type of identification documents provided to the online notary public;
- (f) A recording of any video and audio conference of the performance of the online notarial act, which shall not contain images of the documents that were notarized; and
- (g) The fee, if any, charged for the online notarial act.

(2) The online notary public shall take reasonable steps to:

- (a) Ensure the integrity, security, and authenticity of online notarial acts;
- (b) Maintain a backup for the secure electronic record required by this section; and
- (c) Protect the secure electronic record and backup record from unauthorized use.

(3) The electronic record and backup record required by this section shall be maintained for at least ten years after the date of the transaction or proceeding. The online notary public shall not surrender or destroy the record except as required by a court order or as allowed under rules and regulations adopted and promulgated by the Secretary of State.

Source: Laws 2019, LB186, § 9.
Operative date July 1, 2020.

64-410 Electronic signature and online notary seal; use; registered device; report of theft or vandalism.

(1) An online notary public's electronic signature in combination with the online notary seal shall be used only for the purpose of performing online notarial acts.

(2) An online notary public shall take reasonable steps to ensure that any registered device used to create an electronic signature is current and has not been revoked or terminated by the device's issuing or registering authority.

(3) An online notary public shall keep secure and under his or her exclusive control: The online notary public's electronic signature, online notary seal, and the electronic record and backup record required under section 64-409. The online notary public shall not allow another person to use the online notary public's electronic signature, online notary seal, or electronic record or backup record.

(4) An online notary public shall immediately notify an appropriate law enforcement agency and the Secretary of State of the theft or vandalism of the online notary public's electronic signature, online notary seal, or the electronic record or backup record required under section 64-409. An online notary public shall immediately notify the Secretary of State of the loss or use by another person of the online notary public's electronic signature, online notary seal, or the electronic record or backup record required under section 64-409.

Source: Laws 2019, LB186, § 10.

Operative date July 1, 2020.

64-411 Physical location of principal; verification of identity; manner; security of communication technology; online notarial certificate; notation required.

(1) An online notary public may perform an online notarial act authorized under section 64-408 that meets the requirements of the Online Notary Public Act and the rules and regulations adopted and promulgated thereunder regardless of whether the principal is physically located in this state at the time of the online notarial act.

(2) In performing an online notarial act, an online notary public shall verify the identity of an individual creating an electronic signature. Identity shall be verified by:

(a) The online notary public's personal knowledge of the individual creating the electronic signature;

(b) All of the following:

(i) Remote presentation by the individual creating the electronic signature of a government-issued identification credential that is current and that bears the photographic image of the individual's face and signature and a physical description of the individual, except that a properly stamped passport without a physical description is satisfactory evidence;

(ii) Credential analysis of such credential; and

(iii) Identity proofing of the individual creating the electronic signature; or

(c) Oath or affirmation of a credible witness who is in the physical presence of either the online notary public or the individual and who has personal knowledge of the individual if:

(i) The credible witness is personally known to the online notary public; or

(ii) The online notary public has verified the identity of the credible witness under subdivision (2)(b) of this section.

(3) The online notary public shall take reasonable steps to ensure that the communication technology used in an online notarial act is secure from unauthorized interception.

(4) An online notary public shall attach the online notary public's electronic signature and online notary seal to the online notarial certificate of an electronic document in a manner that is capable of independent verification and that renders evident any subsequent change or modification to the electronic document.

(5) The online notarial certificate for an online notarial act must include a notation that the notarial act is an online notarial act.

Source: Laws 2019, LB186, § 11.
Operative date July 1, 2020.

64-412 Fee.

In addition to any fee authorized under section 33-133, an online notary public or his or her employer may charge a fee in an amount not to exceed twenty-five dollars for each online notarial act.

Source: Laws 2019, LB186, § 12.
Operative date July 1, 2020.

64-413 Expiration of registration; resignation, cancellation, or revocation; death of online notary public; required actions.

(1) Except as provided in subsection (2) of this section, when the registration of an online notary public expires or is resigned, canceled, or revoked or when an online notary public dies, he or she or his or her duly authorized representative shall erase, delete, or destroy the coding, disk, certificate, card, software, file, password, or program that enables the electronic affixation of the online notary public's official electronic signature and online notary seal. The online notary public or his or her duly authorized representative shall certify compliance with this subsection to the Secretary of State.

(2) A former online notary public whose previous registration was not revoked, canceled, or denied by the Secretary of State need not comply with subsection (1) of this section if he or she is reregistered as an online notary public using the same electronic signature within three months after the former registration expired.

Source: Laws 2019, LB186, § 13.
Operative date July 1, 2020.

64-414 Prohibited acts; penalty.

A person who, without authorization, knowingly obtains, conceals, damages, or destroys the coding, disk, certificate, card, software, file, password, program, or hardware enabling an online notary public to affix an official electronic signature or online notary seal shall be guilty of a Class I misdemeanor.

Source: Laws 2019, LB186, § 14.
Operative date July 1, 2020.

64-415 Electronic certificate of authority; form; fee.

(1) Electronic evidence of the authenticity of the electronic signature and online notary seal of an online notary public of this state, if required, shall be attached to, or logically associated with, a document with an online notary public's electronic signature transmitted to another state or nation and shall be in the form of an electronic certificate of authority signed by the Secretary of State in conformance with any current and pertinent international treaties, agreements, and conventions subscribed to by the United States Government.

(2) An electronic certificate of authority evidencing the authenticity of the electronic signature and online notary seal of an online notary public of this state shall contain substantially the following words:

Certificate of Authority for an Online Notarial Act

I (name, title, jurisdiction of commissioning official) certify that (name of online notary public), the person named as an online notary public in the attached or associated document, was indeed registered as an online notary public for the State of Nebraska and authorized to act as such at the time of the document's electronic notarization. To verify this Certificate of Authority for an Online Notarial Act, I have included herewith my electronic signature this day of, 20.....

(Electronic signature (and seal) of commissioning official)

(3) The Secretary of State may charge a fee of twenty dollars for issuing an electronic certificate of authority. The Secretary of State shall remit the fees to the State Treasurer for credit to the Administration Cash Fund for use in administering the Online Notary Public Act.

Source: Laws 2019, LB186, § 15.
Operative date July 1, 2020.

64-416 Violation of act; removal of registration.

A person violating the Online Notary Public Act is subject to having his or her registration removed under the removal procedures provided in section 64-113.

Source: Laws 2019, LB186, § 16.
Operative date July 1, 2020.

64-417 Effect of act on notary public that does not perform online notarial acts.

Nothing in the Online Notary Public Act requires a notary public to register as an online notary public if he or she does not perform online notarial acts.

Source: Laws 2019, LB186, § 17.
Operative date July 1, 2020.

64-418 Provisions governing online notary public; online notarial act; not available for certain requirements.

(1) Sections 64-101 to 64-119 and 64-211 to 64-215 and the Uniform Recognition of Acknowledgments Act govern an online notary public unless the provisions of such sections and act are in conflict with the Online Notary Public Act, in which case the Online Notary Public Act controls.

(2) An online notarial act performed under the Online Notary Public Act satisfies any requirement of law of this state that a principal appear before,

appear personally before, or be in the physical presence of a notary public at the time of the online notarial act except for requirements under:

(a) A law governing the creation and execution of wills, codicils, or testamentary trusts; or

(b) The Uniform Commercial Code other than article 2 and article 2A.

(3) The Electronic Notary Public Act does not apply to online notarial acts or online public notaries acting under the Online Notary Public Act.

Source: Laws 2019, LB186, § 18.

Operative date July 1, 2020.

Cross References

Electronic Notary Public Act, see section 64-301.

Uniform Recognition of Acknowledgments Act, see section 64-209.

CHAPTER 66

OILS, FUELS, AND ENERGY

Article.

2. Nebraska Clean-burning Motor Fuel Development Act. 66-203, 66-204.
3. Carbon Dioxide Emissions. 66-301 to 66-304.
4. Motor Vehicle Fuel Tax. 66-482 to 66-4,143.
6. Diesel, Alternative, and Compressed Fuel Taxes.
(d) Compressed Fuel Tax. 66-6,101.
7. Motor Fuel Tax Enforcement and Collection. 66-712 to 66-739.
10. Energy Conservation.
(a) Utility Loans. 66-1004, 66-1009.
11. Geothermal Resources. 66-1105.
13. Ethanol. 66-1334, 66-1344.
15. Petroleum Release Remedial Action. 66-1504 to 66-1529.02.
20. Natural Gas Fuel Board. 66-2001.
22. Renewable Fuel Infrastructure Program. 66-2201 to 66-2207.

ARTICLE 2

NEBRASKA CLEAN-BURNING MOTOR FUEL DEVELOPMENT ACT

Section

- 66-203. Rebate for qualified clean-burning motor vehicle fuel property.
66-204. Clean-burning Motor Fuel Development Fund; created; use; investment.

66-203 Rebate for qualified clean-burning motor vehicle fuel property.

(1) The Department of Environment and Energy shall offer a rebate for qualified clean-burning motor vehicle fuel property.

(2)(a) The rebate for qualified clean-burning motor vehicle fuel property as defined in subdivisions (4)(a) and (b) of section 66-202 is the lesser of fifty percent of the cost of the qualified clean-burning motor vehicle fuel property or four thousand five hundred dollars for each motor vehicle.

(b) A qualified clean-burning motor vehicle fuel property is not eligible for a rebate under this section if the person or entity applying for the rebate has claimed another rebate or grant for the same motor vehicle under any other state rebate or grant program.

(3) The rebate for qualified clean-burning motor vehicle fuel property as defined in subdivision (4)(c) of section 66-202 is the lesser of fifty percent of the cost of the qualified clean-burning motor vehicle fuel property or two thousand five hundred dollars for each qualified clean-burning motor vehicle fuel property.

(4) No qualified clean-burning motor vehicle fuel property shall qualify for more than one rebate under this section.

Source: Laws 2015, LB581, § 3; Laws 2016, LB902, § 2; Laws 2019, LB302, § 69.

Operative date July 1, 2019.

66-204 Clean-burning Motor Fuel Development Fund; created; use; investment.

(1) The Clean-burning Motor Fuel Development Fund is created. The fund shall consist of grants, private contributions, and all other sources.

(2) The fund shall be used by the Department of Environment and Energy to provide rebates under the Nebraska Clean-burning Motor Fuel Development Act up to the amount transferred under subsection (3) of this section. No more than thirty-five percent of the money in the fund annually shall be used as rebates for flex-fuel dispensers. The department may use the fund for necessary costs in the administration of the act up to an amount not exceeding ten percent of the fund annually.

(3) Within five days after August 30, 2015, the State Treasurer shall transfer five hundred thousand dollars from the General Fund to the Clean-burning Motor Fuel Development Fund to carry out the Nebraska Clean-burning Motor Fuel Development Act.

(4) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The State Treasurer shall transfer two hundred thousand dollars from the Clean-burning Motor Fuel Development Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2015, LB581, § 4; Laws 2016, LB902, § 3; Laws 2016, LB957, § 4; Laws 2017, LB331, § 31; Laws 2019, LB302, § 70. Operative date July 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 3 CARBON DIOXIDE EMISSIONS

Section

66-301. Terms, defined.

66-302. Department of Environment and Energy; state plan for regulating carbon dioxide emissions; duties.

66-303. Department of Environment and Energy; duties; report; contents; legislative vote.

66-304. State plan; submit to Legislature.

66-301 Terms, defined.

For purposes of sections 66-301 to 66-304:

(1) Covered electric generating unit means a fossil fuel-fired electric generating unit existing within the state prior to August 30, 2015, that is subject to regulation under the federal emission guidelines;

(2) Federal emission guidelines means any final rules, regulations, guidelines, or other requirements that the United States Environmental Protection Agency may adopt for regulating carbon dioxide emissions from covered electric generating units under section 111(d) of the federal Clean Air Act, 42 U.S.C. 7411(d);

(3) State means the State of Nebraska; and

(4) State plan means any plan to establish and enforce carbon dioxide emission control measures that the Department of Environment and Energy may adopt to implement the obligations of the state under the federal emission guidelines.

Source: Laws 2015, LB469, § 1; Laws 2019, LB302, § 71.
Operative date July 1, 2019.

66-302 Department of Environment and Energy; state plan for regulating carbon dioxide emissions; duties.

The Department of Environment and Energy shall not submit a state plan for regulating carbon dioxide emissions from covered electric generating units to the United States Environmental Protection Agency until the department has prepared a report as required in section 66-303. Nothing in this section shall prevent the department from complying with federally prescribed deadlines.

Source: Laws 2015, LB469, § 2; Laws 2019, LB302, § 72.
Operative date July 1, 2019.

66-303 Department of Environment and Energy; duties; report; contents; legislative vote.

(1) The Department of Environment and Energy shall also prepare a report that assesses the effects of the state plan for regulating carbon dioxide emissions from covered electric generating units on:

(a) The electric power sector, including:

(i) The type and amount of electric generating capacity within the state that is likely to retire or switch to another fuel;

(ii) The stranded investment in electric generating capacity and other infrastructure;

(iii) The amount of investment necessary to offset retirements of electric generating capacity and maintain generation reserve margins;

(iv) Potential risks to electric reliability, including resource adequacy risks and transmission constraints; and

(v) The amount by which retail electricity prices within the state are forecast to increase or decrease; and

(b) Employment within the state, including direct and indirect employment effects within affected sectors of the state's economy.

(2) The department shall complete the report required under this section at least thirty days prior to submitting the state plan prepared pursuant to section 66-302 and shall electronically submit to the Legislature a copy of such report.

(3) If the Legislature is in session when it receives the report, the Legislature may vote on a nonbinding legislative resolution endorsing or disapproving the state plan based on the findings of the report.

Source: Laws 2015, LB469, § 3; Laws 2019, LB302, § 73.
Operative date July 1, 2019.

66-304 State plan; submit to Legislature.

Upon submitting a state plan to the United States Environmental Protection Agency, the Department of Environment and Energy shall electronically submit to the Legislature a copy of the state plan.

Source: Laws 2015, LB469, § 4; Laws 2019, LB302, § 74.

Operative date July 1, 2019.

ARTICLE 4

MOTOR VEHICLE FUEL TAX

Section

66-482. Terms, defined.

66-489.02. Producer, supplier, distributor, wholesaler, or importer; tax on average wholesale price of gasoline; credit to Highway Trust Fund; use; allocation.

66-4,143. Materiel administrator; submit report; contents.

66-482 Terms, defined.

For purposes of sections 66-482 to 66-4,149:

(1) Motor vehicle shall have the same definition as in section 60-339;

(2) Motor vehicle fuel shall include all products and fuel commonly or commercially known as gasoline, including casing head or natural gasoline, and shall include any other liquid and such other volatile and inflammable liquids as may be produced, compounded, or used for the purpose of operating or propelling motor vehicles, motorboats, or aircraft or as an ingredient in the manufacture of such fuel. Agricultural ethyl alcohol produced for use as a motor vehicle fuel shall be considered a motor vehicle fuel. Motor vehicle fuel shall not include the products commonly known as methanol, kerosene oil, kerosene distillate, crude petroleum, naphtha, and benzine with a boiling point over two hundred degrees Fahrenheit, residuum gas oil, smudge oil, leaded automotive racing fuel with an American Society of Testing Materials research method octane number in excess of one hundred five, and any petroleum product with an initial boiling point under two hundred degrees Fahrenheit, a ninety-five percent distillation (recovery) temperature in excess of four hundred sixty-four degrees Fahrenheit, an American Society of Testing Materials research method octane number less than seventy, and an end or dry point of distillation of five hundred seventy degrees Fahrenheit maximum;

(3) Agricultural ethyl alcohol shall mean ethyl alcohol produced from cereal grains or agricultural commodities grown within the continental United States and which is a finished product that is a nominally anhydrous ethyl alcohol meeting American Society for Testing and Materials D4806 standards. For the purpose of sections 66-482 to 66-4,149, the purity of the ethyl alcohol shall be determined excluding denaturant and the volume of alcohol blended with gasoline for motor vehicle fuel shall include the volume of any denaturant required pursuant to law;

(4) Alcohol blend shall mean a blend of agricultural ethyl alcohol in gasoline or other motor vehicle fuel, such blend to contain not less than five percent by volume of alcohol;

(5) Supplier shall mean any person who owns motor fuels imported by barge, barge line, or pipeline and stored at a barge, barge line, or pipeline terminal in this state;

(6) Distributor shall mean any person who acquires ownership of motor fuels directly from a producer or supplier at or from a barge, barge line, pipeline terminal, or ethanol or biodiesel facility in this state;

(7) Wholesaler shall mean any person, other than a producer, supplier, distributor, or importer, who acquires motor fuels for resale;

(8) Retailer shall mean any person who acquires motor fuels from a producer, supplier, distributor, wholesaler, or importer for resale to consumers of such fuel;

(9) Importer shall mean any person who owns motor fuels at the time such fuels enter the State of Nebraska by any means other than barge, barge line, or pipeline. Importer shall not include a person who imports motor fuels in a tank directly connected to the engine of a motor vehicle, train, watercraft, or airplane for purposes of providing fuel to the engine to which the tank is connected;

(10) Exporter shall mean any person who acquires ownership of motor fuels from any licensed producer, supplier, distributor, wholesaler, or importer exclusively for use or resale in another state;

(11) Gross gallons shall mean measured gallons without adjustment or correction for temperature or barometric pressure;

(12) Diesel fuel shall mean all combustible liquids and biodiesel which are suitable for the generation of power for diesel-powered vehicles, except that diesel fuel shall not include kerosene;

(13) Compressed fuel shall mean any fuel defined as compressed fuel in section 66-6,100;

(14) Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine or imprisonment is prescribed or imposed in sections 66-482 to 66-4,149, the word person as applied to a partnership, a limited liability company, or an association shall mean the partners or members thereof;

(15) Department shall mean the Department of Revenue;

(16) Semiannual period shall mean either the period which begins on January 1 and ends on June 30 of each year or the period which begins on July 1 and ends on December 31 of each year;

(17) Producer shall mean any person who manufactures agricultural ethyl alcohol or biodiesel at an ethanol or biodiesel facility in this state;

(18) Highway shall mean every way or place generally open to the use of the public for the purpose of vehicular travel, even though such way or place may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(19) Kerosene shall mean kerosene meeting the specifications as found in the American Society for Testing and Materials publication D3699 entitled Standard Specifications for Kerosene;

(20) Biodiesel shall mean mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats which conform to American Society for Testing and Materials D6751 specifications for use in diesel engines. Biodiesel refers to the pure fuel before blending with diesel fuel;

(21) Motor fuels shall mean motor vehicle fuel, diesel fuel, aircraft fuel, or compressed fuel;

(22) Ethanol facility shall mean a plant which produces agricultural ethyl alcohol; and

(23) Biodiesel facility shall mean a plant which produces biodiesel.

Source: Laws 1925, c. 172, § 1, p. 448; Laws 1929, c. 150, § 1, p. 525; C.S.1929, § 66-401; Laws 1935, c. 3, § 15, p. 63; Laws 1935, Spec. Sess., c. 13, § 1, p. 86; Laws 1939, c. 86, § 1, p. 366; C.S.Supp.,1941, § 66-401; R.S.1943, § 66-401; Laws 1955, c. 246, § 1, p. 777; Laws 1963, c. 377, § 1, p. 1214; Laws 1963, c. 375, § 2, p. 1206; Laws 1981, LB 360, § 1; Laws 1987, LB 523, § 5; Laws 1988, LB 1039, § 1; R.S.1943, (1990), § 66-401; Laws 1991, LB 627, § 9; Laws 1993, LB 121, § 395; Laws 1994, LB 1160, § 55; Laws 1995, LB 182, § 28; Laws 1996, LB 1121, § 1; Laws 1998, LB 1161, § 14; Laws 2004, LB 479, § 1; Laws 2004, LB 983, § 5; Laws 2005, LB 274, § 267; Laws 2008, LB846, § 2; Laws 2014, LB851, § 6; Laws 2019, LB512, § 3.

Operative date May 31, 2019.

Cross References

For additional definitions, see section 66-712.

66-489.02 Producer, supplier, distributor, wholesaler, or importer; tax on average wholesale price of gasoline; credit to Highway Trust Fund; use; allocation.

(1) For tax periods beginning on and after July 1, 2009, at the time of filing the return required by section 66-488, the producer, supplier, distributor, wholesaler, or importer shall, in addition to the other taxes provided for by law, pay a tax at the rate of five percent of the average wholesale price of gasoline for the gallons of the motor fuels as shown by the return, except that there shall be no tax on the motor fuels reported if they are otherwise exempted by sections 66-482 to 66-4,149.

(2) The department shall calculate the average wholesale price of gasoline on April 1, 2009, and on each April 1 and October 1 thereafter. The average wholesale price on April 1 shall apply to returns for the tax periods beginning on and after July 1, and the average wholesale price on October 1 shall apply to returns for the tax periods beginning on and after January 1. The average wholesale price shall be determined using data available from the Department of Environment and Energy and shall be an average wholesale price per gallon of gasoline sold in the state over the previous six-month period, excluding any state or federal excise tax or environmental fees. The change in the average wholesale price between two six-month periods shall be adjusted so that the increase or decrease in the tax provided for in this section or section 66-6,109.02 does not exceed one cent per gallon.

(3) All sums of money received under this section shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to producers, suppliers, distributors, wholesalers, or importers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated as follows:

(a) Sixty-six percent to the Highway Cash Fund for the Department of Transportation;

(b) Seventeen percent to the Highway Allocation Fund for allocation to the various counties for road purposes; and

(c) Seventeen percent to the Highway Allocation Fund for allocation to the various municipalities for street purposes.

Source: Laws 2008, LB846, § 11; Laws 2012, LB727, § 18; Laws 2017, LB339, § 237; Laws 2019, LB302, § 75.
Operative date July 1, 2019.

66-4,143 Materiel administrator; submit report; contents.

(1) The materiel administrator of the Department of Administrative Services shall on or before the tenth day of the fifth calendar month following the end of a semiannual period submit to the Department of Revenue a report providing the total cost and number of gallons of motor fuels purchased by the State of Nebraska during the preceding month. In providing such information, the materiel administrator shall total only those purchases which were fifty or more gallons and shall separately identify the amount of any state or federal tax which was included in the price paid.

(2) The Department of Revenue shall provide any assistance the materiel administrator may need in performing his or her duties under this section.

Source: Laws 1980, LB 722, § 10; Laws 1981, LB 172, § 4; R.S.1943, (1990), § 66-475; Laws 1991, LB 627, § 57; Laws 1994, LB 1160, § 76; Laws 1995, LB 182, § 35; Laws 1998, LB 1161, § 17; Laws 2004, LB 983, § 26; Laws 2019, LB512, § 4.
Operative date May 31, 2019.

ARTICLE 6

DIESEL, ALTERNATIVE, AND COMPRESSED FUEL TAXES

(d) COMPRESSED FUEL TAX

Section
66-6,101. Department, defined.

(d) COMPRESSED FUEL TAX

66-6,101 Department, defined.

Department means the Department of Revenue.

Source: Laws 1995, LB 182, § 5; Laws 2019, LB512, § 5.
Operative date May 31, 2019.

ARTICLE 7

MOTOR FUEL TAX ENFORCEMENT AND COLLECTION

Section
66-712. Terms, defined.
66-718. Report, return, or other statement; department; powers; electronic filing.
66-738. Repealed. Laws 2019, LB512, § 34.
66-739. Motor Fuel Tax Enforcement and Collection Cash Fund; created; use; investment.

66-712 Terms, defined.

For purposes of the Compressed Fuel Tax Act and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-736:

(1) Department means the Department of Revenue;

(2) Motor fuel means any fuel defined as motor vehicle fuel in section 66-482, any fuel defined as diesel fuel in section 66-482, and any fuel defined as compressed fuel in section 66-6,100;

(3) Motor fuel laws means the Compressed Fuel Tax Act and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-736; and

(4) Person means any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine, imprisonment, or both are prescribed or imposed in sections 66-712 to 66-736, the word person as applied to a partnership, a limited liability company, or an association means the partners or members thereof.

Source: Laws 1991, LB 627, § 107; Laws 1993, LB 121, § 398; Laws 1994, LB 1160, § 95; Laws 1995, LB 182, § 52; Laws 1996, LB 1218, § 19; Laws 2004, LB 983, § 45; Laws 2011, LB289, § 35; Laws 2012, LB727, § 22; Laws 2018, LB177, § 3; Laws 2019, LB512, § 6.

Operative date May 31, 2019.

Cross References

Compressed Fuel Tax Act, see section 66-697.

66-718 Report, return, or other statement; department; powers; electronic filing.

(1) The department may require such other information as it deems necessary on any report, return, or other statement under the motor fuel laws.

(2) The Tax Commissioner may require any of the reports, returns, or other filings due from any motor fuels licensees to be filed electronically.

(3) The department shall prescribe the formats or procedures for electronic filing. To the extent not inconsistent with requirements of the motor fuel laws, the department shall adopt formats and procedures that are consistent with other states requiring electronic reporting of motor fuel information.

(4) Any person who does not file electronically when required or who fails to use the prescribed formats and procedures shall be considered to have not filed the return, report, or other filing.

(5) For purposes of the electronic funds transfer requirements contained in section 77-1784, motor vehicle fuel tax, diesel fuel tax, compressed fuel tax, and all other fuel-related tax programs administered by the department shall be considered as comprising one tax program.

Source: Laws 1991, LB 627, § 112; Laws 1997, LB 720, § 19; Laws 1998, LB 1161, § 24; Laws 2000, LB 1067, § 26; Laws 2004, LB 983, § 48; Laws 2019, LB512, § 7.

Operative date May 31, 2019.

66-738 Repealed. Laws 2019, LB512, § 34.

Operative date May 31, 2019.

66-739 Motor Fuel Tax Enforcement and Collection Cash Fund; created; use; investment.

There is hereby created the Motor Fuel Tax Enforcement and Collection Cash Fund. Such fund shall consist of appropriations to the fund and money transferred to it pursuant to section 39-2215. The fund shall be used exclusively for the costs of the Department of Revenue in carrying out its duties under the Compressed Fuel Tax Act, the Petroleum Release Remedial Action Act, the State Aeronautics Act, and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-736 and other related costs for the Department of Agriculture and the Nebraska State Patrol, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Motor Fuel Tax Enforcement and Collection Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1991, LB 627, § 142; Laws 1994, LB 1066, § 53; Laws 1994, LB 1160, § 110; Laws 2009, First Spec. Sess., LB3, § 40; Laws 2019, LB512, § 8.
Operative date May 31, 2019.

Cross References

Compressed Fuel Tax Act, see section 66-697.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

Petroleum Release Remedial Action Act, see section 66-1501.

State Aeronautics Act, see section 3-154.

ARTICLE 10**ENERGY CONSERVATION****(a) UTILITY LOANS**

Section

66-1004. Energy conservation measure, defined.

66-1009. Loan; repayment plan; default; use; lien; limitation; Director of Environment and Energy; duties.

(a) UTILITY LOANS**66-1004 Energy conservation measure, defined.**

Energy conservation measure shall mean installing or using any:

- (1) Caulking or weatherstripping of doors or windows;
- (2) Furnace efficiency modifications involving electric service;
- (3) Clock thermostats;
- (4) Water heater insulation or modification;
- (5) Ceiling, attic, wall, or floor insulation;
- (6) Storm windows or doors, multiglazed windows or doors, or heat absorbing or reflective glazed window and door material;
- (7) Devices which control demand of appliances and aid load management;

(8) Devices to utilize solar energy, biomass, or wind power for any energy conservation purpose, including heating of water and space heating or cooling, which have been identified by the Department of Environment and Energy as an energy conservation measure for the purposes of sections 66-1001 to 66-1011;

(9) High-efficiency lighting and motors;

(10) Devices which are designed to increase energy efficiency, the utilization of renewable resources, or both; and

(11) Such other conservation measures as the department shall identify.

Source: Laws 1980, LB 954, § 17; Laws 1982, LB 799, § 2; Laws 1994, LB 941, § 1; Laws 2019, LB302, § 76.

Operative date July 1, 2019.

66-1009 Loan; repayment plan; default; use; lien; limitation; Director of Environment and Energy; duties.

(1) A customer borrowing from a utility under a plan adopted pursuant to sections 66-1001 to 66-1011 shall be allowed to contract with the utility for a repayment plan and shall be offered a repayment period of not less than three years and not more than twenty years.

(2) Upon default on a loan by a customer, after expending reasonable efforts to collect, a utility may treat the entire unpaid contract amount as due, but services to a residential, agricultural, or commercial customer may not be terminated as a result of such default. Default occurs when any amount due a utility under a plan adopted pursuant to sections 66-1001 to 66-1011, 70-625, 70-704, 81-161, 81-1606 to 81-1626, and 84-162 to 84-167 is not paid within sixty days of the due date.

(3) Any customer obtaining a loan pursuant to section 66-1007 shall only use the funds to accomplish the purposes agreed upon at the time of the loan. If the borrower of any funds obtained pursuant to sections 66-1001 to 66-1011 uses such funds in a manner or for a purpose not authorized by this section, the total amount of the loan shall immediately become due and payable.

(4) Any amount due a utility on a loan pursuant to sections 66-1001 to 66-1011 which is not paid in full within sixty days of the due date shall become a lien as provided in this section on the real property concerned as to the full unpaid balance. No lien under this section shall be valid unless (a) the loan was signed by the party or parties shown on the indexes of the register of deeds to be the owners of record of such real property on the date of the loan and (b) the lien is filed not more than four months after the date of default, in the same office and in the same manner as mortgages in the county in which the real property is located. Such lien shall take effect and be in force from and after the time of delivering the same to the register of deeds for recording, and not before, as to all creditors and subsequent purchasers in good faith without notice, and such lien shall be adjudged void as to all such creditors and subsequent purchasers without notice whose deeds, mortgages, or other instruments shall be first recorded, except that such lien shall be valid between the parties. A publicly owned utility shall not maintain possession of any property which it may acquire pursuant to a lien authorized by this section for a period of time longer than is reasonably necessary to dispose of such property.

(5) Any loan made under a plan adopted pursuant to sections 66-1001 to 66-1011 shall not exceed fifteen thousand dollars, subject to any existing limitations under federal law. Any loan to be made by a utility which exceeds ten thousand dollars shall only be made in participation with a bank pursuant to a contract. The utility and the participating bank shall determine the terms and conditions of the contract.

(6) The Director of Environment and Energy may adopt and promulgate rules and regulations to carry out sections 66-1001 to 66-1011.

Source: Laws 1980, LB 954, § 22; Laws 1982, LB 799, § 4; Laws 1983, LB 626, § 77; Laws 1993, LB 479, § 1; Laws 1994, LB 941, § 3; Laws 2019, LB302, § 77.
Operative date July 1, 2019.

**ARTICLE 11
GEOHERMAL RESOURCES**

Section
66-1105. Geothermal resource development; conditions; permit; Department of Natural Resources; adopt rules and regulations.

66-1105 Geothermal resource development; conditions; permit; Department of Natural Resources; adopt rules and regulations.

Any person who desires to withdraw ground water within the State of Nebraska for geothermal resource development shall, prior to commencing construction of any wells, obtain from the Director of Natural Resources a permit to authorize the withdrawal, transfer, and further use or reinjection of such ground water. The Department of Natural Resources shall adopt and promulgate rules and regulations governing the issuance of such permits, consistent with sections 66-1101 to 66-1106 and with Chapter 46, article 6. Such rules and regulations shall provide for consultation with the Department of Environment and Energy pursuant to the issuance of such permits and shall be compatible with rules and regulations adopted and promulgated by the Department of Environment and Energy under the Environmental Protection Act. Any geothermal fluids produced incident to the development and production of geothermal resources shall be reinjected into the same geologic formation from which they were extracted in substantially the same volume and substantially the same or higher quality as when extracted unless the permit issued in accordance with this section authorizes further uses or processing other than those incident to reinjection.

Source: Laws 1982, LB 708, § 5; Laws 1993, LB 3, § 37; Laws 2000, LB 900, § 245; Laws 2019, LB302, § 78.
Operative date July 1, 2019.

Cross References

Environmental Protection Act, see section 81-1532.

**ARTICLE 13
ETHANOL**

Section
66-1334. Agricultural Alcohol Fuel Tax Fund; created; use; investment.
66-1344. Ethanol tax credits; conditions; limitations; Department of Revenue; powers and duties.

66-1334 Agricultural Alcohol Fuel Tax Fund; created; use; investment.

(1) The Agricultural Alcohol Fuel Tax Fund is hereby created. The fund shall be administered by the board. The fund shall contain (a) transfers made pursuant to section 66-726, (b) all sums of money received from fees resulting from any conference or event held by the board, (c) gifts, grants, and contributions made by public or private entities, and (d) transfers as authorized by the Legislature. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The fund shall be used for the following purposes:

(a) Establishment, with cooperation of private industry, of procedures and processes necessary to the manufacture and marketing of fuel containing agricultural ethyl alcohol;

(b) Establishment of procedures for entering blended fuel into the marketplace by private enterprise;

(c) Analysis of the marketing process and testing of marketing procedures to assure acceptance in the private marketplace of blended fuel and byproducts resulting from the manufacturing process;

(d) Cooperation with private industry to establish privately owned agricultural ethyl alcohol manufacturing plants in Nebraska to supply demand for blended fuel;

(e) Sponsoring research and development of industrial and commercial uses for agricultural ethyl alcohol and for byproducts resulting from the manufacturing process;

(f) Promotion of state and national air quality improvement programs and influencing federal legislation that requires or encourages the use of fuels oxygenated by the inclusion of agricultural ethyl alcohol or its derivatives;

(g) Promotion of the use of renewable agricultural ethyl alcohol as a partial replacement for imported oil and for the energy and economic security of the nation;

(h) Participation in development and passage of national legislation dealing with research, development, and promotion of United States production of fuels oxygenated by the inclusion of agricultural ethyl alcohol or its derivatives, access to potential markets, tax incentives, imports of foreign-produced fuel, and related concerns that may develop in the future; and

(i) As the board may otherwise direct to fulfill the goals set forth under the Ethanol Development Act, including monitoring contracts for ethanol program commitments and solicitation of federal funds.

Source: Laws 1993, LB 364, § 5; Laws 1994, LB 1066, § 54; Laws 2004, LB 983, § 58; Laws 2009, LB316, § 16; Laws 2019, LB298, § 16.
Effective date May 28, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

66-1344 Ethanol tax credits; conditions; limitations; Department of Revenue; powers and duties.

(1) Beginning June 1, 2000, during such period as funds remain in the Ethanol Production Incentive Cash Fund, any ethanol facility shall receive a credit of seven and one-half cents per gallon of ethanol, before denaturing, for new production for a period not to exceed thirty-six consecutive months. For purposes of this subsection, new production means production which results from the expansion of an existing facility's capacity by at least two million gallons first placed into service after June 1, 1999, as certified by the facility's design engineer to the Department of Revenue. For expansion of an existing facility's capacity, new production means production in excess of the average of the highest three months of ethanol production at an ethanol facility during the twenty-four-month period immediately preceding certification of the facility by the design engineer. No credits shall be allowed under this subsection for expansion of an existing facility's capacity until production is in excess of twelve times the three-month average amount determined under this subsection during any twelve-consecutive-month period beginning no sooner than June 1, 2000. New production shall be approved by the Department of Revenue based on such ethanol production records as may be necessary to reasonably determine new production. This credit must be earned on or before December 31, 2003.

(2)(a) Beginning January 1, 2002, any new ethanol facility which is in production at the minimum rate of one hundred thousand gallons annually for the production of ethanol, before denaturing, and which has provided to the Department of Revenue written evidence substantiating that the ethanol facility has received the requisite authority from the Department of Environment and Energy and from the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, on or before June 30, 2004, shall receive a credit of eighteen cents per gallon of ethanol produced for ninety-six consecutive months beginning with the first calendar month for which it is eligible to receive such credit and ending not later than June 30, 2012, if the facility is defined by subdivision (b)(i) of this subsection, and for forty-eight consecutive months beginning with the first calendar month for which it is eligible to receive such credit and ending not later than June 30, 2008, if the facility is defined by subdivision (b)(ii) of this subsection. The new ethanol facility shall provide an analysis to the Department of Revenue of samples of the product collected according to procedures specified by the department no later than July 30, 2004, and at least annually thereafter. The analysis shall be prepared by an independent laboratory meeting the International Organization for Standardization standard ISO/IEC 17025:1999. Prior to collecting the samples, the new ethanol facility shall notify the department which may observe the sampling procedures utilized by the new ethanol facility to obtain the samples to be submitted for independent analysis. The minimum rate shall be established for a period of at least thirty days. In this regard, the new ethanol facility must produce at least eight thousand two hundred nineteen gallons of ethanol within a thirty-day period. The ethanol must be finished product which is ready for sale to customers.

(b) For purposes of this subsection, new ethanol facility means a facility for the conversion of grain or other raw feedstock into ethanol and other byproducts of ethanol production which (i) is not in production on or before September 1, 2001, or (ii) has not received credits prior to June 1, 1999. A new ethanol facility does not mean an expansion of an existing ethanol plant that does not result in the physical construction of an entire ethanol processing facility or

which shares or uses in a significant manner any existing plant's systems or processes and does not include the expansion of production capacity constructed after June 30, 2004, of a plant qualifying for credits under this subsection. This definition applies to contracts entered into after April 16, 2004.

(c) Not more than fifteen million six hundred twenty-five thousand gallons of ethanol produced annually at an ethanol facility shall be eligible for credits under this subsection. Not more than one hundred twenty-five million gallons of ethanol produced at an ethanol facility by the end of the ninety-six-consecutive-month period or forty-eight-consecutive-month period set forth in this subsection shall be eligible for credits under this subsection.

(3) The credits described in this section shall be given only for ethanol produced at a plant in Nebraska at which all fermentation, distillation, and dehydration takes place. No credit shall be given on ethanol produced for or sold for use in the production of beverage alcohol. Not more than ten million gallons of ethanol produced during any twelve-consecutive-month period at an ethanol facility shall be eligible for the credit described in subsection (1) of this section. The credits described in this section shall be in the form of a non-refundable, transferable motor vehicle fuel tax credit certificate. No transfer of credits will be allowed between the ethanol producer and motor vehicle fuel licensees who are related parties.

(4) Ethanol production eligible for credits under this section shall be measured by a device approved by the Division of Weights and Measures of the Department of Agriculture. Confirmation of approval by the division shall be provided by the ethanol facility at the time the initial claim for credits provided under this section is submitted to the Department of Revenue and annually thereafter. Claims submitted by the ethanol producer shall be based on the total number of gallons of ethanol produced, before denaturing, during the reporting period measured in gross gallons.

(5) The Department of Revenue shall prescribe an application form and procedures for claiming credits under this section. In order for a claim for credits to be accepted, it must be filed by the ethanol producer within three years of the date the ethanol was produced or by September 30, 2012, whichever occurs first.

(6) Every producer of ethanol shall maintain records similar to those required by section 66-487. The ethanol producer must maintain invoices, meter readings, load-out sheets or documents, inventory records, including work-in-progress, finished goods, and denaturant, and other memoranda requested by the Department of Revenue relevant to the production of ethanol. On an annual basis, the ethanol producer shall also be required to furnish the department with copies of the reports filed with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The maintenance of all of this information in a provable computer format or on microfilm is acceptable in lieu of retention of the original documents. The records must be retained for a period of not less than three years after the claim for ethanol credits is filed.

(7) For purposes of ascertaining the correctness of any application for claiming a credit provided in this section, the Tax Commissioner (a) may examine or cause to have examined, by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda bearing upon such matters, (b) may by summons require the attendance of the person responsible for rendering the application or other document or any

officer or employee of such person or the attendance of any other person having knowledge in the premises, and (c) may take testimony and require proof material for his or her information, with power to administer oaths or affirmations to such person or persons. The time and place of examination pursuant to this subsection shall be such time and place as may be fixed by the Tax Commissioner and as are reasonable under the circumstances. In the case of a summons, the date fixed for appearance before the Tax Commissioner shall not be less than twenty days from the time of service of the summons. No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations. All records obtained pursuant to this subsection shall be subject to the confidentiality requirements and exceptions thereto as provided in section 77-27,119.

(8) To qualify for credits under this section, an ethanol producer shall provide public notice for bids before entering into any contract for the construction of a new ethanol facility. Preference shall be given to a bidder residing in Nebraska when awarding any contract for construction of a new ethanol facility if comparable bids are submitted. For purposes of this subsection, bidder residing in Nebraska means any person, partnership, foreign or domestic limited liability company, association, or corporation authorized to engage in business in the state with employees permanently located in Nebraska. If an ethanol producer enters into a contract for the construction of a new ethanol facility with a bidder who is not a bidder residing in Nebraska, such producer shall demonstrate to the satisfaction of the Department of Revenue in its application for credits that no comparable bid was submitted by a responsible bidder residing in Nebraska. The department shall deny an application for credits if it is determined that the contract was denied to a responsible bidder residing in Nebraska without cause.

(9) The pertinent provisions of Chapter 66, article 7, relating to the administration and imposition of motor fuel taxes shall apply to the administration and imposition of assessments made by the Department of Revenue relating to excess credits claimed by ethanol producers under the Ethanol Development Act. These provisions include, but are not limited to, issuance of a deficiency following an examination of records, an assessment becoming final after sixty days absent a written protest, presumptions regarding the burden of proof, issuance of deficiency within three years of original filing, issuance of notice by registered or certified mail, issuance of penalties and waiver thereof, issuance of interest and waiver thereof, and issuance of corporate officer or employee or limited liability company manager or member assessments. For purposes of determining interest and penalties, the due date will be considered to be the date on which the credits were used by the licensees to whom the credits were transferred.

(10) If a written protest is filed by the ethanol producer with the department within the sixty-day period in subsection (9) of this section, the protest shall: (a) Identify the ethanol producer; (b) identify the proposed assessment which is being protested; (c) set forth each ground under which a redetermination of the department's position is requested together with facts sufficient to acquaint the department with the exact basis thereof; (d) demand the relief to which the ethanol producer considers itself entitled; and (e) request that an evidentiary hearing be held to determine any issues raised by the protest if the ethanol producer desires such a hearing.

(11) For applications received after April 16, 2004, an ethanol facility receiving benefits under the Ethanol Development Act shall not be eligible for benefits under the Employment and Investment Growth Act, the Invest Nebraska Act, or the Nebraska Advantage Act.

Source: Laws 1990, LB 1124, § 1; Laws 1992, LB 754, § 8; R.S.Supp.,1992, § 66-1326; Laws 1993, LB 364, § 15; Laws 1994, LB 961, § 1; Laws 1995, LB 377, § 7; Laws 1996, LB 1121, § 13; Laws 1999, LB 605, § 1; Laws 2001, LB 536, § 2; Laws 2004, LB 479, § 5; Laws 2004, LB 1065, § 5; Laws 2005, LB 312, § 2; Laws 2008, LB914, § 5; Laws 2019, LB302, § 79. Operative date July 1, 2019.

Cross References

Employment and Investment Growth Act, see section 77-4101.

Invest Nebraska Act, see section 77-5501.

Nebraska Advantage Act, see section 77-5701.

ARTICLE 15

PETROLEUM RELEASE REMEDIAL ACTION

Section

- 66-1504. Department, defined.
 66-1509. Owner, defined.
 66-1518. Rules and regulations; schedule of rates; use.
 66-1521. Petroleum release remedial action fee; amount; license required; filing; violation; penalty; Department of Revenue; powers and duties; Petroleum Release Remedial Action Collection Fund; created; use; investment.
 66-1529.02. Remedial actions by department; third-party claims; recovery of expenses.

66-1504 Department, defined.

Department shall mean the Department of Environment and Energy.

Source: Laws 1989, LB 289, § 4; Laws 1993, LB 3, § 38; Laws 2019, LB302, § 80.

Operative date July 1, 2019.

66-1509 Owner, defined.

(1) Owner shall mean:

(a) In the case of a tank in use on or after November 8, 1984, or brought into use after such date, any person who owns a tank used for the storage, use, or dispensing of petroleum; and

(b) In the case of a tank in use before November 8, 1984, but no longer in use on such date, any person who owned such tank immediately before the discontinuation of its use.

(2) Owner shall not include a person who, without participating in the management of a tank and otherwise not engaged in petroleum production, refining, and marketing:

(a) Holds indicia of ownership primarily to protect his or her security interest in a tank or a lienhold interest in the property on or within which a tank is or was located; or

(b) Acquires ownership of a tank or the property on or within which a tank is or was located:

(i) Pursuant to a foreclosure of a security interest in the tank or of a lienhold interest in the property; or

(ii) If the tank or the property was security for an extension of credit previously contracted, pursuant to a sale under judgment or decree, pursuant to a conveyance under a power of sale contained within a trust deed or from a trustee, or pursuant to an assignment or deed in lieu of foreclosure.

(3) Ownership of a tank or the property on or within which a tank is or was located shall not be acquired by a voidable transfer, as provided in the Uniform Voidable Transactions Act.

Source: Laws 1989, LB 289, § 9; Laws 1991, LB 409, § 4; Laws 1996, LB 1226, § 3; Laws 2019, LB70, § 16.
Effective date September 1, 2019.

Cross References

Uniform Voidable Transactions Act, see section 36-801.

66-1518 Rules and regulations; schedule of rates; use.

(1) The Environmental Quality Council shall adopt and promulgate rules and regulations governing reimbursements authorized under the Petroleum Release Remedial Action Act. Such rules and regulations shall include:

(a) Procedures regarding the form and procedure for application for payment or reimbursement from the fund, including the requirement for timely filing of applications;

(b) Procedures for the requirement of submitting cost estimates for phases or stages of remedial actions, procurement requirements to be followed by responsible persons, and requirements for reuse of fixtures and tangible personal property by responsible persons during a remedial action;

(c) Procedures for investigation of claims for payment or reimbursement;

(d) Procedures for determining the amount and type of costs that are eligible for payment or reimbursement from the fund;

(e) Procedures for auditing persons who have received payments from the fund;

(f) Procedures for reducing reimbursements made for a remedial action for failure by the responsible person to comply with applicable statutory or regulatory requirements. Reimbursement may be reduced as much as one hundred percent; and

(g) Other procedures necessary to carry out the act.

(2) The Director of Environment and Energy shall (a) estimate the cost to complete remedial action at each petroleum contaminated site where the responsible party has been ordered by the department to begin remedial action, and, based on such estimates, determine the total cost that would be incurred in completing all remedial actions ordered; (b) determine the total estimated cost of all approved remedial actions; (c) determine the total dollar amount of all pending claims for payment or reimbursement; (d) determine the total of all funds available for reimbursement of pending claims; and (e) include the determinations made pursuant to this subsection in the department's annual report to the Legislature.

(3) The Department of Environment and Energy shall make available to the public a current schedule of reasonable rates for equipment, services, material, and personnel commonly used for remedial action. The department shall consider the schedule of reasonable rates in reviewing all costs for the remedial action which are submitted in a plan. The rates shall be used to determine the amount of reimbursement for the eligible and reasonable costs of the remedial action, except that (a) the reimbursement for the costs of the remedial action shall not exceed the actual eligible and reasonable costs incurred by the responsible person or his or her designated representative and (b) reimbursement may be made for costs which exceed or are not included on the schedule of reasonable rates if the application for such reimbursement is accompanied by sufficient evidence for the department to determine and the department does determine that such costs are reasonable.

Source: Laws 1989, LB 289, § 18; Laws 1991, LB 409, § 11; Laws 1993, LB 3, § 39; Laws 1994, LB 1349, § 9; Laws 1996, LB 1226, § 6; Laws 1997, LB 517, § 2; Laws 1998, LB 1161, § 27; Laws 1999, LB 270, § 1; Laws 2001, LB 461, § 2; Laws 2009, LB154, § 14; Laws 2019, LB302, § 81.

Operative date July 1, 2019.

66-1521 Petroleum release remedial action fee; amount; license required; filing; violation; penalty; Department of Revenue; powers and duties; Petroleum Release Remedial Action Collection Fund; created; use; investment.

(1) A petroleum release remedial action fee is hereby imposed upon the producer, refiner, importer, distributor, wholesaler, or supplier who engages in the sale, distribution, delivery, and use of petroleum within this state, except that the fee shall not be imposed on petroleum that is exported. The fee shall also be imposed on diesel fuel which is indelibly dyed. The amount of the fee shall be nine-tenths of one cent per gallon on motor vehicle fuel as defined in section 66-482 and three-tenths of one cent per gallon on diesel fuel as defined in section 66-482. The amount of the fee shall be used first for payment of claims approved by the State Claims Board pursuant to section 66-1531; second, up to three million dollars of the fee per year shall be used for reimbursement of owners and operators under the Petroleum Release Remedial Action Act for investigations of releases ordered pursuant to section 81-15,124; and third, the remainder of the fee shall be used for any other purpose authorized by section 66-1519. The fee shall be paid by all producers, refiners, importers, distributors, wholesalers, and suppliers subject to the fee by filing a monthly return on or before the twentieth day of the calendar month following the monthly period to which it relates. The pertinent provisions, specifically including penalty provisions, of the motor fuel laws as defined in section 66-712 shall apply to the administration and collection of the fee except for the treatment given refunds. There shall be a refund allowed on any fee paid on petroleum which was taxed and then exported, destroyed, or purchased for use by the United States Government or its agencies. The department may also adjust for all errors in the payment of the fee. In each calendar year, no claim for refund related to the fee can be for an amount less than ten dollars.

(2) No producer, refiner, importer, distributor, wholesaler, or supplier shall engage in the sale, distribution, delivery, or use of petroleum in this state without having first obtained a petroleum release remedial action license. Application for a license shall be made to the Department of Revenue upon a

form prepared and furnished by the Department of Revenue. If the applicant is an individual, the application shall include the applicant's social security number. Failure to obtain a license prior to engaging in the sale, distribution, delivery, or use of petroleum shall be a Class IV misdemeanor. The Department of Revenue may suspend or cancel the license of any producer, refiner, importer, distributor, wholesaler, or supplier who fails to pay the fee imposed by subsection (1) of this section in the same manner as licenses are suspended or canceled pursuant to section 66-720.

(3) The Department of Revenue may adopt and promulgate rules and regulations necessary to carry out this section.

(4) The Department of Revenue shall deduct and withhold from the petroleum release remedial action fee collected pursuant to this section an amount sufficient to reimburse the direct costs of collecting and administering the petroleum release remedial action fee. Such costs shall not exceed one hundred fifty thousand dollars for each fiscal year. The one hundred fifty thousand dollars shall be prorated, based on the number of months the fee is collected, whenever the fee is collected for only a portion of a year. The amount deducted and withheld for costs shall be deposited in the Petroleum Release Remedial Action Collection Fund which is hereby created. The Petroleum Release Remedial Action Collection Fund shall be appropriated to the Department of Revenue, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Petroleum Release Remedial Action Collection Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The Department of Revenue shall collect the fee imposed by subsection (1) of this section.

Source: Laws 1989, LB 289, § 21; Laws 1991, LB 409, § 14; Laws 1991, LB 627, § 139; Laws 1994, LB 1066, § 58; Laws 1994, LB 1160, § 120; Laws 1997, LB 752, § 153; Laws 1998, LB 1161, § 31; Laws 2000, LB 1067, § 31; Laws 2004, LB 983, § 66; Laws 2009, LB165, § 1; Laws 2009, First Spec. Sess., LB3, § 41; Laws 2012, LB727, § 26; Laws 2019, LB512, § 9.

Operative date May 31, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

66-1529.02 Remedial actions by department; third-party claims; recovery of expenses.

(1) The department may undertake remedial actions in response to a release first reported after July 17, 1983, and on or before June 30, 2020, with money available in the fund if:

(a) The responsible person cannot be identified or located;

(b) An identified responsible person cannot or will not comply with the remedial action requirements; or

(c) Immediate remedial action is necessary, as determined by the Director of Environment and Energy, to protect human health or the environment.

(2) The department may pay the costs of a third-party claim meeting the requirements of subdivision (2)(f) of section 66-1525 with money available in the fund if the responsible person cannot or will not pay the third-party claim.

(3) Reimbursement for any damages caused by the department or a person acting at the department's direction while investigating or inspecting or during remedial action on property other than property on which a release or suspected release has occurred shall be considered as part of the cost of remedial action involving the site where the release or suspected release occurred. The costs shall be reimbursed from money available in the fund. If such reimbursement is deemed inadequate by the party claiming the damages, the party's claim for damages caused by the department shall be filed as provided in section 76-705.

(4) All expenses paid from the fund under this section, court costs, and attorney's fees may be recovered in a civil action in the district court of Lancaster County. The action may be brought by the county attorney or Attorney General at the request of the director against the responsible person. All recovered expenses shall be deposited into the fund.

Source: Laws 1991, LB 409, § 19; Laws 1993, LB 3, § 41; Laws 1993, LB 237, § 4; Laws 1998, LB 1161, § 35; Laws 1999, LB 270, § 5; Laws 2001, LB 461, § 6; Laws 2004, LB 962, § 108; Laws 2008, LB1145, § 4; Laws 2012, LB873, § 4; Laws 2016, LB887, § 4; Laws 2019, LB302, § 82.
Operative date July 1, 2019.

ARTICLE 20

NATURAL GAS FUEL BOARD

Section

66-2001. Natural Gas Fuel Board; established; members; terms; vacancy; meetings; duties; Department of Environment and Energy; administrative support.

66-2001 Natural Gas Fuel Board; established; members; terms; vacancy; meetings; duties; Department of Environment and Energy; administrative support.

(1) The Natural Gas Fuel Board is hereby established to advise the Department of Environment and Energy regarding the promotion of natural gas as a motor vehicle fuel in Nebraska. The board shall provide recommendations relating to:

(a) Distribution, infrastructure, and workforce development for natural gas to be used as a motor vehicle fuel;

(b) Loans, grants, and tax incentives to encourage the use of natural gas as a motor vehicle fuel for individuals and public and private fleets; and

(c) Such other matters as it deems appropriate.

(2) The board shall consist of eight members appointed by the Governor. The Governor shall make the initial appointments by October 1, 2012. The board shall include:

(a) One member representing a jurisdictional utility as defined in section 66-1802;

(b) One member representing a metropolitan utilities district;

(c) One member representing the interests of the transportation industry in the state;

(d) One member representing the interests of the business community in the state, specifically fueling station owners or operators;

(e) One member representing natural gas marketers or pipelines in the state;

(f) One member representing automobile dealerships or repair businesses in the state;

(g) One member representing labor interests in the state; and

(h) One member representing environmental interests in the state, specifically air quality.

(3) All appointments shall be subject to the approval of a majority of the members of the Legislature if the Legislature is in session, and if the Legislature is not in session, any appointment to fill a vacancy shall be temporary until the next session of the Legislature, at which time a majority of the members of the Legislature may approve or disapprove such appointment.

(4) Members shall be appointed for terms of four years, except that of the initial appointees the terms of the members representing a jurisdictional utility and a metropolitan utilities district shall expire on September 30, 2015, the terms of the members representing the transportation industry, the business community, natural gas marketers or pipelines, and automobile dealerships or repair businesses shall expire on September 30, 2014, and the terms of the members representing labor and environmental interests shall expire on September 30, 2013. Members may be reappointed. A member shall serve until a successor is appointed and qualified.

(5) A vacancy on the board shall exist in the event of death, disability, resignation, or removal for cause of a member. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term. An appointment to fill a vacancy shall be made by the Governor with the approval of a majority of the Legislature, and any person so appointed shall have the same qualifications as the person whom he or she succeeds.

(6) The board shall meet at least once annually.

(7) The members shall not be reimbursed for expenses associated with carrying out their duties as members.

(8) The department shall provide administrative support to the board as necessary so that the board may carry out its duties.

Source: Laws 2012, LB1087, § 1; Laws 2019, LB302, § 83.
Operative date July 1, 2019.

ARTICLE 22

RENEWABLE FUEL INFRASTRUCTURE PROGRAM

Section

66-2201. Terms, defined.

66-2202. Renewable Fuel Infrastructure Program; created.

66-2203. Grant; application; ethanol infrastructure project; eligibility for grant.

66-2204. Application; contents.

66-2205. Department; determine amount of grants; cost-share agreement; award; limitation.

66-2206. Retail motor fuel site; requirements.

Section

66-2207. Renewable Fuel Infrastructure Fund; created; use; investment.

66-2201 Terms, defined.

For purposes of sections 66-2201 to 66-2207:

- (1) Department means the Department of Environment and Energy;
- (2) E-15 means a blend of ethanol and gasoline in which ethanol comprises fifteen percent of the blend by volume;
- (3) E-85 means a blend of ethanol and gasoline in which ethanol comprises seventy percent or more of the blend by volume;
- (4) Motor fuel pump means a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank;
- (5) Program means the Renewable Fuel Infrastructure Program created in section 66-2202;
- (6) Retail dealer means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis; and
- (7) Retail motor fuel site means a geographic location in this state where a retail dealer sells and dispenses motor fuel from a motor fuel pump on a retail basis.

Source: Laws 2019, LB585, § 1.
Operative date January 1, 2020.

66-2202 Renewable Fuel Infrastructure Program; created.

The Renewable Fuel Infrastructure Program is created. The purpose of the program is to improve retail motor fuel sites by installing, replacing, or converting ethanol infrastructure to be used to store, blend, or dispense renewable fuel. The program shall function as a grant program administered by the department. Grant applications shall be made on a form prescribed by the department. Grant funds shall be distributed to eligible persons for eligible ethanol infrastructure projects under the requirements in section 66-2203.

Source: Laws 2019, LB585, § 2.
Operative date January 1, 2020.

66-2203 Grant; application; ethanol infrastructure project; eligibility for grant.

- (1) A person shall be eligible to apply for a grant under the program if the person is an owner or operator of a retail motor fuel site.
- (2) An ethanol infrastructure project shall be eligible for a grant under the program if such project is:
 - (a) Designed and used exclusively to store and dispense E-15 gasoline or E-85 gasoline or a blend of ethanol and gasoline from a motor fuel pump designed to blend such motor fuels together in blends higher than E-15. Such E-15 gasoline shall be a registered fuel recognized by the United States Environmental Protection Agency;
 - (b) On the premises of a retail motor fuel site; and
 - (c) Subject to a cost-share agreement as described in section 66-2205.

(3) An ethanol infrastructure project shall not be eligible for a grant under the program if such infrastructure includes a tank vehicle.

Source: Laws 2019, LB585, § 3.

Operative date January 1, 2020.

66-2204 Application; contents.

Any eligible person applying for a grant under the program shall include the following information in the application:

(1) The name of the person and the address of the retail motor fuel site to be improved;

(2) A detailed description of the infrastructure to be installed, replaced, or converted, including, but not limited to, the model number of each motor fuel storage tank to be installed, replaced, or converted, if available;

(3) A statement describing how the retail motor fuel site is to be improved, the estimated cost of the planned improvement, and the date when the infrastructure will be first used; and

(4) A statement certifying the infrastructure project complies with section 66-2203 and will comply with a cost-share agreement entered into with the department pursuant to section 66-2205 unless granted a waiver by the department.

Source: Laws 2019, LB585, § 4.

Operative date January 1, 2020.

66-2205 Department; determine amount of grants; cost-share agreement; award; limitation.

(1) The department shall determine the amount of the grants to be awarded under the program. The department shall award grants to the maximum number of qualified applicants and may approve up to one million dollars in grants in any calendar year.

(2) The department shall approve and execute a cost-share agreement according to terms and conditions set by the department with an eligible person whose application is approved by the department for such grant. Such cost-share agreement shall state the total costs related to improving a retail motor fuel site, the amount of the grant, and whether the agreement is for a three-year or five-year period.

(3) In awarding grants under the program, an award shall not exceed (a) fifty percent of the estimated cost of the improvement or thirty thousand dollars, whichever is less, for a three-year cost-share agreement, or (b) seventy percent of the estimated costs of making the improvement or fifty thousand dollars, whichever is less, for a five-year cost-share agreement. The department may approve multiple improvements to the same retail motor fuel site so long as the total amount of the grants does not exceed the limitations in this subsection.

Source: Laws 2019, LB585, § 5.

Operative date January 1, 2020.

66-2206 Retail motor fuel site; requirements.

A retail motor fuel site that is improved using grants under the program shall comply with federal and state standards governing new or upgraded motor fuel

storage tanks used to store and dispense renewable fuels. A retail motor fuel site that is improved using grants under the program shall not use such infrastructure to store and dispense motor fuel other than the type of renewable fuel approved by the department in the cost-share agreement, unless granted a waiver by the department.

Source: Laws 2019, LB585, § 6.
Operative date January 1, 2020.

66-2207 Renewable Fuel Infrastructure Fund; created; use; investment.

The Renewable Fuel Infrastructure Fund is created. The fund shall consist of appropriations made by the Legislature, transfers authorized by the Legislature, grants, and any contributions designated for the purpose of the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The fund shall be administered by the department and used to award grants under the program. No more than ten percent of the fund shall be used for administration of the program.

Source: Laws 2019, LB585, § 7.
Operative date January 1, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

CHAPTER 68

PUBLIC ASSISTANCE

Article.

- 9. Medical Assistance Act. 68-901 to 68-994.
- 12. Social Services. 68-1206, 68-1212.
- 17. Welfare Reform.
 - (a) Welfare Reform Act. 68-1724.

ARTICLE 9

MEDICAL ASSISTANCE ACT

Section

- 68-901. Medical Assistance Act; act, how cited.
- 68-915. Eligibility.
- 68-919. Medical assistance recipient; liability; when; claim; procedure; department; powers; recovery of medical assistance reimbursement; procedure.
- 68-974. Recovery audit contractors; contracts; contents; powers; health insurance premium assistance payment program; contract; department; powers and duties; form of records authorized; appeal; report.
- 68-989. Disclosure by applicant; income and assets; action for recovery of medical assistance authorized.
- 68-990. Medical assistance; transfers; security for recovery of indebtedness to department; lien; notice; filing; department; duties; section null and void.
- 68-992. Eligibility for medical assistance; expanded population; Department of Health and Human Services; duties.
- 68-993. Medical parole; protocol.
- 68-994. Long-term care services and supports; department; limitation on addition to medicaid managed care program.

68-901 Medical Assistance Act; act, how cited.

Sections 68-901 to 68-994 shall be known and may be cited as the Medical Assistance Act.

Source: Laws 2006, LB 1248, § 1; Laws 2008, LB830, § 1; Laws 2009, LB27, § 1; Laws 2009, LB288, § 18; Laws 2009, LB342, § 1; Laws 2009, LB396, § 1; Laws 2010, LB1106, § 1; Laws 2011, LB525, § 1; Laws 2012, LB541, § 1; Laws 2012, LB599, § 2; Laws 2015, LB500, § 1; Laws 2016, LB698, § 15; Laws 2017, LB268, § 10; Laws 2017, LB578, § 1; Initiative Law 2018, No. 427, § 1; Laws 2019, LB468, § 1; Laws 2019, LB726, § 1. Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB468, section 1, with LB726, section 1, to reflect all amendments.

68-915 Eligibility.

The following persons shall be eligible for medical assistance:

- (1) Dependent children as defined in section 43-504;
- (2) Aged, blind, and disabled persons as defined in sections 68-1002 to 68-1005;

(3) Children under nineteen years of age who are eligible under section 1905(a)(i) of the federal Social Security Act;

(4) Persons who are presumptively eligible as allowed under sections 1920 and 1920B of the federal Social Security Act;

(5) Children under nineteen years of age with a family income equal to or less than two hundred percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, without regard to resources, and pregnant women with a family income equal to or less than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, without regard to resources. Children described in this subdivision and subdivision (6) of this section shall remain eligible for six consecutive months from the date of initial eligibility prior to redetermination of eligibility. The department may review eligibility monthly thereafter pursuant to rules and regulations adopted and promulgated by the department. The department may determine upon such review that a child is ineligible for medical assistance if such child no longer meets eligibility standards established by the department;

(6) For purposes of Title XIX of the federal Social Security Act as provided in subdivision (5) of this section, children with a family income as follows:

(a) Equal to or less than one hundred fifty percent of the Office of Management and Budget income poverty guideline with eligible children one year of age or younger;

(b) Equal to or less than one hundred thirty-three percent of the Office of Management and Budget income poverty guideline with eligible children over one year of age and under six years of age; or

(c) Equal to or less than one hundred percent of the Office of Management and Budget income poverty guideline with eligible children six years of age or older and less than nineteen years of age;

(7) Persons who are medically needy caretaker relatives as allowed under 42 U.S.C. 1396d(a)(ii);

(8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii), disabled persons as defined in section 68-1005 with a family income of less than two hundred fifty percent of the Office of Management and Budget income poverty guideline and who, but for earnings in excess of the limit established under 42 U.S.C. 1396d(q)(2)(B), would be considered to be receiving federal Supplemental Security Income. The department shall apply for a waiver to disregard any unearned income that is contingent upon a trial work period in applying the Supplemental Security Income standard. Such disabled persons shall be subject to payment of premiums as a percentage of family income beginning at not less than two hundred percent of the Office of Management and Budget income poverty guideline. Such premiums shall be graduated based on family income and shall not be less than two percent or more than ten percent of family income;

(9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii), persons who:

(a) Have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under Title XV of the federal Public Health Service Act, 42 U.S.C. 300k et seq., in accordance with the requirements of section 1504 of

such act, 42 U.S.C. 300n, and who need treatment for breast or cervical cancer, including precancerous and cancerous conditions of the breast or cervix;

(b) Are not otherwise covered under creditable coverage as defined in section 2701(c) of the federal Public Health Service Act, 42 U.S.C. 300g(c);

(c) Have not attained sixty-five years of age; and

(d) Are not eligible for medical assistance under any mandatory categorically needy eligibility group;

(10) Persons eligible for services described in subsection (3) of section 68-972; and

(11) Persons eligible pursuant to section 68-992.

Except as provided in section 68-972, eligibility shall be determined under this section using an income budgetary methodology that determines children's eligibility at no greater than two hundred percent of the Office of Management and Budget income poverty guideline and adult eligibility using adult income standards no greater than the applicable categorical eligibility standards established pursuant to state or federal law. The department shall determine eligibility under this section pursuant to such income budgetary methodology and subdivision (1)(q) of section 68-1713.

Source: Laws 1965, c. 397, § 5, p. 1278; Laws 1984, LB 1127, § 4; Laws 1988, LB 229, § 1; Laws 1995, LB 455, § 6; Laws 1996, LB 1044, § 323; Laws 1998, LB 1063, § 6; Laws 1999, LB 594, § 34; Laws 2001, LB 677, § 1; Laws 2002, Second Spec. Sess., LB 8, § 2; Laws 2003, LB 411, § 2; Laws 2005, LB 301, § 3; R.S.Supp., 2005, § 68-1020; Laws 2006, LB 1248, § 15; Laws 2007, LB296, § 249; Laws 2007, LB351, § 3; Laws 2009, LB603, § 2; Laws 2012, LB599, § 3; Initiative Law 2018, No. 427, § 3.

68-919 Medical assistance recipient; liability; when; claim; procedure; department; powers; recovery of medical assistance reimbursement; procedure.

(1) The recipient of medical assistance under the medical assistance program shall be indebted to the department for the total amount paid for medical assistance on behalf of the recipient if:

(a) The recipient was fifty-five years of age or older at the time the medical assistance was provided; or

(b) The recipient resided in a medical institution and, at the time of institutionalization or application for medical assistance, whichever is later, the department determines that the recipient could not have reasonably been expected to be discharged and resume living at home. For purposes of this section, medical institution means a nursing facility, an intermediate care facility for persons with developmental disabilities, or an inpatient hospital.

(2) The debt accruing under subsection (1) of this section arises during the life of the recipient but shall be held in abeyance until the death of the recipient. Any such debt to the department that exists when the recipient dies shall be recovered only after the death of the recipient's spouse, if any, and only after the recipient is not survived by a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by the Supplemental Security Income criteria. In recovering such debt, the department shall not foreclose on a lien on the home of the recipient (a) if a sibling of the recipient with an equity interest in the home has lawfully resided in the

home for at least one year before the recipient's admission and has lived there continuously since the date of the recipient's admission or (b) while the home is the residence of an adult child who has lived in the recipient's home for at least two years immediately before the recipient was institutionalized, has lived there continuously since that time, and can establish to the satisfaction of the department that he or she provided care that delayed the recipient's admission.

(3) The debt shall include the total amount of medical assistance provided when the recipient was fifty-five years of age or older or during a period of institutionalization as described in subsection (1) of this section and shall not include interest.

(4)(a) It is the intent of the Legislature that the debt specified in subsection (1) of this section be collected by the department before any portion of the estate of a recipient of medical assistance is enjoyed by or transferred to a person not specified in subsection (2) of this section as a result of the death of such recipient. The debt may be recovered from the estate of a recipient of medical assistance. The department shall undertake all reasonable and cost-effective measures to enforce recovery under the Medical Assistance Act. All persons specified in subsections (2) and (4) of this section shall cooperate with the department in the enforcement of recovery under the act.

(b) For purposes of this section:

(i) Estate of a recipient of medical assistance means any real estate, personal property, or other asset in which the recipient had any legal title or interest at or immediately preceding the time of the recipient's death, to the extent of such interests. In furtherance and not in limitation of the foregoing, the estate of a recipient of medical assistance also includes:

(A) Assets to be transferred to a beneficiary described in section 77-2004 or 77-2005 in relation to the recipient through a revocable trust or other similar arrangement which has become irrevocable by reason of the recipient's death; and

(B) Notwithstanding anything to the contrary in subdivision (3) or (4) of section 68-923, assets conveyed or otherwise transferred to a survivor, an heir, an assignee, a beneficiary, or a devisee of the recipient of medical assistance through joint tenancy, tenancy in common, transfer on death deed, survivorship, conveyance of a remainder interest, retention of a life estate or of an estate for a period of time, living trust, or other arrangement by which value or possession is transferred to or realized by the beneficiary of the conveyance or transfer at or as a result of the recipient's death. Such other arrangements include insurance policies or annuities in which the recipient of medical assistance had at the time of death any incidents of ownership of the policy or annuity or the power to designate beneficiaries and any pension rights or completed retirement plans or accounts of the recipient. A completed retirement plan or account is one which because of the death of the recipient of medical assistance ceases to have elements of retirement relating to such recipient and under which one or more beneficiaries exist after such recipient's death; and

(ii) Estate of a recipient of medical assistance does not include:

(A) Insurance proceeds, any trust account subject to the Burial Pre-Need Sale Act, or any limited lines funeral insurance policy to the extent used to pay for funeral, burial, or cremation expenses of the recipient of medical assistance;

(B) Conveyances of real estate made prior to August 24, 2017, that are subject to the grantor's retention of a life estate or an estate for a period of time; and

(C) Any pension rights or completed retirement plans to the extent that such rights or plans are exempt from claims for reimbursement of medical assistance under federal law.

(c) As to any interest in property created after August 24, 2017, and for as long as any portion of the debt arising under subsection (1) of this section remains unpaid, the death of the recipient of medical assistance shall not trigger a change in the rights to possession, enjoyment, access, income, or otherwise that the recipient had at the time of death and the personal representative of the recipient's estate is empowered to and shall exercise or enjoy such rights for the purpose of paying such debt, including, but not limited to, renting such property held as a life estate, severing joint tenancies, bringing partition actions, claiming equitable rights of contribution, or taking other actions otherwise appropriate to effect the intent of this section. Such rights shall survive the death of the recipient of medical assistance and shall be administered, marshaled, and disposed of for the purposes of this section. In the event that a claim for reimbursement is made as to some, but not all, nonprobate transferees or assets, the party or owner against whom the claim is asserted may seek equitable contribution toward the claim from the other nonprobate transferees or assets in a court of applicable jurisdiction. Except as otherwise provided in this section and except for the right of the department to recover the debt from such interests in property, this subsection in and of itself does not create any rights in any other person or entity.

(d) The department, upon application of the personal representative of an estate, any person or entity otherwise authorized under the Nebraska Probate Code to act on behalf of a decedent, any person or entity having an interest in assets of the decedent which are subject to this subsection, a successor trustee of a revocable trust or other similar arrangement which has become irrevocable by reason of the decedent's death, or any other person or entity holding assets of the decedent described in this subsection, shall timely certify to the applicant, that as of a designated date, whether medical assistance reimbursement is due or an application for medical assistance was pending that may result in medical assistance reimbursement due. An application for a certificate under this subdivision shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivery on its web site. Any application that fails to conform with such manner is void. Notwithstanding the lack of an order by a court designating the applicant as a person or entity who may receive information protected by applicable privacy laws, the applicant shall have the authority of a personal representative for the limited purpose of seeking and obtaining from the department this certification. If, in response to a certification request, the department certifies that reimbursement for medical assistance is due, the department may release some or all of the property of a decedent from the provisions of this subsection.

(e) An action for recovery of the debt created under subsection (1) of this section may be brought by the department against the estate of a recipient of medical assistance as defined in subdivision (4)(b) of this section at any time before five years after the last of the following events:

(i) The death of the recipient of medical assistance;

(ii) The death of the recipient's spouse, if applicable;

(iii) The attainment of the age of twenty-one years by the youngest of the recipient's minor children, if applicable; or

(iv) A determination that any adult child of the recipient is no longer blind or totally and permanently disabled as defined by the Supplemental Security Income criteria, if applicable.

(5) In any probate proceedings in which the department has filed a claim under this section, no additional evidence of foundation shall be required for the admission of the department's payment record supporting its claim if the payment record bears the seal of the department, is certified as a true copy, and bears the signature of an authorized representative of the department.

(6) The department may waive or compromise its claim, in whole or in part, if the department determines that enforcement of the claim would not be in the best interests of the state or would result in undue hardship as provided in rules and regulations of the department.

(7)(a) Whenever the department has provided medical assistance because of sickness or injury to any person resulting from a third party's wrongful act or negligence and the person has recovered damages from such third party, the department shall have the right to recover the medical assistance it paid from any amounts that the person has received as follows:

(i) In those cases in which the person is fully compensated by the recovery, the department shall be fully reimbursed subject to its contribution to attorney's fees and costs as provided in subdivision (b) of this subsection; or

(ii) In those cases in which the person is not fully compensated by the recovery, the department shall be reimbursed that portion of the recovery that represents the same proportionate reduction of medical expenses paid that the recovery amount bears to full compensation of the person subject to its contributions to attorney's fees and costs as provided in subdivision (b) of this subsection.

(b) When an action or claim is brought by the person and the person incurs or will incur a personal liability to pay attorney's fees and costs of litigation or costs incurred in pursuit of a claim, the department's claim for reimbursement of the medical assistance provided to the person shall be reduced by an amount that represents the department's reasonable pro rata share of attorney's fees and costs of litigation or the costs incurred in pursuit of a claim.

(8) The department may adopt and promulgate rules and regulations to carry out this section.

(9) The changes made to this section by Laws 2019, LB593, shall apply retroactively to August 30, 2015.

Source: Laws 1994, LB 1224, § 39; Laws 1996, LB 1044, § 334; Laws 2001, LB 257, § 1; Laws 2004, LB 1005, § 7; R.S.Supp.,2004, § 68-1036.02; Laws 2006, LB 1248, § 19; Laws 2007, LB185, § 2; Laws 2013, LB23, § 13; Laws 2015, LB72, § 4; Laws 2017, LB268, § 14; Laws 2019, LB593, § 6.
Effective date May 31, 2019.

Cross References

Burial Pre-Need Sale Act, see section 12-1101.
Nebraska Probate Code, see section 30-2201.

68-974 Recovery audit contractors; contracts; contents; powers; health insurance premium assistance payment program; contract; department; powers and duties; form of records authorized; appeal; report.

(1) The department may contract with one or more recovery audit contractors to promote the integrity of the medical assistance program and to assist with cost-containment efforts and recovery audits. The contract or contracts may include services for (a) cost-avoidance through identification of third-party liability, (b) cost recovery of third-party liability through postpayment reimbursement, (c) casualty recovery of payments by identifying and recovering costs for claims that were the result of an accident or neglect and payable by a casualty insurer, and (d) reviews of claims submitted by providers of services or other individuals furnishing items and services for which payment has been made to determine whether providers have been underpaid or overpaid, and to take actions to recover any overpayments identified or make payment for any underpayment identified.

(2) Notwithstanding any other provision of law, all recovery audit contractors retained by the department when conducting a recovery audit shall:

- (a) Review claims within two years from the date of the payment;
- (b) Send a determination letter concluding an audit within sixty days after receipt of all requested material from a provider;
- (c) In any records request to a provider, furnish information sufficient for the provider to identify the patient, procedure, or location;
- (d) Develop and implement with the department a procedure in which an improper payment identified by an audit may be resubmitted as a claims adjustment;
- (e) Utilize a licensed health care professional from the area of practice being audited to establish relevant audit methodology consistent with established practice guidelines, standards of care, and state-issued medicaid provider handbooks;
- (f) Provide a written notification and explanation of an adverse determination that includes the reason for the adverse determination, the medical criteria on which the adverse determination was based, an explanation of the provider's appeal rights, and, if applicable, the appropriate procedure to submit a claims adjustment in accordance with subdivision (2)(d) of this section; and
- (g) Schedule any onsite audits with advance notice of not less than ten business days and make a good faith effort to establish a mutually agreed upon time and date for the onsite audit.

(3) The department shall exclude the following from the scope of review of recovery audit contractors: (a) Claims processed or paid through a capitated medicaid managed care program; and (b) any claims that are currently being audited or that have already been audited by the recovery audit contractor or currently being audited by another entity. No payment shall be recovered in a medical necessity review in which the provider has obtained prior authorization for the service and the service was performed as authorized.

(4) The department may contract with one or more persons to support a health insurance premium assistance payment program.

(5) The department may enter into any other contracts deemed to increase the efforts to promote the integrity of the medical assistance program.

(6) Contracts entered into under the authority of this section may be on a contingent fee basis. Contracts entered into on a contingent fee basis shall provide that contingent fee payments are based upon amounts recovered, not amounts identified. Whether the contract is a contingent fee contract or otherwise, the contractor shall not recover overpayments by the department until all appeals have been completed unless there is a credible allegation of fraudulent activity by the provider, the contractor has referred the claims to the department for investigation, and an investigation has commenced. In that event, the contractor may recover overpayment prior to the conclusion of the appeals process. In any contract between the department and a recovery audit contractor, the payment or fee provided for identification of overpayments shall be the same provided for identification of underpayments. Contracts shall be in compliance with federal law and regulations when pertinent, including a limit on contingent fees of no more than twelve and one-half percent of amounts recovered, and initial contracts shall be entered into as soon as practicable under such federal law and regulations.

(7) All amounts recovered and savings generated as a result of this section shall be returned to the medical assistance program.

(8) Records requests made by a recovery audit contractor in any one-hundred-eighty-day period shall be limited to not more than five percent of the number of claims filed by the provider for the specific service being reviewed, not to exceed two hundred records. The contractor shall allow a provider no less than forty-five days to respond to and comply with a record request. If the contractor can demonstrate a significant provider error rate relative to an audit of records, the contractor may make a request to the department to initiate an additional records request regarding the subject under review for the purpose of further review and validation. The contractor shall not make the request until the time period for the appeals process has expired.

(9) On an annual basis, the department shall require the recovery audit contractor to compile and publish on the department's Internet web site metrics related to the performance of each recovery audit contractor. Such metrics shall include: (a) The number and type of issues reviewed; (b) the number of medical records requested; (c) the number of overpayments and the aggregate dollar amounts associated with the overpayments identified by the contractor; (d) the number of underpayments and the aggregate dollar amounts associated with the identified underpayments; (e) the duration of audits from initiation to time of completion; (f) the number of adverse determinations and the overturn rating of those determinations in the appeal process; (g) the number of appeals filed by providers and the disposition status of such appeals; (h) the contractor's compensation structure and dollar amount of compensation; and (i) a copy of the department's contract with the recovery audit contractor.

(10) The recovery audit contractor, in conjunction with the department, shall perform educational and training programs annually for providers that encompass a summary of audit results, a description of common issues, problems, and mistakes identified through audits and reviews, and opportunities for improvement.

(11) Providers shall be allowed to submit records requested as a result of an audit in electronic format, including compact disc, digital versatile disc, or

other electronic format deemed appropriate by the department or via facsimile transmission, at the request of the provider.

(12)(a) A provider shall have the right to appeal a determination made by the recovery audit contractor.

(b) The contractor shall establish an informal consultation process to be utilized prior to the issuance of a final determination. Within thirty days after receipt of notification of a preliminary finding from the contractor, the provider may request an informal consultation with the contractor to discuss and attempt to resolve the findings or portion of such findings in the preliminary findings letter. The request shall be made to the contractor. The consultation shall occur within thirty days after the provider's request for informal consultation, unless otherwise agreed to by both parties.

(c) Within thirty days after notification of an adverse determination, a provider may request an administrative appeal of the adverse determination as set forth in the Administrative Procedure Act.

(13) The department shall by December 1 of each year report to the Legislature the status of the contracts, including the parties, the programs and issues addressed, the estimated cost recovery, and the savings accrued as a result of the contracts. Such report shall be filed electronically.

(14) For purposes of this section:

(a) Adverse determination means any decision rendered by the recovery audit contractor that results in a payment to a provider for a claim for service being reduced or rescinded;

(b) Person means bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations; and

(c) Recovery audit contractor means private entities with which the department contracts to audit claims for medical assistance, identify underpayments and overpayments, and recoup overpayments.

Source: Laws 2012, LB541, § 3; Laws 2015, LB315, § 1; Laws 2019, LB260, § 1.

Effective date September 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

68-989 Disclosure by applicant; income and assets; action for recovery of medical assistance authorized.

(1) This section shall apply to the fullest extent permitted by federal law and understandings entered into between the state and the federal government. An applicant for medical assistance, or a person acting on behalf of the applicant, shall disclose at the time of application and, to the extent not owned at the time of application, at the time of any subsequent review of the applicant's eligibility for medical assistance all of his or her interests in any assets, including, but not limited to, any security, bank account, intellectual property right, contractual or lease right, real estate, trust, corporation, limited liability company, or other entity, whether such interest is direct or indirect or vested or contingent. The applicant or a person acting on behalf of the applicant shall also disclose any income derived from such interests and the source of the income.

(2) If the applicant or a person acting on behalf of the applicant willfully fails to make the disclosures required in this section, any medical assistance obtained as a result of such failure is deemed unlawfully obtained and the department shall seek recovery of such medical assistance from the applicant or the estate of the recipient of medical assistance as defined in subdivision (4)(b) of section 68-919.

(3)(a) If income is derived from a related party as described in subdivision (3)(c) of this section, the department shall determine whether the income is or, in the case of a written lease, whether the terms of the lease at the time it was entered into were commercially reasonable and consistent with income or lease terms derived in the relevant market area and negotiated at arms length between parties who are not related.

(b) If the department determines that the income or lease fails to meet these requirements, such income or lease shall be considered a transfer of the applicant's assets for less than full consideration and the department shall consider the resulting shortfall, to the fullest extent permitted by federal law, when determining eligibility for medical assistance or any share of cost or as otherwise required by law. The burden of proof of commercial reasonableness rests with the applicant. The department's determination on commercial reasonableness may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(c) A related party is (i) the applicant's spouse or an individual who is related to the applicant as described in section 77-2004 or 77-2005 or (ii) an entity controlled by one or more individuals described in subdivision (1)(c)(i) of this section. For purposes of this subdivision, control means individuals listed in subdivision (1)(c)(i) of this section who together own or have the option to acquire more than fifty percent of the entity.

(4) An action for recovery of medical assistance obtained in violation of this section may be brought by the department against the applicant or against the estate of the recipient of medical assistance as defined in subdivision (4)(b) of section 68-919 at any time before five years after the death of both the applicant and the applicant's spouse, if any.

(5) The department may adopt and promulgate rules and regulations to carry out this section. The rules and regulations may include guidance on the commercial reasonableness of lease terms.

Source: Laws 2017, LB268, § 11; Laws 2019, LB593, § 7.
Effective date May 31, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

68-990 Medical assistance; transfers; security for recovery of indebtedness to department; lien; notice; filing; department; duties; section null and void.

(1) For purposes of this section:

(a) Related transferee means:

(i) An individual who is related to the transferor as described in section 77-2004 or 77-2005;

(ii) An entity controlled by one or more individuals described in subdivision (1)(a)(i) of this section. For purposes of this subdivision, control means individ-

uals described in subdivision (1)(a)(i) of this section together own or have the option to acquire more than fifty percent of the entity; or

(iii) An irrevocable trust in which an individual described in subdivision (1)(a)(i) of this section is a beneficiary; and

(b) Related transferee does not include the recipient's spouse, if any, or a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by Supplemental Security Income criteria.

(2) This section shall apply to the fullest extent permitted by federal law and understandings entered into between the state and the federal government. This section provides security for the recovery of the indebtedness to the department for medical assistance as provided in section 68-919. This section applies to transfers of real estate made on or after August 24, 2017. If, during the transferor's lifetime, an interest in real estate is irrevocably transferred to a related transferee for less than full consideration and the real estate transferred to the related transferee is subject to rights, actual or constructive possession, or powers retained by the transferor in a deed or other instrument, the interest in the real estate when acquired by the related transferee is subject to a lien in favor of the State of Nebraska for medical assistance reimbursement pursuant to section 68-919 to the extent necessary to secure payment in full of any claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section. The lien does not attach to any interest retained by the transferor. Except as provided in this section, the lien applies to medical assistance provided before, at the same time as, or after the filing of the notice of lien under subsection (4) of this section.

(3) Within fifteen days after receipt of a statement required by section 76-214 indicating that the underlying real estate transfer was between relatives or, if to a trustee, where the trustor or settlor and the beneficiary are relatives, the register of deeds shall send a copy of such statement, together with the parcel identification number, if ascertainable, to the department. The copy shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivering the copy on its web site or otherwise communicate the manner of delivery to the registers of deeds.

(4) The lien imposed by subsection (2) of this section becomes effective upon the filing of a notice of lien in accordance with this subsection. The department may file a notice of the lien imposed by subsection (2) of this section only after the department receives an application for medical assistance on behalf of a transferor. The notice must be filed in the office of the register of deeds of the county or counties in which the real estate subject to the lien is located. The notice must provide the legal description of the real estate subject to the lien, specify the amount then secured by the lien, and indicate that the lien also covers any future medical assistance provided to the transferor. The department shall provide the register of deeds with a self-addressed return envelope bearing sufficient postage for purposes of returning to the department a file-stamped copy of the notice of lien, which the register of deeds shall mail to the department. The lien is not valid against the owner of an interest in real estate received by a grantee who is not a related transferee pursuant to a deed or other instrument if such deed or other instrument is filed prior to the notice of lien. A lien that is not valid under this subsection shall be released by the

department upon notice thereof from such grantee or a subsequent bona fide purchaser. A lien is valid against any subsequent creditor only if notice of such lien has been filed by the department in accordance with this subsection. Any mortgage or trust deed recorded prior to the filing of a notice of lien shall have priority over such lien. Except as provided in subsection (5) of this section, any optional future advance or advance necessary to protect the security secured by the mortgage or trust deed shall have the same priority as the mortgage or trust deed.

(5) Any optional future advance made pursuant to a mortgage or trust deed on real estate recorded prior to the filing of a notice of lien under subsection (4) of this section shall be junior to such lien only if the optional future advance is made after:

(a) A notice of lien has been filed by the department in accordance with subsection (4) of this section; and

(b) Written notice of the filing for record of such notice of lien has been received by the mortgagee or beneficiary at the address of the mortgagee or beneficiary set forth in the mortgage or trust deed or, if the mortgage or trust deed has been assigned, by the assignee at the address of the most recent assignee reflected in a recorded assignment of the mortgage or trust deed. The notice under this subdivision shall be sent by the department by certified mail to the applicable mortgagee, beneficiary, or assignee.

(6)(a) The lien authorized in this section is limited to the lesser of (i) the amount necessary to fully satisfy any reimbursement obligations remaining unpaid after application of any assets from the transferor's probate estate or (ii) the actual value of the real estate at the time that the lien is enforced minus the consideration adjustment and minus the cost of the improvements made to the real estate by or on behalf of the related transferee, if any.

(b) For purposes of this subsection:

(i) Actual value has the same meaning as in section 77-112;

(ii) Consideration adjustment means the amount of consideration paid by the related transferee to the transferor for the real estate multiplied by the growth factor; and

(iii) Growth factor means the actual value of the real estate at the time the lien is enforced divided by the actual value of the real estate at the time the consideration was paid.

(c) The burden of proof for showing the consideration paid for the real estate, the cost of any improvements to the real estate, and the actual value of the real estate rests with the related transferee or his or her successor in interest.

(7) If a deed or other instrument transferring an interest in real estate contains a recital acknowledged by the grantor stating that the grantee is not a related transferee, the real estate being transferred shall not be subject to the lien imposed by this section. A related transferee who takes possession or otherwise enjoys the benefits of the transfer knowing the recital is false becomes personally liable for medical assistance reimbursement to the extent necessary to discharge any claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section.

(8) The department shall release or subordinate the lien authorized in this section upon application by the related transferee in which the related transfer-

ee agrees to indemnify the department for medical assistance reimbursement pursuant to section 68-919 to the extent necessary to discharge any such claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section. The department may require the application submitted pursuant to this subsection to be accompanied by good and sufficient sureties or other evidence determined by the department to be sufficient to secure the liability. The department shall also release the lien upon a satisfactory showing of undue hardship or a showing that the interest subject to the lien is not one from which medical assistance reimbursement may be had.

(9)(a) Any indemnity and any lien shall be released upon:

(i) Notice delivered to the department, by certified mail, return receipt requested, of (A) the death and identification, including the social security number, of the transferor, (B) the legal description of the real estate subject to the indemnity or lien, and (C) the names and addresses of the owners of record of the real estate; and

(ii) The department either (A) filing a release of lien with the register of deeds of the county or counties in which the real estate subject to the lien is located or (B) not filing an action to foreclose the lien or collect on the indemnity within one year after delivery of the notice required under subdivision (9)(a)(i) of this section.

(b) Proof of delivery of such notice shall be made by filing a copy of the notice and a copy of the certified mail return receipt with the register of deeds of the county or counties in which the real estate subject to the lien is located.

(10) The department may adopt and promulgate rules and regulations to carry out this section.

(11) This section is null and void as of August 24, 2017.

Source: Laws 2017, LB268, § 12; Laws 2019, LB593, § 8.
Effective date May 31, 2019.

68-992 Eligibility for medical assistance; expanded population; Department of Health and Human Services; duties.

(1) Eligibility for medical assistance shall be expanded to include certain adults ages nineteen through sixty-four whose income is equal to or less than one hundred thirty-eight percent of the federal poverty level, as authorized and using the income methodology defined by 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) and related federal regulations and guidance, as such statute, regulations, and guidance existed on January 1, 2018.

(2) On or before April 1, 2019, in order to ensure that eligibility for medical assistance is expanded as required by this section, the Department of Health and Human Services shall submit a state plan amendment and all other necessary documents seeking required approvals or waivers to the federal Centers for Medicare and Medicaid Services.

(3) The Department of Health and Human Services shall take all actions necessary to maximize federal financial participation in funding medical assistance pursuant to this section.

(4) No greater or additional burdens or restrictions on eligibility, enrollment, benefits, or access to health care services shall be imposed on persons eligible

for medical assistance pursuant to this section than on any other population eligible for medical assistance.

(5) This section shall apply notwithstanding any other provision of law or federal waiver.

Source: Initiative Law 2018, No. 427, § 2.

68-993 Medical parole; protocol.

The Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall, in consultation with the Department of Correctional Services, develop a protocol to assist an individual who is eligible for medical parole pursuant to section 83-1,110.02 to apply for and receive benefits under the Medical Assistance Act.

Source: Laws 2019, LB726, § 2.

Effective date September 1, 2019.

68-994 Long-term care services and supports; department; limitation on addition to medicaid managed care program.

Until July 1, 2021, the department shall not add long-term care services and supports to the medicaid managed care program. For purposes of this section, long-term care services and supports includes services of a skilled nursing facility, a nursing facility, and an assisted-living facility and home and community-based services.

Source: Laws 2019, LB468, § 2.

Effective date September 1, 2019.

ARTICLE 12

SOCIAL SERVICES

Section

68-1206. Social services; administration; contracts; payments; duties.

68-1212. Department of Health and Human Services; cases; case manager; employee of department; duties; case management lead agency model pilot project; contract authorized; conditions, performance outcomes, and oversight.

68-1206 Social services; administration; contracts; payments; duties.

(1) The Department of Health and Human Services shall administer the program of social services in this state. The department may contract with other social agencies for the purchase of social services at rates not to exceed those prevailing in the state or the cost at which the department could provide those services. The statutory maximum payments for the separate program of aid to dependent children shall apply only to public assistance grants and shall not apply to payments for social services. As part of the provision of social services authorized by section 68-1202, the department shall participate in the federal child care assistance program under 42 U.S.C. 618, as such section existed on January 1, 2013, and provide child care assistance to families with incomes up to one hundred twenty-five percent of the federal poverty level for FY2013-14 and one hundred thirty percent of the federal poverty level for FY2014-15 and each fiscal year thereafter.

(2) As part of the provision of social services authorized by this section and section 68-1202, the department shall participate in the federal Child Care

Subsidy program. In determining ongoing eligibility for this program, ten percent of a household's gross earned income shall be disregarded after twelve continuous months on the program and at each subsequent redetermination. In determining ongoing eligibility, if a family's income exceeds one hundred thirty percent of the federal poverty level, the family shall receive transitional child care assistance through the remainder of the family's eligibility period or until the family's income exceeds eighty-five percent of the state median income for a family of the same size as reported by the United States Bureau of the Census, whichever occurs first. When the family's eligibility period ends, the family shall continue to be eligible for transitional child care assistance if the family's income is below one hundred eighty-five percent of the federal poverty level. The family shall receive transitional child care assistance through the remainder of the transitional eligibility period or until the family's income exceeds eighty-five percent of the state median income for a family of the same size as reported by the United States Bureau of the Census, whichever occurs first. The amount of such child care assistance shall be based on a cost-shared plan between the recipient family and the state and shall be based on a sliding-scale methodology. A recipient family may be required to contribute a percentage of such family's gross income for child care that is no more than the cost-sharing rates in the transitional child care assistance program as of January 1, 2015, for those no longer eligible for cash assistance as provided in section 68-1724. Initial program eligibility standards shall not be impacted by the provisions of this subsection.

(3) In determining the rate or rates to be paid by the department for child care as defined in section 43-2605, the department shall adopt a fixed-rate schedule for the state or a fixed-rate schedule for an area of the state applicable to each child care program category of provider as defined in section 71-1910 which may claim reimbursement for services provided by the federal Child Care Subsidy program, except that the department shall not pay a rate higher than that charged by an individual provider to that provider's private clients. The schedule may provide separate rates for care for infants, for children with special needs, including disabilities or technological dependence, or for other individual categories of children. The schedule may also provide tiered rates based upon a quality scale rating of step three or higher under the Step Up to Quality Child Care Act. The schedule shall be effective on October 1 of every year and shall be revised annually by the department.

Source: Laws 1973, LB 511, § 6; Laws 1982, LB 522, § 44; Laws 1991, LB 836, § 26; Laws 1995, LB 401, § 22; Laws 1996, LB 1044, § 347; Laws 2006, LB 994, § 68; Laws 2007, LB296, § 279; Laws 2013, LB507, § 15; Laws 2014, LB359, § 3; Laws 2015, LB81, § 1; Laws 2019, LB460, § 1.
Operative date September 1, 2019.

Cross References

Step Up to Quality Child Care Act, see section 71-1952.

68-1212 Department of Health and Human Services; cases; case manager; employee of department; duties; case management lead agency model pilot project; contract authorized; conditions, performance outcomes, and oversight.

(1) Except as provided in subsection (2) of this section, for all cases in which a court has awarded a juvenile to the care of the Department of Health and

Human Services according to subsection (1) of section 43-285 and for any noncourt and voluntary cases, the case manager shall be an employee of the department. Such case manager shall be responsible for and shall directly oversee: Case planning; service authorization; investigation of compliance; monitoring and evaluation of the care and services provided to children and families; and decisionmaking regarding the determination of visitation and the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile under subsection (1) of section 43-285. Such case manager shall be responsible for decisionmaking and direct preparation regarding the proposed plan for the care, placement, services, and permanency of the juvenile filed with the court required under subsection (2) of section 43-285. The health and safety of the juvenile shall be the paramount concern in the proposed plan in accordance with such subsection.

(2) The department may contract with a lead agency for a case management lead agency model pilot project in the department's eastern service area as designated pursuant to section 81-3116. The department shall include in the pilot project the appropriate conditions, performance outcomes, and oversight for the lead agency, including, but not be limited to:

(a) The reporting and survey requirements of lead agencies described in sections 43-4406 and 43-4407;

(b) Departmental monitoring and functional capacities of lead agencies described in section 43-4408;

(c) The key areas of evaluation specified in subsection (3) of section 43-4409;

(d) Compliance and coordination with the strategic child welfare priorities determined by the Nebraska Children's Commission as provided in section 43-4204; and

(e) Assurance of financial accountability and reporting by the lead agency.

(3) A lead agency contracted to provide community-based care for children and families shall:

(a) Have a board of directors of which at least fifty-one percent of the membership is comprised of Nebraska residents who are not employed by the lead agency or by a subcontractor of the lead agency;

(b) Complete a readiness assessment as developed by the Department of Health and Human Services to determine the lead agency's viability. The readiness assessment shall evaluate organizational, operational, and programmatic capabilities and performance, including review of: The strength of the board of directors; compliance and oversight; financial risk management; financial liquidity and performance; infrastructure maintenance; funding sources, including state, federal, and external private funding; and operations, including reporting, staffing, evaluation, training, supervision, contract monitoring, and program performance tracking capabilities;

(c) Have the ability to provide directly or by contract through a local network of providers the services required of a lead agency. A lead agency shall not directly provide more than thirty-five percent of direct services required under the contract; and

(d) Provide accountability for meeting the outcomes and performance standards related to child welfare services established by Nebraska child welfare policy and the federal government.

Source: Laws 2012, LB961, § 2; Laws 2014, LB660, § 1; Laws 2019, LB600, § 18.

Operative date July 1, 2019.

ARTICLE 17

WELFARE REFORM

(a) WELFARE REFORM ACT

Section

68-1724. Cash assistance; duration; reimbursement of expenses; when; conditions; extension of time limit.

(a) WELFARE REFORM ACT

68-1724 Cash assistance; duration; reimbursement of expenses; when; conditions; extension of time limit.

(1) Cash assistance shall be provided for a period or periods of time not to exceed a total of sixty months for recipient families with children subject to the following:

(a) If the state fails to meet the specific terms of the self-sufficiency contract developed under section 68-1719, the sixty-month time limit established in this section shall be extended;

(b) The sixty-month time period for cash assistance shall begin within the first month of eligibility;

(c) When no longer eligible to receive cash assistance, assistance shall be available to reimburse work-related child care expenses even if the recipient family has not achieved economic self-sufficiency. The amount of such assistance shall be based on a cost-shared plan between the recipient family and the state which shall provide assistance up to one hundred eighty-five percent of the federal poverty level. A recipient family may be required to contribute up to twenty percent of such family's gross income for child care. It is the intent of the Legislature that transitional health care coverage be made available on a sliding-scale basis to individuals and families with incomes up to one hundred eighty-five percent of the federal poverty level if other health care coverage is not available; and

(d) The self-sufficiency contract shall be revised and cash assistance extended when there is no job available for adult members of the recipient family. It is the intent of the Legislature that available job shall mean a job which results in an income of at least equal to the amount of cash assistance that would have been available if receiving assistance minus unearned income available to the recipient family.

The department shall develop policy guidelines to allow for cash assistance to persons who have received the maximum cash assistance provided by this section and who face extreme hardship without additional assistance. For purposes of this section, extreme hardship means a recipient family does not have adequate cash resources to meet the costs of the basic needs of food, clothing, and housing without continuing assistance or the child or children are at risk of losing care by and residence with their parent or parents.

(2) Cash assistance conditions under the Welfare Reform Act shall be as follows:

(a) Adults in recipient families shall mean individuals at least nineteen years of age living with and related to a child eighteen years of age or younger and shall include parents, siblings, uncles, aunts, cousins, or grandparents, whether the relationship is biological, adoptive, or step;

(b) The payment standard shall be based upon family size;

(c) The adults in the recipient family shall ensure that the minor children regularly attend school. Education is a valuable personal resource. The cash assistance provided to the recipient family may be reduced when the parent or parents have failed to take reasonable action to encourage the minor children of the recipient family ages sixteen and under to regularly attend school. No reduction of assistance shall be such as may result in extreme hardship. It is the intent of the Legislature that a process be developed to insure communication between the case manager, the parent or parents, and the school to address issues relating to school attendance;

(d) Two-parent families which would otherwise be eligible under section 43-504 or a federally approved waiver shall receive cash assistance under this section;

(e) For minor parents, the assistance payment shall be based on the minor parent's income. If the minor parent lives with at least one parent, the family's income shall be considered in determining eligibility and cash assistance payment levels for the minor parent. If the minor parent lives independently, support shall be pursued from the parents of the minor parent. If the absent parent of the minor's child is a minor, support from his or her parents shall be pursued. Support from parents as allowed under this subdivision shall not be pursued when the family income is less than three hundred percent of the federal poverty guidelines; and

(f) For adults who are not biological or adoptive parents or stepparents of the child or children in the family, if assistance is requested for the entire family, including the adults, a self-sufficiency contract shall be entered into as provided in section 68-1719. If assistance is requested for only the child or children in such a family, such children shall be eligible after consideration of the family's income and if (i) the family cooperates in pursuing child support and (ii) the minor children of the family regularly attend school.

Source: Laws 1994, LB 1224, § 24; Laws 1995, LB 455, § 15; Laws 2007, LB351, § 11; Laws 2019, LB460, § 2.
Operative date September 1, 2019.

CHAPTER 69

PERSONAL PROPERTY

Article.

- 13. Disposition of Unclaimed Property.
 - (a) Uniform Disposition of Unclaimed Property Act. 69-1311 to 69-1321.
- 20. Degradable Products. 69-2011.
- 21. Consumer Rental Purchase Agreements. 69-2103 to 69-2117.
- 23. Disposition of Personal Property Landlord and Tenant Act. 69-2302.
- 25. Plastic Container Coding. 69-2502, 69-2505.
- 27. Tobacco. 69-2703.02 to 69-2710.03.

ARTICLE 13

DISPOSITION OF UNCLAIMED PROPERTY

(a) UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

Section

- 69-1311. Report of property presumed abandoned; notices; time; contents; exceptions.
- 69-1317. Abandoned property; Unclaimed Property Escheat Trust Fund; record; professional finder's fee; information withheld; when; transfers; Unclaimed Property Cash Fund; created; investment.
- 69-1321. Abandoned property; State Treasurer; decline to accept; when; other payments or delivery authorized.

(a) UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

69-1311 Report of property presumed abandoned; notices; time; contents; exceptions.

(a) Between March 1 and March 10 of each year the State Treasurer shall cause notice to be published once in an English language legal newspaper of general circulation in the county in this state in which is located the last-known address of any person to be named in the notice. If no address is known, then the notice shall be published in a legal newspaper having statewide circulation.

(b) The published notice shall be entitled Notice to Owners of Abandoned Property, and shall contain:

(1) The names in alphabetical order and counties of last-known addresses, if any, of persons listed in the report and entitled to notice as provided in subsection (a) of this section.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the State Treasurer.

(c) The State Treasurer is not required to publish in such notice any item of less than fifty dollars unless he or she deems such publication to be in the public interest.

(d) Within one hundred twenty days from the receipt of the report required by section 69-1310, the State Treasurer shall mail a notice to each person having an address listed therein who appears to be entitled to property of the

value of fifty dollars or more presumed abandoned under the Uniform Disposition of Unclaimed Property Act.

(e) The mailed notice shall contain:

(1) A statement that, according to a report filed with the State Treasurer, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is presented by the owner to the State Treasurer, arrangements will be made to transfer the property to the owner as provided by law.

(f) This section is not applicable to sums payable on traveler's checks or money orders presumed abandoned under section 69-1302.

Source: Laws 1969, c. 611, § 11, p. 2485; Laws 1971, LB 648, § 1; Laws 1977, LB 305, § 5; Laws 2005, LB 476, § 1; Laws 2019, LB406, § 3.

Effective date March 13, 2019.

69-1317 Abandoned property; Unclaimed Property Escheat Trust Fund; record; professional finder's fee; information withheld; when; transfers; Unclaimed Property Cash Fund; created; investment.

(a)(1) Except as otherwise provided in this subdivision, all funds received under the Uniform Disposition of Unclaimed Property Act, including the proceeds from the sale of abandoned property under section 69-1316, shall be deposited by the State Treasurer into the Unclaimed Property Escheat Trust Fund from which he or she shall make prompt payment of claims allowed pursuant to the act and payment of any expenses related to unclaimed property. All funds received under section 69-1307.05 shall be deposited by the State Treasurer into the Unclaimed Property Escheat Trust Fund from which he or she shall make prompt payment of claims regarding such funds allowed pursuant to the act. Transfers from the Unclaimed Property Escheat Trust Fund to the General Fund may be made at the direction of the Legislature. Before making the deposit he or she shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the abandoned property, the name and last-known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection during business hours. The separate life insurance corporation demutualization trust fund terminates on March 13, 2019, and the State Treasurer shall transfer any money in the fund on such date to the Unclaimed Property Escheat Trust Fund.

The record shall not be subject to public inspection or available for copying, reproduction, or scrutiny by commercial or professional locators of property presumed abandoned who charge any service or finders' fee until twenty-four months after the names from the holders' reports have been published or officially disclosed. Records concerning the social security number, date of birth, and last-known address of an owner shall be treated as confidential and subject to the same confidentiality as tax return information held by the Department of Revenue, except that the Auditor of Public Accounts shall have unrestricted access to such records.

A professional finders' fee shall be limited to ten percent of the total dollar amount of the property presumed abandoned. To claim any such fee, the finder shall disclose to the owner the nature, location, and value of the property, provide notice of when such property was reported to the State Treasurer, and provide notice that the property may be claimed by the owner from the State Treasurer free of charge. To claim any such fee if the property has not yet been abandoned, the finder shall disclose to the owner the nature, location, and value of the property, provide notice of when such property will be reported to the State Treasurer, if known, and provide notice that, upon receipt of the property by the State Treasurer, such property may be claimed by the owner from the State Treasurer free of charge.

(2) The unclaimed property records of the State Treasurer, the unclaimed property reports of holders, and the information derived by an unclaimed property examination or audit of the records of a person or otherwise obtained by or communicated to the State Treasurer may be withheld from the public. Any record or information that may be withheld under the laws of this state or of the United States when in the possession of such a person may be withheld when revealed or delivered to the State Treasurer. Any record or information that is withheld under any law of another state when in the possession of that other state may be withheld when revealed or delivered by the other state to the State Treasurer.

Information withheld from the general public concerning any aspect of unclaimed property shall only be disclosed to an apparent owner of the property or to the escheat, unclaimed, or abandoned property administrators or officials of another state if that other state accords substantially reciprocal privileges to the State Treasurer.

(b) On or before November 1 of each year, the State Treasurer shall distribute any balance in excess of one million dollars from the Unclaimed Property Escheat Trust Fund to the permanent school fund.

(c) Before making any deposit to the credit of the permanent school fund or the General Fund, the State Treasurer may deduct any costs related to unclaimed property and place such funds in the Unclaimed Property Cash Fund which is hereby created. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Unclaimed Property Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1969, c. 611, § 17, p. 2488; Laws 1971, LB 648, § 2; Laws 1977, LB 305, § 7; Laws 1978, LB 754, § 1; Laws 1986, LB 212, § 2; Laws 1992, Third Spec. Sess., LB 26, § 17; Laws 1994, LB 1048, § 8; Laws 1994, LB 1049, § 1; Laws 1994, LB 1066, § 63; Laws 1995, LB 7, § 67; Laws 1997, LB 57, § 1; Laws 2003, LB 424, § 4; Laws 2009, LB432, § 1; Laws 2012, LB1026, § 1; Laws 2019, LB406, § 4.

Effective date March 13, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

69-1321 Abandoned property; State Treasurer; decline to accept; when; other payments or delivery authorized.

(a) The State Treasurer or his or her designee, after receiving reports of property deemed abandoned pursuant to the Uniform Disposition of Unclaimed Property Act, may decline to receive any property reported which he or she deems to have a value less than the cost of giving notice and holding sale, or he or she may, if he or she deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within one hundred twenty days after filing the report required under section 69-1310, the State Treasurer or his or her designee shall be deemed to have elected to receive the custody of the property.

(b) A holder may pay or deliver property before the property is presumed abandoned with written consent of the State Treasurer or his or her designee and upon conditions and terms prescribed by the State Treasurer or his or her designee. Property paid or delivered under this subsection shall be held by the State Treasurer and is not presumed abandoned until such time as it otherwise would be presumed abandoned under the act.

Source: Laws 1969, c. 611, § 21, p. 2489; Laws 1992, Third Spec. Sess., LB 26, § 18; Laws 2019, LB406, § 5.
Effective date March 13, 2019.

ARTICLE 20**DEGRADABLE PRODUCTS**

Section

69-2011. Disposable diapers; requirements; Director of Environment and Energy; duties.

69-2011 Disposable diapers; requirements; Director of Environment and Energy; duties.

On and after October 1, 1993, a person shall not sell or offer for sale at retail any disposable diaper which is constructed of a material which is not biodegradable or photodegradable if the Director of Environment and Energy determines that biodegradable or photodegradable disposable diapers are readily available at a comparable price and quality. The determination of quality shall include a study of the environmental impact and fate of such disposable diapers. The director shall issue his or her determination to the Legislature on or before October 1, 1992. For purposes of this section (1) readily available shall mean available for purchase in sufficient quantities to meet demand through usual retail channels throughout the state and (2) comparable price and quality shall mean at a cost not in excess of five percent above the average price for products of comparable quality which are not biodegradable or photodegradable.

Source: Laws 1989, LB 325, § 11; Laws 1993, LB 3, § 42; Laws 2019, LB302, § 84.
Operative date July 1, 2019.

ARTICLE 21

CONSUMER RENTAL PURCHASE AGREEMENTS

Section

69-2103. Terms, defined.

69-2104. Lessor; disclosures required.

69-2112. Advertisement; requirements.

69-2117. Cease and desist order; fine; injunction; procedures; appeal.

69-2103 Terms, defined.

For purposes of the Consumer Rental Purchase Agreement Act:

(1) Advertisement means a commercial message in any medium that aids, promotes, or assists directly or indirectly a consumer rental purchase agreement but does not include in-store merchandising aids such as window signs and ceiling banners;

(2) Cash price means the price at which the lessor would have sold the property to the consumer for cash on the date of the consumer rental purchase agreement for the property;

(3) Consumer means a natural person who rents property under a consumer rental purchase agreement;

(4) Consumer rental purchase agreement means an agreement which is for the use of property by a consumer primarily for personal, family, or household purposes, which is for an initial period of four months or less, whether or not there is any obligation beyond the initial period, which is automatically renewable with each payment, and which permits the consumer to become the owner of the property. A consumer rental purchase agreement in compliance with the act shall not be construed to be a lease or agreement which constitutes a credit sale as defined in 12 C.F.R. 1026.2(a)(16), as such regulation existed on January 1, 2019, and 15 U.S.C. 1602(h), as such section existed on January 1, 2019, or a lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2, as such regulation existed on January 1, 2019. Consumer rental purchase agreement does not include:

(a) Any lease for agricultural, business, or commercial purposes;

(b) Any lease made to an organization;

(c) A lease or agreement which constitutes an installment sale or installment contract as defined in section 45-335;

(d) A security interest as defined in subdivision (35) of section 1-201, Uniform Commercial Code; and

(e) A home solicitation sale as defined in section 69-1601;

(5) Consummation means the occurrence of an event which causes a consumer to become contractually obligated on a consumer rental purchase agreement;

(6) Department means the Department of Banking and Finance;

(7) Lease payment means a payment to be made by the consumer for the right of possession and use of the property for a specific lease period but does not include taxes imposed on such payment;

(8) Lease period means a week, month, or other specific period of time, during which the consumer has the right to possess and use the property after paying the lease payment and applicable taxes for such period;

(9) Lessor means a person who in the ordinary course of business operates a commercial outlet which regularly leases, offers to lease, or arranges for the leasing of property under a consumer rental purchase agreement;

(10) Property means any property that is not real property under the laws of this state when made available for a consumer rental purchase agreement; and

(11) Total of payments to acquire ownership means the total of all charges imposed by the lessor and payable by the consumer as a condition of acquiring ownership of the property. Total of payments to acquire ownership includes lease payments and any initial nonrefundable administrative fee or required delivery charge but does not include taxes, late charges, reinstatement fees, or charges for optional products or services.

Source: Laws 1989, LB 681, § 3; Laws 1993, LB 111, § 2; Laws 2001, LB 641, § 1; Laws 2005, LB 570, § 3; Laws 2011, LB76, § 6; Laws 2016, LB761, § 1; Laws 2019, LB259, § 9.
Effective date March 8, 2019.

69-2104 Lessor; disclosures required.

(1) Before entering into any consumer rental purchase agreement, the lessor shall disclose to the consumer the following items as applicable:

(a) A brief description of the leased property sufficient to identify the property to the consumer and lessor;

(b) The number, amount, and timing of all payments included in the total of payments to acquire ownership;

(c) The total of payments to acquire ownership;

(d) A statement that the consumer will not own the property until the consumer has paid the total of payments to acquire ownership plus applicable taxes;

(e) A statement that the total of payments to acquire ownership does not include other charges such as taxes, late charges, reinstatement fees, or charges for optional products or services the consumer may have elected to purchase and that the consumer should see the rental purchase agreement for an explanation of these charges;

(f) A statement that the consumer is responsible for the fair market value, remaining rent, early purchase option amount, or cost of repair of the property, whichever is less, if it is lost, stolen, damaged, or destroyed;

(g) A statement indicating whether the property is new or used. A statement that indicates that new property is used shall not be a violation of the Consumer Rental Purchase Agreement Act;

(h) A statement of the cash price of the property. When the agreement involves a lease for two or more items, a statement of the aggregate cash price of all items shall satisfy the requirement of this subdivision;

(i) The total amount of the initial payments required to be paid before consummation of the agreement or delivery of the property, whichever occurs later, and an itemization of the components of the initial payment, including any initial nonrefundable administrative fee or delivery charge, lease payment, taxes, or fee or charge for optional products or services;

(j) A statement clearly summarizing the terms of the consumer's options to purchase, including a statement that at any time after the first periodic

payment is made the consumer may acquire ownership of the property by tendering an amount which may not exceed fifty-five percent of the difference between the total of payments to acquire ownership and the total of lease payments the consumer has paid on the property at that time;

(k) A statement identifying the party responsible for maintaining or servicing the property while it is being leased, together with a description of that responsibility and a statement that if any part of a manufacturer's warranty covers the leased property at the time the consumer acquires ownership of the property, such warranty shall be transferred to the consumer if allowed by the terms of the warranty; and

(l) The date of the transaction and the names of the lessor and the consumer.

(2) With respect to matters specifically governed by the Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2019, compliance with such act shall satisfy the requirements of this section.

(3) Subsection (1) of this section shall not apply to a lessor who complies with the disclosure requirements of the Consumer Credit Protection Act, 15 U.S.C. 1667a, as such section existed on January 1, 2019, with respect to a consumer rental purchase agreement entered into with a consumer.

Source: Laws 1989, LB 681, § 4; Laws 2001, LB 641, § 2; Laws 2011, LB76, § 7; Laws 2016, LB761, § 2; Laws 2019, LB259, § 10.
Effective date March 8, 2019.

69-2112 Advertisement; requirements.

(1) Any advertisement for a consumer rental purchase agreement which refers to or states the amount of any payment or the right to acquire ownership for any specific item shall also state clearly and conspicuously the following if applicable:

(a) That the transaction advertised is a consumer rental purchase agreement;

(b) The total of payments to acquire ownership; and

(c) That the consumer acquires no ownership rights until the total of payments to acquire ownership is paid.

(2) Any owner or employee of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

(3) Subsection (1) of this section shall not apply to an advertisement which does not refer to a specific item of property, which does not refer to or state the amount of any payment, or which is published in the yellow pages of a telephone directory or any similar directory of business.

(4) With respect to matters specifically governed by the Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2019, compliance with such act shall satisfy the requirements of this section.

Source: Laws 1989, LB 681, § 12; Laws 2001, LB 641, § 7; Laws 2011, LB76, § 8; Laws 2016, LB761, § 3; Laws 2019, LB259, § 11.
Effective date March 8, 2019.

69-2117 Cease and desist order; fine; injunction; procedures; appeal.

(1) The Director of Banking and Finance may summarily order a lessor to cease and desist from the use of certain forms or practices relating to consumer

rental purchase agreements if he or she finds that (a) there has been a substantial failure to comply with any of the provisions of the Consumer Rental Purchase Agreement Act or (b) the continued use of certain forms or practices relating to consumer rental purchase agreements would constitute misrepresentation to or deceit or fraud on the consumer.

(2) If the director believes, whether or not based upon an investigation conducted under section 69-2116, that any person or lessor has engaged in or is about to engage in any act or practice constituting a violation of any provision of the Consumer Rental Purchase Agreement Act or any rule, regulation, or order under the act, the director may:

(a) Issue a cease and desist order;

(b) Impose a fine of not to exceed one thousand dollars per violation, in addition to costs of the investigation; or

(c) Initiate an action in any court of competent jurisdiction to enjoin such acts or practices and to enforce compliance with the act or any order under the act.

(3) Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted. The director shall not be required to post a bond.

(4) The fines and costs imposed pursuant to this section shall be in addition to all other penalties imposed by the laws of this state. The director shall collect the fines and costs and remit them to the State Treasurer. The State Treasurer shall credit the costs to the Securities Act Cash Fund and distribute the fines in accordance with Article VII, section 5, of the Constitution of Nebraska. If a person fails to pay the fine or costs of the investigation referred to in this subsection, a lien in the amount of the fine and costs shall be imposed upon all of the assets and property of such person in this state and may be recovered by suit by the director. Failure of the person to pay a fine and costs shall constitute a separate violation of the act.

(5) Upon entry of an order pursuant to this section, the director shall promptly notify all persons to whom such order is directed that it has been entered and of the reasons for such order and that any person to whom the order is directed may request a hearing in writing within fifteen business days of the issuance of the order. Upon a receipt of a written request, the matter shall be set down for hearing to commence within thirty business days after the receipt unless the parties consent to a later date or the hearing officer sets a later date for good cause. If a hearing is not requested within fifteen business days and none is ordered by the director, the order shall automatically become final and shall remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director after notice and hearing shall enter his or her written findings of fact and conclusions of law and may affirm, modify, or vacate the order.

(6) The director may vacate or modify a cease and desist order if he or she finds that the conditions which caused its entry have changed or that it is otherwise in the public interest to do so.

(7) Any person aggrieved by a final order of the director may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1993, LB 111, § 6; Laws 2001, LB 53, § 111; Laws 2019, LB259, § 12.

Effective date March 8, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 23
DISPOSITION OF PERSONAL PROPERTY
LANDLORD AND TENANT ACT

Section
69-2302. Terms, defined.

69-2302 Terms, defined.

For purposes of the Disposition of Personal Property Landlord and Tenant Act:

(1) Landlord means the owner, lessor, or sublessor of furnished or unfurnished premises, including self-service storage units or facilities, for rent or his or her agent or successor in interest;

(2) Owner means one or more persons, jointly or severally, in whom is vested (a) all or part of the legal title to property or (b) all or part of the beneficial ownership and a right to present use and enjoyment of premises and shall include a mortgagee in possession;

(3) Premises means (a) a dwelling unit as defined in section 76-1410 or a distinct portion of a dwelling unit, the facilities and appurtenances in such dwelling unit, and the grounds, areas, and facilities held out for the use of tenants generally or the use of which is promised to the tenants or (b) self-service storage units or facilities;

(4) Reasonable belief means the knowledge or belief a prudent person should have without making an investigation, including any investigation of public records, except that when the landlord has specific information indicating that such an investigation would more probably than not reveal pertinent information and the cost of such an investigation would be reasonable in relation to the probable value of the personal property involved, reasonable belief shall include the actual knowledge or belief a prudent person would have if such investigation were made;

(5) Reasonable costs of storage includes:

(a) Reasonable costs actually incurred, the reasonable value of labor actually provided, or both in removing personal property from its original location on the vacated premises to the place of storage, including disassembly and transportation; and

(b) Reasonable storage costs actually incurred which shall not exceed the fair rental value of the space reasonably required for the storage of the personal property; and

(6) Tenant means a person entitled under a rental agreement to occupy any premises for rent or storage uses to the exclusion of others whether such premises are used as a dwelling unit or self-service storage unit or facility or not.

Source: Laws 1991, LB 36, § 2; Laws 1993, LB 617, § 1; Laws 2019, LB264, § 1.

Effective date September 1, 2019.

ARTICLE 25

PLASTIC CONTAINER CODING

Section

69-2502. Terms, defined.

69-2505. Repealed. Laws 2019, LB302, § 181.

69-2502 Terms, defined.

For purposes of the Plastic Container Coding Act:

(1) Code shall mean a molded, imprinted, or raised symbol on or near the bottom of a plastic bottle or rigid plastic container;

(2) Department shall mean the Department of Environment and Energy;

(3) Plastic shall mean any material made of polymeric organic compounds and additives that can be shaped by flow;

(4) Plastic bottle shall mean a plastic container intended for a single use that:

(a) Has a neck smaller than the body of the container;

(b) Is designed for a screw-top, snap cap, or other closure; and

(c) Has a capacity of not less than sixteen fluid ounces or more than five gallons; and

(5) Rigid plastic container shall mean any formed or molded container intended for a single use, composed predominately of plastic resin, that has a relatively inflexible finite shape or form with a capacity of not less than eight ounces or more than five gallons. Rigid plastic container shall not include a plastic bottle.

Source: Laws 1993, LB 63, § 2; Laws 2019, LB302, § 85.
Operative date July 1, 2019.

69-2505 Repealed. Laws 2019, LB302, § 181.

Operative date July 1, 2019.

ARTICLE 27

TOBACCO

Section

69-2703.02. Tobacco product manufacturer; qualified escrow fund; irrevocable assignment; form; amounts withdrawn; distribution.

69-2705. Terms, defined.

69-2706. Tobacco product manufacturer; certification; contents; Tax Commissioner; powers and duties; directory; prohibited acts.

69-2707. Nonresident or foreign nonparticipating manufacturer; agent for service of process.

69-2707.01. Nonparticipating manufacturers; bond or cash equivalent; amount; provide evidence to Attorney General and Tax Commissioner; failure to make escrow deposits; execution upon bond.

69-2709. Revocation or suspension of stamping agent license; civil penalty; termination of license; grounds; violations; penalties; effect of termination; eligibility for reinstatement; directory license; termination; procedure; contraband; actions to enjoin; criminal penalty; remedies cumulative.

69-2710. Removal from directory; procedure.

69-2710.01. Report; contents.

69-2710.03. Rules and regulations.

69-2703.02 Tobacco product manufacturer; qualified escrow fund; irrevocable assignment; form; amounts withdrawn; distribution.

(1) Notwithstanding subdivision (2)(b) of section 69-2703, a tobacco product manufacturer that elects to place funds into a qualified escrow fund pursuant to subdivision (2)(a) of section 69-2703 may make an irrevocable assignment of its interest in the fund to the benefit of the State of Nebraska. Such assignment shall be permanent and apply to all monetary amounts in the subject qualified escrow fund or that may subsequently come into the fund, including those deposited into the qualified escrow fund prior to the assignment being executed, those deposited into the qualified escrow fund after the assignment is executed, and interest or other appreciation on the amounts. The tobacco product manufacturer, the Attorney General, and the financial institution where the qualified escrow fund is maintained may make such amendments to the qualified escrow fund agreement, the title to the account, and the account itself as may be necessary to effectuate an assignment of rights executed pursuant to this subsection (1) or a withdrawal of amounts from the qualified escrow fund pursuant to subsection (2) of this section. An assignment of rights executed pursuant to this section shall be in writing, shall have received prior approval issued in writing by the Attorney General, shall be signed by the tobacco product manufacturer or a duly authorized representative of the tobacco product manufacturer making the assignment, and shall become effective upon delivery of the assignment to the Attorney General and the financial institution where the qualified escrow fund is maintained.

(2) Notwithstanding subdivision (2)(b) of section 69-2703, any escrow amounts assigned to the State of Nebraska pursuant to subsection (1) of this section shall be withdrawn by the state upon request by the State Treasurer and approval by the Attorney General. Any amounts withdrawn pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska, and shall be calculated on a dollar-for-dollar basis as a credit against any judgment or settlement described in subdivision (2)(b) of section 69-2703 which may be obtained against the tobacco product manufacturer who has assigned the amounts in the subject qualified escrow fund. Nothing in this section shall be construed to relieve a tobacco product manufacturer from any past, current, or future obligations the manufacturer may have pursuant to sections 69-2701 to 69-2711.

Source: Laws 2019, LB397, § 12.

Effective date September 1, 2019.

69-2705 Terms, defined.

For purposes of sections 69-2704 to 69-2711:

(1) Brand family means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, menthol, lights, kings, and 100s, and includes any brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, or recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes;

(2) Cigarette has the same meaning as in section 69-2702;

(3) Cigarette inputs means any machinery or other component parts typically used in the manufacture of cigarettes, including, without limitation, tobacco whether processed or unprocessed, cigarette papers and tubes, cigarette filters or any component parts intended for use in the making of cigarette filters, and any machinery typically used in the making of cigarettes;

(4) Days has the same meaning as in section 69-2702;

(5) Directory means the directory compiled by the Tax Commissioner under section 69-2706 or, in the case of references to another state's directory, the directory compiled under the similar law in that other state;

(6) Importer has the same meaning as in section 69-2702;

(7) Indian country has the same meaning as in section 69-2702;

(8) Indian tribe has the same meaning as in section 69-2702;

(9) Master Settlement Agreement has the same meaning as in section 69-2702;

(10) Nonparticipating manufacturer means any tobacco product manufacturer that is not a participating manufacturer;

(11) Nonparticipating manufacturer cigarettes means cigarettes (a) of a brand family that is not included in the certification of a participating manufacturer under subsection (1) of section 69-2706, (b) that are subject to the escrow requirement under subdivision (2) of section 69-2703 because the participating manufacturer in whose certification the brand family is included is not generally performing its financial obligations under the Master Settlement Agreement, or (c) of a brand family of a participating manufacturer that is not otherwise listed on the directory under subsection (2) of section 69-2706;

(12) Package means any pack or other container on which a state stamp or tribal stamp could be applied consistent with and as required by sections 69-2701 to 69-2711 and 77-2601 to 77-2622 that contains one or more individual cigarettes for sale. Nothing in such sections shall alter any other applicable requirement with respect to the minimum number of cigarettes that may be contained in a pack or other container of cigarettes. References to package do not include a container of multiple packages;

(13) Participating manufacturer has the same meaning as in section II(jj) of the Master Settlement Agreement;

(14) Person means any natural person, trustee, company, partnership, corporation, or other legal entity, including any Indian tribe or instrumentality thereof;

(15) Purchase means any acquisition in any manner or by any means for any consideration. The term includes transporting or receiving product in connection with a purchase;

(16) Qualified escrow fund has the same meaning as in section 69-2702;

(17) Retailer includes retail dealers as defined in section 77-2601 or anyone who is licensed under sections 28-1420 to 28-1422;

(18) Sale or sell means any transfer, exchange, or barter in any manner or by any means for any consideration. Sale or sell includes distributing or shipping product in connection with a sale;

(19) Shortfall amount means the difference between (a) the full amount of the deposit required to be made by a nonparticipating manufacturer for a calendar quarter under section 69-2703 and (b) the sum of (i) any amounts precollected

by a stamping agent and deposited into escrow for that calendar quarter on behalf of the nonparticipating manufacturer under section 69-2708.01, (ii) the amount deposited into escrow by the nonparticipating manufacturer for that calendar quarter under section 69-2703, (iii) any amounts deposited into escrow for that calendar quarter under subdivision (2)(d) of section 69-2703 by an importer on such nonparticipating manufacturer's cigarettes, and (iv) any amounts collected by the state for that calendar quarter under the bond posted by the nonparticipating manufacturer under section 69-2707.01. The shortfall amount, if any, for a nonparticipating manufacturer for a calendar quarter shall be calculated by the Attorney General within fifteen days following the date on which the state determines the amount it will collect on the bond posted by the nonparticipating manufacturer as provided in section 69-2707.01;

(20) Stamping agent means a person that is authorized to affix stamps to packages or other containers of cigarettes under section 77-2603 or 77-2603.01 or any person that is required to pay the tobacco tax imposed pursuant to section 77-4008 on roll-your-own cigarettes;

(21) Tax Commissioner means the Tax Commissioner of the State of Nebraska;

(22) Tobacco product manufacturer has the same meaning as in section 69-2702;

(23) Units sold has the same meaning as in section 69-2702; and

(24) Unstamped cigarettes means any cigarettes that are not contained in a package bearing a stamp required under section 77-2603 or 77-2603.01.

Source: Laws 2003, LB 572, § 2; Laws 2011, LB590, § 6; Laws 2019, LB397, § 13.

Effective date September 1, 2019.

69-2706 Tobacco product manufacturer; certification; contents; Tax Commissioner; powers and duties; directory; prohibited acts.

(1)(a) Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the Tax Commissioner a certification to the Tax Commissioner and the Attorney General no later than the thirtieth day of April each year, certifying under penalty of perjury that, as of the date of such certification, such tobacco product manufacturer either is a participating manufacturer in compliance with subdivision (1) of section 69-2703 or is a nonparticipating manufacturer in full compliance with subdivision (2) of section 69-2703.

(b) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Tax Commissioner and the Attorney General.

(c) A nonparticipating manufacturer shall include in its certification (i) a list of all of its brand families and the number of units sold for each brand family that were sold in the state during the preceding calendar year and (ii) a list of all of its brand families that have been sold in the state at any time during the current calendar year (A) indicating by an asterisk any brand family sold in the state during the preceding or current calendar year that is no longer being sold

in the state as of the date of such certification and (B) identifying by name and address any other manufacturer of such brand families in the preceding calendar year. The nonparticipating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Tax Commissioner and the Attorney General.

(d) In the case of a nonparticipating manufacturer, such certification shall further certify:

(i) That such nonparticipating manufacturer is registered to do business in the state or has appointed an agent for service of process in Nebraska and provided notice thereof as required by section 69-2707;

(ii) That such nonparticipating manufacturer has established and continues to maintain a qualified escrow fund pursuant to a qualified escrow agreement that has been reviewed and approved by the Attorney General or has been submitted for review by the Attorney General;

(iii) That such nonparticipating manufacturer is in full compliance with subdivision (2) of section 69-2703 and this section and any rules and regulations adopted and promulgated pursuant thereto;

(iv)(A) The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established such qualified escrow fund required pursuant to subdivision (2) of section 69-2703 and all rules and regulations adopted and promulgated pursuant thereto; (B) the account number of such qualified escrow fund and any subaccount number for the State of Nebraska; (C) the amount such nonparticipating manufacturer placed in such fund for cigarettes sold in the state during the preceding calendar year, the dates and amount of each such deposit, and such evidence or verification as may be deemed necessary by the Attorney General to confirm the foregoing; and (D) the amounts and dates of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from such fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to subdivision (2) of section 69-2703 and all rules and regulations adopted and promulgated pursuant thereto;

(v) That such nonparticipating manufacturer consents to be sued in the district courts of the State of Nebraska for purposes of the state (A) enforcing any provision of sections 69-2703 to 69-2711 and any rules and regulations adopted and promulgated thereunder or (B) bringing a released claim as defined in section 69-2702; and

(vi) The information required to establish that such nonparticipating manufacturer has posted the appropriate bond or cash equivalent required under section 69-2707.01.

(e) A tobacco product manufacturer shall not include a brand family in its certification unless (i) in the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year in the volume and shares determined pursuant to the Master Settlement Agreement and (ii) in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of subdivision (2) of section 69-2703. Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes

of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of section 69-2703.

(f) Tobacco product manufacturers shall maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of five years unless otherwise required by law to maintain them for a greater period of time.

(2) The Tax Commissioner shall develop, maintain, and make available for public inspection or publish on its web site a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subsection (1) of this section and all brand families that are listed in such certifications, and:

(a) The Tax Commissioner shall not include or retain in such directory the name or brand families of any tobacco product manufacturer that has failed to provide the required certification or whose certification the commissioner determines is not in compliance with subsection (1) of this section unless the Tax Commissioner has determined that such violation has been cured to his or her satisfaction;

(b) Neither a tobacco product manufacturer nor brand family shall be included or retained in the directory if the Attorney General recommends and notifies the Tax Commissioner who concludes, in the case of a nonparticipating manufacturer, that (i) any escrow payment required pursuant to subdivision (2) of section 69-2703 for any period for any brand family, whether or not listed by such nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General or (ii) any outstanding final judgment, including interest thereon, for violations of section 69-2703 has not been fully satisfied for such brand family and such manufacturer;

(c) As a condition to being listed and having its brand families listed in the directory, a tobacco product manufacturer shall also (i) certify annually that such manufacturer or its importer holds a valid permit under 26 U.S.C. 5713 and provide a copy of such permit to the Tax Commissioner and the Attorney General, (ii) upon request of the Tax Commissioner or Attorney General, provide documentary proof that it is not in violation of subdivision (1) of section 59-1520, and (iii) certify that it is in compliance with all reporting and registration requirements of 15 U.S.C. 376 and 376a;

(d) The Tax Commissioner shall update the directory no later than May 15 of each year to reflect certifications made on or before April 30 as required in subsection (1) of this section. The Tax Commissioner shall continuously update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of sections 69-2704 to 69-2711;

(e) The Tax Commissioner shall transmit by email or other practicable means to each stamping agent notice of any removal from the directory of any tobacco product manufacturer or brand family. Unless otherwise provided by agreement between the stamping agent and a tobacco product manufacturer, the stamping agent shall be entitled to a refund from a tobacco product manufacturer for any money paid by the stamping agent to the tobacco product manufacturer for any cigarettes of the tobacco product manufacturer still held by the stamping agent on the date of notice by the Tax Commissioner of the

removal from the directory of that tobacco product manufacturer or the brand family or for any cigarettes returned to the stamping agent by its customers under subsection (8) of section 69-2709. The Tax Commissioner shall not restore to the directory the tobacco product manufacturer or the brand family until the tobacco product manufacturer has paid the stamping agent any refund due; and

(f) Every stamping agent shall provide and update as necessary an electronic mail address to the Tax Commissioner for the purpose of receiving any notifications as may be required by sections 69-2704 to 69-2711.

(3) The failure of the Tax Commissioner to provide notice of any intended removal from the directory as required under subdivision (2)(e) of this section or the failure of a stamping agent to receive such notice shall not relieve the stamping agent of its obligations under sections 69-2704 to 69-2711.

(4) It shall be unlawful for any person (a) to affix a Nebraska stamp pursuant to section 77-2603 to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory, (b) to affix a tribal stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory except as authorized by an agreement pursuant to section 77-2602.06, or (c) to sell, offer, or possess for sale in this state cigarettes of a tobacco product manufacturer or brand family in this state not included in the directory.

Source: Laws 2003, LB 572, § 3; Laws 2007, LB580, § 1; Laws 2011, LB590, § 7; Laws 2019, LB397, § 14.
Effective date September 1, 2019.

69-2707 Nonresident or foreign nonparticipating manufacturer; agent for service of process.

(1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory created in subsection (2) of section 69-2706, appoint and continually engage without interruption the services of an agent in Nebraska to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of sections 69-2703 to 69-2711, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, telephone number, and proof of the appointment and availability of such agent to the Tax Commissioner and Attorney General.

(2) The nonparticipating manufacturer shall provide notice to the Tax Commissioner and Attorney General thirty calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the Tax Commissioner and Attorney General of the termination within five calendar days and shall include proof to the satisfaction of the Attorney General of the appointment of a new agent.

(3) Any nonparticipating manufacturer whose products are sold in this state who has not appointed and engaged the services of an agent as required by this

section shall be deemed to have appointed the Secretary of State as its agent for service of process. The appointment of the Secretary of State as agent shall not satisfy the condition precedent required in subsection (1) of this section to have the nonparticipating manufacturer's brand families included or retained in the directory.

Source: Laws 2003, LB 572, § 4; Laws 2007, LB580, § 2; Laws 2011, LB590, § 8; Laws 2019, LB397, § 15.
Effective date September 1, 2019.

69-2707.01 Nonparticipating manufacturers; bond or cash equivalent; amount; provide evidence to Attorney General and Tax Commissioner; failure to make escrow deposits; execution upon bond.

(1) All nonparticipating manufacturers subject to the certification requirements of section 69-2706, or whose sales are authorized pursuant to an agreement under section 77-2602.06, shall post a bond, or its cash equivalent, for the benefit of the state, which is subject to execution under subsection (5) of this section. The bond shall be posted by corporate surety located within the United States. The cash equivalent of the bond shall be posted by the nonparticipating manufacturer in an account approved by the Attorney General.

(2) The amount of the bond, or its cash equivalent, shall be the greater of:

(a) One hundred thousand dollars;

(b) The greatest required escrow amount due from the nonparticipating manufacturer, or its predecessors, successors, affiliates, importers, or stamping agents, as such terms may be defined and liabilities may be established within sections 69-2701 to 69-2711, for any of the preceding twenty calendar quarters; or

(c) The greatest required annual total of quarterly escrow amounts due from the nonparticipating manufacturer, or its predecessors, successors, affiliates, importers, or stamping agents, as such terms may be defined and liabilities may be established within sections 69-2701 to 69-2711, for any of the preceding five calendar years, if the Attorney General deems the nonparticipating manufacturer to pose an elevated risk for noncompliance.

(3) The Attorney General may deem a nonparticipating manufacturer to pose an elevated risk for noncompliance if:

(a) The nonparticipating manufacturer or its brands or brand families, or any predecessor, successor, affiliate, or importer or any of their brands or brand families, has failed to deposit fully the amount due on an escrow obligation with respect to any state at any time during the calendar year or within the preceding five calendar years unless either:

(i) The nonparticipating manufacturer did not underdeposit knowingly or recklessly and promptly cured the underdeposit within one hundred eighty days of notice of the underdeposit; or

(ii) The underdeposit or lack of deposit is the subject of a good faith dispute in the form of ongoing litigation that has not reached a final order as reasonably documented to the Attorney General and the underdeposit is cured within one hundred eighty days of entry of a final order establishing the amount of the required escrow deposit;

(b) Any state has removed the nonparticipating manufacturer or its brands or brand families, or any predecessor, successor, affiliate, or importer or any of

their brands or brand families, from the state's tobacco directory for noncompliance with the state's escrow deposit or tobacco tax laws at any time during the calendar year or within the preceding five calendar years, unless such removal is subject to a good faith dispute in the form of an ongoing challenge under administrative procedure or litigation that has not reached a final order as reasonably documented to the Attorney General;

(c) Any state has an unsatisfied final judgment against the nonparticipating manufacturer or its brands or brand families, or any predecessor, successor, affiliate, or importer or any of their brands or brand families, for escrow or for penalties, fees, costs, refunds, or attorney's fees related to noncompliance with state escrow laws;

(d) The nonparticipating manufacturer, or any predecessor, successor, or affiliate, sells its cigarettes or tobacco products directly to consumers via remote or other non-face-to-face means;

(e) A state or federal court determines that the nonparticipating manufacturer, or any predecessor, successor, or affiliate, has violated any tobacco tax or tobacco control law or engaged in unfair business practices or unfair competition;

(f) Any state has suspended or revoked a license granted to the nonparticipating manufacturer, or any predecessor, successor, or affiliate, to engage in any aspect of tobacco business, unless the suspension or revocation is subject to a good faith dispute in the form of an ongoing challenge under administrative procedure or litigation that has not reached a final order as reasonably documented to the Attorney General;

(g) Any state or federal court has determined that the nonparticipating manufacturer, or any predecessor, successor, or affiliate, failed to comply with state or federal law imposing marking, labeling, and stamping requirements or requiring information to be affixed to, or contained in, the labels, markings, or packaging; or

(h) The nonparticipating manufacturer fails to submit or complete any required forms, documents, certification, or notices, in a timely manner or to the satisfaction of the Attorney General or Tax Commissioner, unless such failure is subject to a good faith dispute in the form of an ongoing challenge under administrative procedure or litigation that has not reached a final order as reasonably documented to the Attorney General.

(4) A nonparticipating manufacturer shall post the bond or its cash equivalent and shall provide evidence of such posting to the Attorney General and Tax Commissioner both annually, as required by section 69-2706, and at least ten days in advance of each calendar quarter as a condition to the nonparticipating manufacturer and its brands or brand families being included in the directory.

(5) If a nonparticipating manufacturer that posted a bond pursuant to this section has failed to make, or have made on its behalf by an entity with joint and several liability, escrow deposits equal to the full amount owed for a quarter within fifteen days following the due date for the quarter under section 69-2703, the state may execute upon the bond, first to recover delinquent escrow, which amount shall be deposited into a qualified escrow account under section 69-2703, and then to recover civil penalties and costs authorized under such section. Escrow obligations above the amount collected on the bond remain due from that nonparticipating manufacturer and, as provided in

subdivision (2)(d) of section 69-2703 and section 69-2708.01, from the importers and stamping agents that sold its cigarettes during that calendar quarter.

Source: Laws 2011, LB590, § 9; Laws 2019, LB397, § 16.
Effective date September 1, 2019.

69-2709 Revocation or suspension of stamping agent license; civil penalty; termination of license; grounds; violations; penalties; effect of termination; eligibility for reinstatement; directory license; termination; procedure; contraband; actions to enjoin; criminal penalty; remedies cumulative.

(1) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent has violated subsection (4) of section 69-2706 or any rule or regulation adopted and promulgated pursuant thereto, the Tax Commissioner may revoke or suspend the license of any stamping agent in the manner provided by section 77-2615.01. For each violation of subsection (4) of section 69-2706 or the rules and regulations, the Tax Commissioner may also impose a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes or five thousand dollars upon a determination of violation of subsection (4) of section 69-2706 or any rules or regulations adopted and promulgated pursuant thereto. Such penalty shall be imposed in the manner provided by section 77-2615.01.

(2) The license of a stamping agent shall be subject to termination if the stamping agent:

(a) Fails to provide a report required under section 69-2708, 69-2710.01, or 77-2604.01;

(b) Files an incomplete or inaccurate report required under section 69-2708, 69-2710.01, or 77-2604.01 or files an inaccurate certification required under section 69-2708, subsection (2) of section 77-2603, or section 69-2710.01;

(c) Fails to pay taxes as provided in section 77-2602 or deposit escrow as provided in section 69-2708.01;

(d) Sells cigarettes in or into the state in a package that bears a stamp required under section 77-2603 or 77-2603.01 that is not the correct stamp and provides for a lower level of tax than the correct stamp;

(e) Sells unstamped cigarettes in, into, or from the state or possesses unstamped cigarettes in the state except as provided in section 77-2607;

(f) Purchases, sells in or into the state, or affixes a stamp to a package containing cigarettes of a manufacturer or brand family that is not at the time listed in the directory, or possesses such cigarettes more than ten days after receiving notice that the manufacturer or brand family is not in the directory, unless such stamping agent possesses a directory license under section 77-2603 or unless expressly permitted under sections 69-2701 to 69-2711 or sections 77-2601 to 77-2622; or

(g) Purchases or sells cigarettes in violation of subsection (5) of this section or section 69-2710.02.

(3) In the case of a violation under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional, the stamping agent shall be entitled to cure the violation within ten days after receipt of notice of such violation. The license of a stamping agent that fully cures the violation during that period shall not be terminated on account of that violation.

(4) In the case of a knowing or intentional violation under subdivision (2)(a), (b), (c), or (d) of this section, or of any violation described in subdivision (2)(e) or (f) of this section, the stamping agent shall for a first violation be subject to a civil penalty of up to one thousand dollars and be guilty of a Class IV misdemeanor and for a second or subsequent violation be subject to a civil penalty of up to five thousand dollars per violation and be guilty of a Class II misdemeanor. In the case of violations described in subdivision (2)(d), (e), or (f) of this section, each sale constitutes a separate offense.

(5) The Tax Commissioner shall promptly remove any stamping agent whose license is terminated from the list required by subsection (4) of section 77-2603 and shall publish a notice of the termination on the Tax Commissioner's web site and send notice of the termination to all stamping agents and to all persons listed in the directory. Beginning ten days following the publication and sending of such notice, no person may sell cigarettes to, or purchase cigarettes from, the stamping agent whose license has been terminated.

(6) If a stamping agent whose license has been terminated is a tobacco product manufacturer, the tobacco product manufacturer and its brand families shall be removed from the directory.

(7) A stamping agent whose license is terminated shall be eligible for reinstatement:

(a) Ninety days following the termination, in the case of a first failure under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional;

(b) One hundred eighty days following the termination, in the case of a second failure under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional;

(c) One year following the termination, in the case of a third or subsequent failure under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional;

(d) One year following the termination, in the case of a first knowing or intentional failure under subdivision (2)(a), (b), (c), or (d) of this section or a first violation described in subdivision (2)(e), (f), or (g) of this section; and

(e) Three years following the termination, in the case of a second or subsequent knowing or intentional failure under subdivision (2)(a), (b), (c), or (d) of this section or a second or subsequent violation described in subdivision (2)(e), (f), or (g) of this section.

(8) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state in violation of subsection (4) of section 69-2706 shall be deemed contraband under section 77-2620 and such cigarettes shall be subject to seizure and forfeiture as provided in section 77-2620, except that all such cigarettes so seized and forfeited shall be destroyed and not resold. The stamping agent shall notify its customers for a brand family with regard to any notice of removal of a tobacco product manufacturer or a brand family from the directory and give its customers a seven-day period for the return of cigarettes that become contraband.

(9) The Attorney General, on behalf of the Tax Commissioner, may seek an injunction to restrain a threatened or actual violation of subsection (4) of section 69-2706 or section 69-2708 by a stamping agent and to compel the stamping agent to comply with subsection (4) of section 69-2706 or section

69-2708. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney's fees. This subsection shall not apply to a stamping agent purchasing cigarettes which are not in violation of subsection (4) of section 69-2706 or section 69-2708.

(10) It is unlawful for a person to (a) sell or distribute cigarettes for sale in this state or (b) acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of subsection (4) of section 69-2706. A violation of this subsection is a Class III misdemeanor.

(11) If a court determines that a person has violated any portion of sections 69-2704 to 69-2711, the court shall order the payment of any profits, gains, gross receipts, or other benefits from the violation to be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. Unless otherwise expressly provided, the remedies or penalties provided by sections 69-2704 to 69-2711 are cumulative to each other and to the remedies or penalties available under all applicable laws of this state.

(12) It is unlawful for any manufacturer, importer, or stamping agent to knowingly submit any false information required pursuant to sections 69-2703 to 69-2711. A violation of this subsection is a Class IV felony. Knowing submission of false information shall also be grounds for removal of a tobacco product manufacturer from the directory.

(13) A tobacco product manufacturer that knowingly or intentionally sells cigarettes in violation of subsection (5) of this section or section 69-2710.01 and its brand families shall be removed from the directory.

(14) A nonparticipating manufacturer whose total nationwide reported sales on which federal excise tax is paid exceed the sum of its nationwide reports under 15 U.S.C. 375 et seq. and any intrastate sales reports under 15 U.S.C. 375 et seq. by more than five percent of its total sales or one million cigarettes, whichever is less, shall be subject to removal from the directory unless it cures or satisfactorily explains the discrepancy within ten days after receipt of notice of the discrepancy from the Attorney General pursuant to section 69-2708.01.

(15) Any person that is not a stamping agent or tobacco product manufacturer that fails to file a complete and accurate report required under section 69-2708, 69-2710.01, 77-2604, or 77-2604.01 shall be entitled to cure the failure within ten days after receipt of notice of the discrepancy from the Attorney General pursuant to section 69-2708.01. If the person fails to fully cure the failure within such period, it shall be subject to a civil penalty of up to one thousand dollars per violation and shall be ineligible to hold any license of the state regarding cigarette sales until the date specified by subsection (7) of this section for violations of subdivision (2)(a) of this section.

(16) A directory license shall be subject to termination if the licensee acts inconsistently with its certification under subsection (2) of section 77-2603 or violates sections 69-2701 to 69-2711.

(17) Any person that knowingly or intentionally purchases or sells cigarettes in violation of subsection (5) of this section or section 69-2710.01 or that knowingly or intentionally sells cigarettes in or into the state in a package that bears a stamp required under section 77-2603 or 77-2603.01 that is not the correct stamp and provides for a lower level of tax than the correct stamp shall

for a first violation be subject to a civil penalty of up to one thousand dollars and be guilty of a Class IV misdemeanor and for a second or subsequent violation be subject to a civil penalty of up to five thousand dollars per violation and be guilty of a Class II misdemeanor. Each sale constitutes a separate violation.

Source: Laws 2003, LB 572, § 6; Laws 2007, LB580, § 4; Laws 2011, LB590, § 12; Laws 2019, LB397, § 17.
Effective date September 1, 2019.

69-2710 Removal from directory; procedure.

(1) Before any tobacco product manufacturer may be removed from the directory, the Tax Commissioner shall provide the tobacco product manufacturer thirty days' notice of the intended action and shall post the notice in the directory. The tobacco product manufacturer shall have thirty days to come into compliance with sections 69-2703 to 69-2711 or, in the alternative, secure a temporary injunction against removal in the district court of Lancaster County. For purposes of the temporary injunction sought pursuant to this subsection, loss of the ability to sell tobacco products as a result of removal from the directory shall constitute irreparable harm. If after thirty days the tobacco product manufacturer remains in noncompliance and has not obtained a temporary injunction pursuant to this subsection, the tobacco product manufacturer shall be removed from the directory.

(2) If the Tax Commissioner determines that a tobacco product manufacturer shall not be included in the directory, such manufacturer may request a contested case before the Tax Commissioner under the Administrative Procedure Act. The Tax Commissioner shall notify the tobacco product manufacturer in writing of the determination not to include it in the directory. A request for hearing shall be made within thirty calendar days after the date of the determination that the manufacturer shall not be included in the directory and shall contain the evidence supporting the manufacturer's compliance with sections 69-2703 to 69-2711. The hearing shall be held within sixty days after the request. At the hearing, the Tax Commissioner shall determine whether the tobacco product manufacturer is in compliance with sections 69-2703 to 69-2711 and whether the manufacturer should be listed in the directory. A final decision shall be rendered within thirty days after the hearing. Any decision of the Tax Commissioner may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 2003, LB 572, § 7; Laws 2011, LB590, § 13; Laws 2019, LB397, § 18.
Effective date September 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

69-2710.01 Report; contents.

(1) Any person that during a month acquired, purchased, sold, possessed, transferred, transported, or caused to be transported in or into this state cigarettes of a tobacco product manufacturer or brand family that was not in the directory at the time shall, within fifteen days following the end of that month, file a report in the manner prescribed by the Tax Commissioner and certify to the state that the report is complete and accurate. The report shall

contain, in addition to any further information that the Tax Commissioner may reasonably require to assist the Tax Commissioner in enforcing sections 69-2701 to 69-2711 and 77-2601 to 77-2622 and the Tobacco Products Tax Act, the following information:

(a) The total number of those cigarettes, in each case identifying by name and number of cigarettes (i) the manufacturers of those cigarettes, (ii) the brand families of those cigarettes, (iii) in the case of a sale or transfer, the name and address of the recipient of those cigarettes, (iv) in the case of an acquisition or purchase, the name and address of the seller or sender of those cigarettes, and (v) the other states in whose directory the manufacturer and brand family of those cigarettes were listed at the time and whose stamps the person is authorized to affix; and

(b) In the case of acquisition, purchase, or possession, the details of the person's subsequent sale or transfer of those cigarettes, identifying by name and number of cigarettes (i) the brand families of those cigarettes, (ii) the date of the sale or transfer, (iii) the name and address of the recipient, (iv) the number of stamps of each other state that the person affixed to the packages containing those cigarettes during that month, (v) the total number of cigarettes contained in the packages to which it affixed each respective other state's stamp, (vi) the manufacturers and brand families of the packages to which it affixed each respective other state's stamp, and (vii) a certification that it reported each sale or transfer to the taxing authority of the other state by fifteen days following the end of the month in which the sale or transfer was made and attaching a copy of all such reports. If the subsequent sale or transfer is from this state into another state in packages not bearing a stamp of the other state, the report shall also contain the information described in subdivision (2)(c) of section 77-2604.01.

(2) Reports under this section shall be in addition to reports under sections 69-2708, 77-2604, and 77-2604.01.

Source: Laws 2011, LB590, § 14; Laws 2017, LB217, § 4; Laws 2019, LB397, § 19.

Effective date September 1, 2019.

Cross References

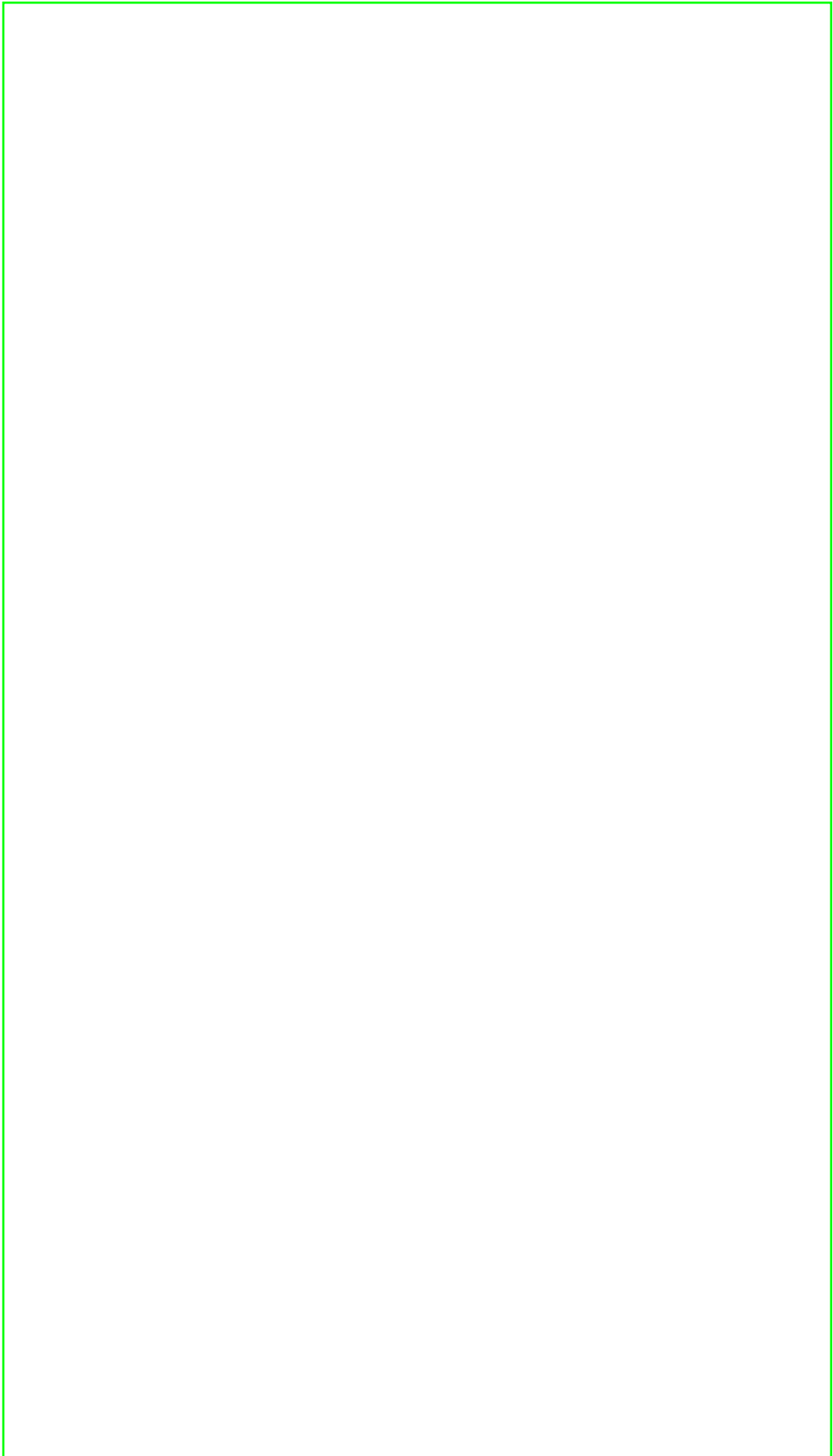
Tobacco Products Tax Act, see section 77-4001.

69-2710.03 Rules and regulations.

The Tax Commissioner may adopt and promulgate rules and regulations necessary to effect the purposes of sections 69-2703 to 69-2711.

Source: Laws 2011, LB590, § 16; Laws 2019, LB397, § 20.

Effective date September 1, 2019.



CHAPTER 70

POWER DISTRICTS AND CORPORATIONS

Article.

10. Nebraska Power Review Board. 70-1003 to 70-1032.

ARTICLE 10

NEBRASKA POWER REVIEW BOARD

Section

- 70-1003. Nebraska Power Review Board; establishment; composition; appointment; term; vacancy; qualifications; compensation; expenses; jurisdiction; officers; executive director; staff; reports.
- 70-1014.02. Legislative findings; privately developed renewable energy generation facility; owner; duties; certification; decommissioning plan; bond; joint transmission development agreement; contents; property not subject to eminent domain.
- 70-1015. Suppliers; electric generation facilities and transmission lines; unauthorized construction, acquisition, or service; injunction; violation; actions authorized; private electric supplier; commencement of construction prior to providing notice; violation; fine; executive director; powers and duties; dispute; hearing; procedure; decision; costs.
- 70-1032. Working group; members.

70-1003 Nebraska Power Review Board; establishment; composition; appointment; term; vacancy; qualifications; compensation; expenses; jurisdiction; officers; executive director; staff; reports.

(1) There is hereby established an independent board to be known as the Nebraska Power Review Board to consist of five members, one of whom shall be an engineer, one an attorney, one an accountant, and two laypersons. No person who is or who has within four years preceding his or her appointment been either a director, officer, or employee of any electric utility or an elective state officer shall be eligible for membership on the board. Members of the board shall be appointed by the Governor subject to the approval of the Legislature. Upon expiration of the terms of the members first appointed, the successors shall be appointed for terms of four years. No member of the board shall serve more than two consecutive terms. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term, and any person appointed to fill a vacancy on the board shall be eligible for reappointment for two more consecutive terms. No more than three members of the board shall be registered members of that political party represented by the Governor.

(2) Each member of the board shall receive sixty dollars per day for each day actually and necessarily engaged in the performance of his or her duties, but not to exceed six thousand dollars in any one year, except for the member designated to represent the board on the Southwest Power Pool Regional State Committee or its equivalent successor, who shall receive two hundred fifty dollars for each day actually and necessarily engaged in the performance of his or her duties, not to exceed twenty thousand dollars in any one year. If the member designated to represent the board on the Southwest Power Pool

Regional State Committee should for any reason no longer serve in that capacity during a year, the pay received while serving in such capacity shall not be used for purposes of calculating the six-thousand-dollar limitation for board members not serving in that capacity. When another board member acts as the proxy for the designated Southwest Power Pool Regional State Committee member, he or she shall receive the same pay as the designated member would have for that activity. Pay received while serving as proxy for such designated member shall not be used for purposes of determining whether the six-thousand-dollar limitation has been met for board members not serving as such designated member. Total pay to board members for activities related to the Southwest Power Pool shall not exceed an aggregate total of twenty-five thousand dollars in any one year. Each member shall be reimbursed for his or her actual and necessary expenses while so engaged as provided in sections 81-1174 to 81-1177. The board shall have jurisdiction as provided in Chapter 70, article 10.

(3) The board shall elect from their members a chairperson and a vice-chairperson. Decisions of the board shall require the approval of a majority of the members of the board.

(4) The board shall employ an executive director and may employ such other staff necessary to carry out the duties pursuant to Chapter 70, article 10. The executive director shall serve at the pleasure of the board and shall be solely responsible to the board. The executive director shall be responsible for the administrative operations of the board and shall perform such other duties as may be delegated or assigned to him or her by the board. The board may obtain the services of experts and consultants necessary to carry out the board's duties pursuant to Chapter 70, article 10.

(5) The board shall publish and submit a biennial report with annual data to the Governor, with copies to be filed with the Clerk of the Legislature and with the Department of Environment and Energy. The report submitted to the Clerk of the Legislature shall be submitted electronically. The department shall consider the information in the Nebraska Power Review Board's report when the department prepares its own reports pursuant to sections 81-1606 and 81-1607. The report of the board shall include:

- (a) The assessments for the fiscal year imposed pursuant to section 70-1020;
 - (b) The gross income totals for each category of the industry and the industry total;
 - (c) The number of suppliers against whom the assessment is levied, by category and in total;
 - (d) The projected dollar costs of generation, transmission, and microwave applications, approved and denied;
 - (e) The actual dollar costs of approved applications upon completion, and a summary of an informational hearing concerning any significant divergence between the projected and actual costs;
 - (f) A description of Nebraska's current electric system and information on additions to and retirements from the system during the fiscal year, including microwave facilities;
 - (g) A statistical summary of board activities and an expenditure summary;
 - (h) A roster of power suppliers in Nebraska and the assessment each paid;
- and

(i) Appropriately detailed historical and projected electric supply and demand statistics, including information on the total generating capacity owned by Nebraska suppliers and the total peak load demand of the previous year, along with an indication of how the industry will respond to the projected situation.

(6) The board may, in its discretion, hold public hearings concerning the conditions that may indicate that retail competition in the electric industry would benefit Nebraska's citizens and what steps, if any, should be taken to prepare for retail competition in Nebraska's electricity market. In determining whether to hold such hearings, the board shall consider the sufficiency of public interest.

(7) The board may, at any time deemed beneficial by the board, submit a report to the Governor with copies to be filed with the Clerk of the Legislature and the Natural Resources Committee of the Legislature. The report filed with the Clerk of the Legislature and the committee shall be filed electronically. The report may include:

(a) Whether or not a viable regional transmission organization and adequate transmission exist in Nebraska or in a region which includes Nebraska;

(b) Whether or not a viable wholesale electricity market exists in a region which includes Nebraska;

(c) To what extent retail rates have been unbundled in Nebraska;

(d) A comparison of Nebraska's wholesale electricity prices to the prices in the region; and

(e) Any other information the board believes to be beneficial to the Governor, the Legislature, and Nebraska's citizens when considering whether retail electric competition would be beneficial, such as, but not limited to, an update on deregulation activities in other states and an update on federal deregulation legislation.

(8) The board may establish working groups of interested parties to assist the board in carrying out the powers set forth in subsections (6) and (7) of this section.

Source: Laws 1963, c. 397, § 3, p. 1260; Laws 1971, LB 554, § 1; Laws 1978, LB 800, § 1; Laws 1980, LB 863, § 1; Laws 1981, LB 181, § 46; Laws 1981, LB 204, § 107; Laws 2000, LB 901, § 8; Laws 2010, LB797, § 1; Laws 2012, LB782, § 101; Laws 2016, LB824, § 4; Laws 2019, LB302, § 86.

Operative date July 1, 2019.

70-1014.02 Legislative findings; privately developed renewable energy generation facility; owner; duties; certification; decommissioning plan; bond; joint transmission development agreement; contents; property not subject to eminent domain.

(1) The Legislature finds that:

(a) Nebraska has the authority as a sovereign state to protect its land, natural resources, and cultural resources for economic and aesthetic purposes for the benefit of its residents and future generations by regulation of energy generation projects;

(b) The unique terrain and ecology of the Nebraska Sandhills provide an irreplaceable habitat for millions of migratory birds and other wildlife every year and serve as the home to numerous ranchers and farmers;

(c) The grasslands of the Nebraska Sandhills and other natural resources in Nebraska will become increasingly valuable, both economically and strategically, as the demand for food and energy increases; and

(d) The Nebraska Sandhills are home to priceless archaeological sites of historical and cultural significance to American Indians.

(2)(a) A privately developed renewable energy generation facility that meets the requirements of this section is exempt from sections 70-1012 to 70-1014.01 if no less than thirty days prior to the commencement of construction the owner of the facility:

(i) Notifies the board in writing of its intent to commence construction of a privately developed renewable energy generation facility;

(ii) Certifies to the board that the facility will meet the requirements for a privately developed renewable energy generation facility;

(iii) Certifies to the board that the private electric supplier will (A) comply with any decommissioning requirements adopted by the local governmental entities having jurisdiction over the privately developed renewable energy generation facility and (B) except as otherwise provided in subdivision (b) of this subsection, submit a decommissioning plan to the board obligating the private electric supplier to bear all costs of decommissioning the privately developed renewable energy generation facility and requiring that the private electric supplier post a security bond or other instrument, no later than the tenth year following commercial operation, securing the costs of decommissioning the facility and provide a copy of the bond or instrument to the board;

(iv) Certifies to the board that the private electric supplier has entered into or prior to commencing construction will enter into a joint transmission development agreement pursuant to subdivision (c) of this subsection with the electric supplier owning the transmission facilities of sixty thousand volts or greater to which the privately developed renewable energy generation facility will interconnect; and

(v) Certifies to the board that the private electric supplier has consulted with the Game and Parks Commission to identify potential measures to avoid, minimize, and mitigate impacts to species identified under subsection (1) or (2) of section 37-806 during the project planning and design phases, if possible, but in no event later than the commencement of construction.

(b) The board may bring an action in the name of the State of Nebraska for failure to comply with subdivision (a)(iii)(B) of this subsection. Subdivision (a)(iii)(B) of this subsection does not apply if a local government entity with the authority to create requirements for decommissioning has enacted decommissioning requirements for the applicable jurisdiction.

(c) The joint transmission development agreement shall address construction, ownership, operation, and maintenance of such additions or upgrades to the transmission facilities as required for the privately developed renewable energy generation facility. The joint transmission development agreement shall be negotiated and executed contemporaneously with the generator interconnection agreement or other directives of the applicable regional transmission organization with jurisdiction over the addition or upgrade of transmission, upon terms

consistent with prudent electric utility practices for the interconnection of renewable generation facilities, the electric supplier's reasonable transmission interconnection requirements, and applicable transmission design and construction standards. The electric supplier shall have the right to purchase and own transmission facilities as set forth in the joint transmission development agreement. The private electric supplier of the privately developed renewable energy generation facility shall have the right to construct any necessary facilities or improvements set forth in the joint transmission development agreement pursuant to the standards set forth in the agreement at the private electric supplier's cost.

(3) Within ten days after receipt of a written notice complying with subsection (2) of this section, the executive director of the board shall issue a written acknowledgment that the privately developed renewable energy generation facility is exempt from sections 70-1012 to 70-1014.01.

(4) The exemption allowed under this section for a privately developed renewable energy generation facility shall extend to and exempt all private electric suppliers owning any interest in the facility, including any successor private electric supplier which subsequently acquires any interest in the facility.

(5) No property owned, used, or operated as part of a privately developed renewable energy generation facility shall be subject to eminent domain by a consumer-owned electric supplier operating in the State of Nebraska. Nothing in this section shall be construed to grant the power of eminent domain to a private electric supplier or limit the rights of any entity to acquire any public, municipal, or utility right-of-way across property owned, used, or operated as part of a privately developed renewable energy generation facility as long as the right-of-way does not prevent the operation of or access to the privately developed renewable energy generation facility.

(6) Only a consumer-owned electric supplier operating in the State of Nebraska may exercise eminent domain authority to acquire the land rights necessary for the construction of transmission lines and related facilities. There is a rebuttable presumption that the exercise of eminent domain to provide needed transmission lines and related facilities for a privately developed renewable energy generation facility is a public use.

(7) Nothing in this section shall be construed to authorize a private electric supplier to sell or deliver electricity at retail in Nebraska.

(8) Nothing in this section shall be construed to limit the authority of or require a consumer-owned electric supplier operating in the State of Nebraska to enter into a joint agreement with a private electric supplier to develop, construct, and jointly own a privately developed renewable energy generation facility.

Source: Laws 2010, LB1048, § 6; Laws 2011, LB208, § 3; Laws 2016, LB824, § 10; Laws 2019, LB155, § 1.
Effective date September 1, 2019.

70-1015 Suppliers; electric generation facilities and transmission lines; unauthorized construction, acquisition, or service; injunction; violation; actions authorized; private electric supplier; commencement of construction prior to providing notice; violation; fine; executive director; powers and duties; dispute; hearing; procedure; decision; costs.

(1) If any supplier violates Chapter 70, article 10, by either (a) commencing the construction or finalizing or attempting to finalize the acquisition of any generation facilities, any transmission lines, or any related facilities without first providing notice or obtaining board approval, whichever is required, or (b) serving or attempting to serve at retail any customers located in Nebraska or any wholesale customers in violation of section 70-1002.02, such construction, acquisition, or service of such customers shall be enjoined in an action brought in the name of the State of Nebraska until such supplier has complied with Chapter 70, article 10.

(2) If the executive director of the board determines that a private electric supplier commenced construction of a privately developed renewable energy generation facility less than thirty days prior to providing the notice required in subdivision (2)(a) of section 70-1014.02, the executive director shall send notice via certified mail to the private electric supplier, informing it of the determination that the private electric supplier is in violation of such subdivision and is subject to a fine in the amount of five hundred dollars. The private electric supplier shall have twenty days from the date on which the notice is received in which to submit the notice described in such subdivision and to pay the fine. Within ten days after the private electric supplier submits a notice compliant with subsection (2) of section 70-1014.02 and payment of the fine, the executive director of the board shall issue the written acknowledgment described in subsection (3) of section 70-1014.02. If the private electric supplier fails to submit a notice compliant with subsection (2) of section 70-1014.02 and pay the fine within twenty days after the date on which the private electric supplier receives the notice from the executive director of the board, the private electric supplier shall immediately cease construction or operation of the privately developed renewable energy generation facility.

(3) If the private electric supplier disputes that construction was commenced less than thirty days prior to submitting the written notice required by subdivision (2)(a) of section 70-1014.02, the private electric supplier may request a hearing before the board. Such request shall be submitted within twenty days after the private electric supplier receives the notice sent by the executive director pursuant to subsection (2) of this section. If the private electric supplier does not accept the certified mail sent pursuant to such subsection, the executive director shall send a second notice to the private electric supplier by first-class United States mail. The private electric supplier may submit a request for hearing within twenty days after the date on which the second notice was mailed.

(4) Upon receipt of a request for hearing, the board shall set a hearing date. Such hearing shall be held within sixty days after such receipt. The board shall provide to the private electric supplier written notice of the hearing at least twenty days prior to the date of the hearing. The board or its hearing officer may grant continuances upon good cause shown or upon the request of the private electric supplier. Timely filing of a request for hearing by a private electric supplier shall stay any further enforcement under this section until the board issues an order pursuant to subsection (5) of this section or the request for hearing is withdrawn.

(5) The board shall issue a written decision within sixty days after conclusion of the hearing. All costs of the hearing shall be paid by the private electric supplier if (a) the board determines that the private electric supplier commenced construction of the privately developed renewable energy generation

facility less than thirty days prior to submitting the written notice required pursuant to subsection (2) of section 70-1014.02 or (b) the private electric supplier withdraws its request for hearing prior to the board issuing its decision.

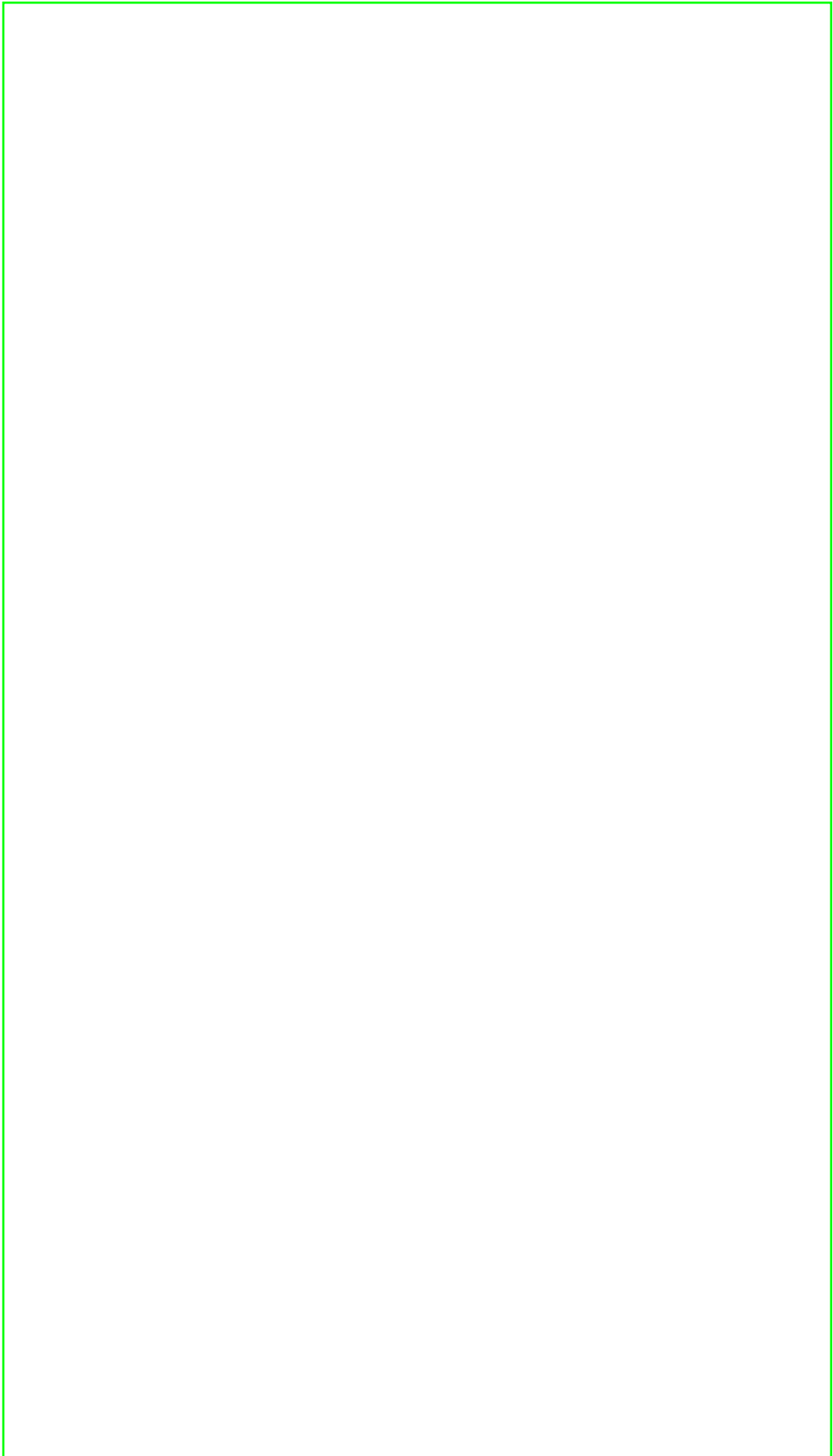
(6) A private electric supplier which the board finds to be in violation of the requirements of subsection (2) of section 70-1014.02 shall either (a) pay the fine described in this section and submit a notice compliant with subsection (2) of section 70-1014.02 or (b) immediately cease construction or operation of the privately developed renewable energy generation facility.

Source: Laws 1963, c. 397, § 15, p. 1265; Laws 1967, c. 426, § 1, p. 1302; Laws 1981, LB 181, § 52; Laws 2011, LB208, § 4; Laws 2016, LB824, § 11; Laws 2018, LB1008, § 4; Laws 2019, LB155, § 2.
Effective date September 1, 2019.

70-1032 Working group; members.

The scope of the study provided for under sections 70-1029 to 70-1033 shall receive input from a working group that may include, but not be limited to, members of the Legislature, the Department of Economic Development, the Department of Environment and Energy, public power districts and other Nebraska electric providers, renewable energy development companies, municipalities, the Southwest Power Pool, the Western Area Power Administration, other transmission system owners, transmission operators, transmission developers, environmental interests, and other interested parties.

Source: Laws 2014, LB1115, § 4; Laws 2019, LB302, § 87.
Operative date July 1, 2019.



CHAPTER 71

PUBLIC HEALTH AND WELFARE

Article.

4. Health Care Facilities. 71-439.
5. Diseases.
 - (a) Contagious, Infectious, and Malignant Diseases. 71-503.02.
6. Vital Statistics. 71-605.
10. State Anatomical Board, Disposal of Dead Bodies. 71-1001 to 71-1007.
19. Care of Children.
 - (b) Child Care Licensure. 71-1912.
 - (c) Children's Residential Facilities and Placing Licensure Act. 71-1924 to 71-1936.
20. Hospitals.
 - (k) Medicaid Program Violations. 71-2097 to 71-20,100.
21. Infants. 71-2102 to 71-2104.
24. Drugs.
 - (h) Clandestine Drug Labs. 71-2433.
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35. Radiation Control and Radioactive Waste.
 - (a) Radiation Control Act. 71-3503.
37. Brain Injury Trust Fund Act. 71-3701 to 71-3706.
44. Rabies. 71-4401 to 71-4407.
47. Hearing.
 - (b) Commission for the Deaf and Hard of Hearing. 71-4720.
53. Drinking Water.
 - (a) Nebraska Safe Drinking Water Act. 71-5302.
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59. Assisted-Living Facility Act. 71-5901 to 71-5909.
64. Building Construction. 71-6403 to 71-6406.
76. Health Care.
 - (b) Nebraska Health Care Funding Act. 71-7611.
79. Health Care Quality Improvement Act.
 - (b) Health Care Quality Improvement Act. 71-7904 to 71-7913.
86. Blind and Visually Impaired. 71-8607, 71-8611.
87. Patient Safety Improvement Act. 71-8701, 71-8722.

ARTICLE 4

HEALTH CARE FACILITIES

Section

- 71-439. Design standards for health care facilities; adoption by Legislature; waiver of rule, regulation, or standard; when; procedure.

71-439 Design standards for health care facilities; adoption by Legislature; waiver of rule, regulation, or standard; when; procedure.

(1)(a) For purposes of construction relating to ambulatory surgical centers, critical access hospitals, general acute hospitals, and hospitals, the Legislature adopts the 2018 Guidelines for Design and Construction of Hospitals, the 2018 Guidelines for Design and Construction of Outpatient Facilities, and the 2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities published by the Facility Guidelines Institute.

(b) For new construction of assisted-living facilities, long-term care hospitals, nursing facilities, and skilled nursing facilities on or after September 1, 2019,

the Legislature adopts the 2018 Guidelines for Design and Construction of Hospitals, the 2018 Guidelines for Design and Construction of Outpatient Facilities, and the 2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities published by the Facility Guidelines Institute, except that the Legislature adopts only the definition of new construction found in section 1.1-2.1 and excludes the part of the definition found in sections 1.1-2.2 and 1.1-2.3 and any related provisions of such guidelines.

(2) The department may waive any rule, regulation, or standard adopted and promulgated by the department relating to construction or physical plant requirements of a licensed health care facility or health care service upon proof by the licensee satisfactory to the department (a) that such waiver would not unduly jeopardize the health, safety, or welfare of the persons residing in or served by the facility or service, (b) that such rule, regulation, or standard would create an unreasonable hardship for the facility or service, and (c) that such waiver would not cause the State of Nebraska to fail to comply with any applicable requirements of medicare or medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

(3) In evaluating the issue of unreasonable hardship, the department shall consider the following:

(a) The estimated cost of the modification or installation;

(b) The extent and duration of the disruption of the normal use of areas used by persons residing in or served by the facility or service resulting from construction work;

(c) The estimated period over which the cost would be recovered through reduced insurance premiums and increased reimbursement related to cost;

(d) The availability of financing; and

(e) The remaining useful life of the building.

(4) Any such waiver may be granted under such terms and conditions and for such period of time as provided in rules and regulations adopted and promulgated by the department.

Source: Laws 2000, LB 819, § 39; Laws 2019, LB409, § 1.
Effective date September 1, 2019.

ARTICLE 5

DISEASES

(a) CONTAGIOUS, INFECTIOUS, AND MALIGNANT DISEASES

Section

71-503.02. Chlamydia, gonorrhea, or trichomoniasis; prescription oral antibiotic drugs; powers of medical professionals; restrictions.

(a) CONTAGIOUS, INFECTIOUS, AND MALIGNANT DISEASES

71-503.02 Chlamydia, gonorrhea, or trichomoniasis; prescription oral antibiotic drugs; powers of medical professionals; restrictions.

If a physician, a physician assistant, a nurse practitioner, or a certified nurse midwife licensed under the Uniform Credentialing Act diagnoses a patient as having chlamydia, gonorrhea, or trichomoniasis, the physician may prescribe, provide drug samples of, or dispense pursuant to section 38-2850, and the physician assistant, nurse practitioner, or certified nurse midwife may pre-

scribe or provide drug samples of, prescription oral antibiotic drugs to that patient's sexual partner or partners without examination of that patient's partner or partners. Adequate directions for use and medication guides, where applicable, shall be provided along with additional prescription oral antibiotic drugs for any additional partner. The physician, physician assistant, nurse practitioner, or certified nurse midwife shall at the same time provide written information about chlamydia, gonorrhea, and trichomoniasis to the patient for the patient to provide to the partner or partners. The oral antibiotic drugs prescribed, provided, or dispensed pursuant to this section must be stored, dispensed, and labeled in accordance with federal and state pharmacy laws and regulations. Prescriptions for the patient's sexual partner or partners must include the partner's name. If the infected patient is unwilling or unable to deliver such prescription oral antibiotic drugs to his or her sexual partner or partners, such physician may prescribe, provide, or dispense pursuant to section 38-2850 and such physician assistant, nurse practitioner, or certified nurse midwife may prescribe or provide samples of the prescription oral antibiotic drugs for delivery to such partner, if such practitioner has sufficient locating information.

Source: Laws 2013, LB528, § 1; Laws 2019, LB62, § 1.
Effective date September 1, 2019.

Cross References

Uniform Credentialing Act, see section 38-101.

ARTICLE 6 VITAL STATISTICS

Section

71-605. Death certificate; cause of death; sudden infant death syndrome; how treated; cremation, disinterment, or transit permits; how executed; filing; requirements.

71-605 Death certificate; cause of death; sudden infant death syndrome; how treated; cremation, disinterment, or transit permits; how executed; filing; requirements.

(1) The funeral director and embalmer in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the department. Such standard form shall include a space for veteran status and the period of service in the armed forces of the United States and a statement of the cause of death made by a person holding a valid license as a physician, physician assistant, or nurse practitioner who last attended the deceased. The standard form shall also include the deceased's social security number and a notice that, pursuant to section 30-2413, demands for notice which may affect the estate of the deceased are filed with the county court in the county where the decedent resided at the time of death. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians, physician assistants, or nurse practitioners for the purpose of filing with the department and providing child support enforcement information pursuant to section 43-3340.

(2) The physician, physician assistant, or nurse practitioner shall have the responsibility and duty to complete and sign by electronic means pursuant to

section 71-603.01, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician, physician assistant, or nurse practitioner was in attendance, the funeral director and embalmer shall refer the case to the county attorney who shall have the responsibility and duty to complete and sign the death certificate by electronic means pursuant to section 71-603.01.

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years until an autopsy is performed at county expense by a qualified pathologist pursuant to section 23-1824. The parents or guardian shall be notified of the results of the autopsy by their physician, physician assistant, nurse practitioner, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. The county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the necessary information to correct or complete the record.

(3) A completed death certificate shall be filed with the department within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer shall notify the department of the reason for the delay and file the certificate as soon as possible.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed electronically by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on an electronic form prescribed and furnished by the department.

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the department to a licensed funeral director and embalmer upon proper application. The request for disinterment shall be made by the person listed in section 30-2223 or a county attorney on a form furnished by the department. The application shall be signed by the funeral director and embalmer who will be directly supervising the disinterment. When the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the department within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the department prior to the issuance of a permit for disinterment. The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. No sexton or other person in charge of a cemetery shall allow the disinterment of a body without first receiving from the department a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director and embalmer having charge of the body in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the properly completed transit permit prepared in duplicate.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director and embalmer, except that hospital disposition may be made of the remains of a child born dead pursuant to section 71-20,121.

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by the funeral director and embalmer in charge of burial and forwarded to the department within five business days after the interment takes place.

(10) The changes made to this section by Laws 2019, LB593, shall apply retroactively to August 24, 2017.

Source: Laws 1921, c. 253, § 2, p. 863; C.S.1922, § 8233; Laws 1927, c. 166, § 3, p. 449; C.S.1929, § 71-2405; R.S.1943, § 71-605; Laws 1949, c. 202, § 1, p. 585; Laws 1953, c. 241, § 1, p. 830; Laws 1961, c. 341, § 3, p. 1091; Laws 1965, c. 418, § 3, p. 1335; Laws 1973, LB 29, § 1; Laws 1978, LB 605, § 1; Laws 1985, LB 42, § 3; Laws 1989, LB 344, § 10; Laws 1993, LB 187, § 8; Laws 1996, LB 1044, § 517; Laws 1997, LB 307, § 137; Laws 1997, LB 752, § 172; Laws 1999, LB 46, § 4; Laws 2003, LB 95, § 33; Laws 2005, LB 54, § 14; Laws 2005, LB 301, § 25; Laws 2007, LB463, § 1184; Laws 2009, LB195, § 68; Laws 2012, LB1042, § 4; Laws 2014, LB998, § 14; Laws 2016, LB786, § 1; Laws 2017, LB268, § 15; Laws 2019, LB593, § 9.
Effective date May 31, 2019.

Cross References

For authority of chiropractors to sign death certificates, see section 38-811.

For authority of physician assistants to sign death certificates, see section 38-2047.

Medical Assistance Act, see section 68-901.

Organ and tissue donation, notation required, see section 71-4816.

ARTICLE 10

STATE ANATOMICAL BOARD, DISPOSAL OF DEAD BODIES

Section

71-1001. State Anatomical Board; members; powers and duties; State Anatomical Board Cash Fund; created; use; investment.

Section

- 71-1002. Repealed. Laws 2019, LB559, § 6.
71-1003. Board; dead human bodies; distribution.
71-1004. Board; dead human bodies; transportation.
71-1005. Repealed. Laws 2019, LB559, § 6.
71-1006. Repealed. Laws 2019, LB559, § 6.
71-1007. Board; purpose.

71-1001 State Anatomical Board; members; powers and duties; State Anatomical Board Cash Fund; created; use; investment.

(1) The heads of the anatomy departments of the medical schools and colleges of this state, one professor of anatomy appointed by the head of the anatomy department from each medical school or college of this state, one professor of anatomy appointed from each dental school or college of this state, and one layperson appointed by the Department of Health and Human Services shall constitute the State Anatomical Board of the State of Nebraska for the distribution, delivery, and use of certain dead human bodies, described in section 71-4834, to and among such schools, colleges, and persons as are entitled thereto under such section.

(2) The board shall have power to (a) establish rules and regulations for its government and for the collection, storage, and distribution of dead human bodies for anatomical purposes and (b) appoint and remove its officers and agents.

(3) The board shall keep minutes of its meetings and shall cause a record to be kept of all of its transactions, of bodies received and distributed by it, and of the school, college, or person receiving every such body. The records of the board shall be open at all times to the inspection of each member of the board and to every county attorney within this state.

(4) There is hereby created the State Anatomical Board Cash Fund. The fund shall be under the University of Nebraska Medical Center for accounting and budgeting purposes only. The fund shall consist of revenue collected by the State Anatomical Board and shall only be used to pay for costs of operating the board. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1929, c. 158, § 1, p. 551; C.S.1929, § 71-2801; R.S.1943, § 71-1001; Laws 1969, c. 570, § 1, p. 2314; Laws 1978, LB 583, § 1; Laws 1979, LB 98, § 2; Laws 1992, LB 860, § 2; Laws 1996, LB 1044, § 556; Laws 2007, LB296, § 464; Laws 2017, LB331, § 36; Laws 2019, LB559, § 1.
Effective date September 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

71-1002 Repealed. Laws 2019, LB559, § 6.

71-1003 Board; dead human bodies; distribution.

The State Anatomical Board, or its duly authorized officers or agents, may take and receive dead bodies as provided in section 71-4834. The board shall distribute the bodies among the medical, chiropractic, osteopathic, and dental schools and colleges, and physicians and surgeons designated by the board,

under such rules and regulations as may be adopted and promulgated by it. The number of bodies so distributed to such schools and colleges shall be in proportion to the number of students matriculated in the first-year work of such schools and colleges. If there are more bodies than are required by such schools and colleges, the board, or its duly authorized officers, may, from time to time, designate physicians and surgeons to receive such bodies, and the number of bodies they may receive, if such physicians and surgeons have complied with all rules and regulations which the board may adopt and promulgate for such disposition. All expenses incurred by the board in receiving, caring for, and delivering any such body shall be paid by those receiving such body.

Source: Laws 1929, c. 158, § 3, p. 552; C.S.1929, § 71-2803; R.S.1943, § 71-1003; Laws 1971, LB 268, § 2; Laws 2019, LB559, § 2.
Effective date September 1, 2019.

Cross References

Board of Funeral Directing and Embalming, distribution to and use by, see section 38-1417.

71-1004 Board; dead human bodies; transportation.

The State Anatomical Board may employ a carrier or carriers for the transportation of bodies, referred to in sections 71-1001 to 71-1007, and may transport such bodies, or order them to be transported, under such rules and regulations as it may adopt and promulgate.

Source: Laws 1929, c. 158, § 4, p. 553; C.S.1929, § 71-2804; R.S.1943, § 71-1004; Laws 2019, LB559, § 3.
Effective date September 1, 2019.

71-1005 Repealed. Laws 2019, LB559, § 6.

71-1006 Repealed. Laws 2019, LB559, § 6.

71-1007 Board; purpose.

The purpose of the State Anatomical Board is to:

- (1) Provide for the orderly receipt, maintenance, distribution, and use of human bodies used for medical education and research;
- (2) Ensure that proper and considerate care is given to human bodies used for medical education and research; and
- (3) Ensure that an orderly and equitable procedure is used for the allocation of human bodies to colleges and universities in Nebraska which provide medical education and research.

Source: Laws 1979, LB 98, § 1; Laws 2019, LB559, § 4.
Effective date September 1, 2019.

ARTICLE 19

CARE OF CHILDREN

(b) CHILD CARE LICENSURE

Section

71-1912.

Department; investigation; inspections; national criminal history record information check; procedure; cost; background checks; person ineligible for employment; when.

Section

(c) CHILDREN'S RESIDENTIAL FACILITIES AND PLACING LICENSURE ACT

- 71-1924. Children's Residential Facilities and Placing Licensure Act; act, how cited.
- 71-1928.01. National criminal history record information check; procedure; cost; background checks.
- 71-1936. Alleged violation of act; complaint; investigation; department; duties; confidentiality; immunity; report.

(b) CHILD CARE LICENSURE

71-1912 Department; investigation; inspections; national criminal history record information check; procedure; cost; background checks; person ineligible for employment; when.

(1) Before issuance of a license, the department shall investigate or cause an investigation to be made, when it deems necessary, to determine if the applicant or person in charge of the program meets or is capable of meeting the physical well-being, safety, and protection standards and the other rules and regulations of the department adopted and promulgated under the Child Care Licensing Act. The department may investigate the character of applicants and licensees, any member of the applicant's or licensee's household, and the staff and employees of programs. The department may at any time inspect or cause an inspection to be made of any place where a program is operating to determine if such program is being properly conducted.

(2) All inspections by the department shall be unannounced except for initial licensure visits and consultation visits. Initial licensure visits are announced visits necessary for a provisional license to be issued to a family child care home I, family child care home II, child care center, or school-age-only or preschool program. Consultation visits are announced visits made at the request of a licensee for the purpose of consulting with a department specialist on ways of improving the program.

(3) An unannounced inspection of any place where a program is operating shall be conducted by the department or the city, village, or county pursuant to subsection (2) of section 71-1914 at least annually for a program licensed to provide child care for fewer than thirty children and at least twice every year for a program licensed to provide child care for thirty or more children.

(4) Whenever an inspection is made, the findings shall be recorded in a report designated by the department. The public shall have access to the results of these inspections upon a written or oral request to the department. The request must include the name and address of the program. Additional unannounced inspections shall be performed as often as is necessary for the efficient and effective enforcement of the Child Care Licensing Act.

(5)(a) A person applying for a license as a child care provider or a licensed child care provider under the Child Care Licensing Act shall submit a request for a national criminal history record information check for each child care staff member, including a prospective child care staff member of the child care provider, at the applicant's or licensee's expense, as set forth in this section. Beginning on October 1, 2019, a prospective child care staff member shall submit to a national criminal history record information check (i) prior to employment, except as otherwise permitted under 45 C.F.R. 98.43, as such regulation existed on January 1, 2019, or (ii) prior to residing in a family child care home. A child care staff member who was employed by a child care

provider prior to October 1, 2019, or who resided in a family child care home prior to October 1, 2019, shall submit to a national criminal history record information check by October 1, 2021, unless the child care staff member ceases to be a child care staff member prior to such date.

(b) A child care staff member shall be required to undergo a national criminal history record information check not less than once during each five-year period. A child care staff member shall submit a complete set of his or her fingerprints to the Nebraska State Patrol. The Nebraska State Patrol shall transmit a copy of the child care staff member's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The national criminal history record information check shall include information concerning child care staff members from federal repositories of such information and repositories of such information in other states, if authorized by federal law for use by the Nebraska State Patrol. The Nebraska State Patrol shall issue a report to the department that includes the information collected from the national criminal history record information check concerning child care staff members. A child care staff member being screened shall pay the actual cost of the fingerprinting and national criminal history record information check. The department and the Nebraska State Patrol may adopt and promulgate rules and regulations concerning the costs associated with the fingerprinting and the national criminal history record information check. The department may adopt and promulgate rules and regulations implementing national criminal history record information check requirements for child care providers and child care staff members.

(c) A child care staff member shall also submit to the following background checks at his or her expense not less than once during each five-year period:

(i) A search of the National Crime Information Center's National Sex Offender Registry; and

(ii) A search of the following registries, repositories, or data bases in the state where the child care provider is located or where the child care staff member resides and each state where the child care provider was located or where the child care staff member resided during the preceding five years:

(A) State criminal registries or repositories;

(B) State sex offender registries or repositories; and

(C) State-based child abuse and neglect registries and data bases.

(d) Any individual shall be ineligible for employment by a child care provider if such individual:

(i) Refuses to consent to the national criminal history record information check or a background check described in this subsection;

(ii) Knowingly makes a materially false statement in connection with the national criminal history record information check or a background check described in this subsection;

(iii) Is registered, or required to be registered, on a state sex offender registry or repository or the National Sex Offender Registry; or

(iv) Has been convicted of a crime of violence, a crime of moral turpitude, or a crime of dishonesty.

(e) The department may adopt and promulgate rules and regulations prohibiting the employment of any child care staff member with one or more criminal

convictions as the department deems necessary to protect the health and safety of children receiving child care.

(f) A child care provider shall be ineligible for a license under the Child Care Licensing Act and shall be ineligible to participate in the child care subsidy program if the provider employs a child care staff member who is ineligible for employment under subdivisions (d) or (e) of this subsection.

(g) National criminal history record information and information from background checks described in this subsection subject to state or federal confidentiality requirements may only be used for purposes of granting a child care license or approving a child care provider for participation in the child care subsidy program.

(h) For purposes of this subsection:

(i) Child care provider means a child care program required to be licensed under the Child Care Licensing Act; and

(ii) Child care staff member means an individual who is not related to all of the children for whom child care services are provided and:

(A) Who is employed by a child care provider for compensation, including contract employees or self-employed individuals;

(B) Whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or

(C) Who is residing in a family child care home and who is eighteen years of age or older.

Source: Laws 1984, LB 130, § 5; Laws 1985, LB 447, § 38; Laws 1987, LB 386, § 5; Laws 1988, LB 1013, § 2; Laws 1995, LB 401, § 33; Laws 1997, LB 310, § 7; Laws 2004, LB 1005, § 73; Laws 2014, LB1050, § 3; Laws 2019, LB460, § 3.

Operative date September 1, 2019.

(c) CHILDREN'S RESIDENTIAL FACILITIES AND PLACING LICENSURE ACT

71-1924 Children's Residential Facilities and Placing Licensure Act; act, how cited.

Sections 71-1924 to 71-1951 shall be known and may be cited as the Children's Residential Facilities and Placing Licensure Act.

Source: Laws 2013, LB265, § 1; Laws 2019, LB460, § 4.

Operative date May 31, 2019.

71-1928.01 National criminal history record information check; procedure; cost; background checks.

(1) Any individual eighteen years of age or older working in a residential child-caring agency shall be required to undergo a national criminal history record information check not less than once during each five-year period that he or she is working in such an agency. The individual shall submit a complete set of his or her fingerprints to the Nebraska State Patrol. The Nebraska State Patrol shall transmit a copy of the individual's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The national criminal history record information check shall include

information concerning the individual from federal repositories of such information and repositories of such information in other states, if authorized by federal law for use by the Nebraska State Patrol. The Nebraska State Patrol shall issue a report to the department that includes the information collected from the national criminal history record information check concerning the individual. The individual being screened shall pay the actual cost of the fingerprinting and national criminal history record information check, except that the department may pay all or part of the cost if funding becomes available. The department and the Nebraska State Patrol may adopt and promulgate rules and regulations concerning the costs associated with the fingerprinting and the national criminal history record information check. The department may adopt and promulgate rules and regulations implementing national criminal history record information check requirements for residential child-caring agencies.

(2) An individual eighteen years of age or older working in a residential child-caring agency shall also submit to the following background checks not less than once during each five-year period: A search of the following registries, repositories, or data bases in the state where the individual resides and each state where the individual resided during the preceding five years:

- (a) State criminal registries or repositories;
- (b) State sex offender registries or repositories; and
- (c) State-based child abuse and neglect registries and data bases.

Source: Laws 2019, LB460, § 5.

Operative date May 31, 2019.

71-1936 Alleged violation of act; complaint; investigation; department; duties; confidentiality; immunity; report.

(1) Any person may submit a complaint to the department and request investigation of an alleged violation of the Children's Residential Facilities and Placing Licensure Act or rules and regulations adopted and promulgated under the act. The department shall review all complaints, including complaints of such violations received pursuant to section 28-711, and determine whether to conduct an investigation within five working days after receiving the complaint. In making such determination, the department may consider factors such as:

- (a) Whether the complaint pertains to a matter within the authority of the department to enforce;
- (b) Whether the circumstances indicate that a complaint is made in good faith;
- (c) Whether the complaint is timely or has been delayed too long to justify present evaluation of its merit;
- (d) Whether the complainant may be a necessary witness if action is taken and is willing to identify himself or herself and come forward to testify if action is taken; or
- (e) Whether the information provided or within the knowledge of the complainant is sufficient to provide a reasonable basis to believe that a violation has occurred or to secure necessary evidence from other sources.

(2) A complaint submitted to the department shall be confidential. An individual submitting a complaint shall be immune from criminal or civil

liability of any nature, whether direct or derivative, for submitting a complaint or for disclosure of documents, records, or other information to the department.

(3) If an investigation is conducted under this section, an investigation report shall be issued within sixty days after the determination is made to conduct the investigation, except that the final investigation report may be issued within ninety days after such determination if an interim report is issued within sixty days after such determination.

Source: Laws 2013, LB265, § 13; Laws 2019, LB59, § 1.
Effective date September 1, 2019.

ARTICLE 20

HOSPITALS

(k) MEDICAID PROGRAM VIOLATIONS

Section

71-2097. Terms, defined.

71-2098. Civil penalties; department; powers.

71-20,100. Nursing Facility Penalty Cash Fund; created; use; investment.

(k) MEDICAID PROGRAM VIOLATIONS

71-2097 Terms, defined.

For purposes of sections 71-2097 to 71-20,101:

(1) Civil penalty includes any remedy required under federal law and includes the imposition of a civil money penalty;

(2) Department means the Department of Health and Human Services;

(3) Federal regulations for participation in the medicaid program means the regulations found in 42 C.F.R. parts 442 and 483, as amended, for participation in the medicaid program under Title XIX of the federal Social Security Act, as amended; and

(4) Nursing facility means any intermediate care facility or nursing facility, as defined in sections 71-420 and 71-424, which receives federal and state funds under Title XIX of the federal Social Security Act, as amended.

Source: Laws 1996, LB 1155, § 72; Laws 1997, LB 307, § 180; Laws 2000, LB 819, § 103; Laws 2007, LB296, § 523; Laws 2019, LB22, § 1.

Effective date September 1, 2019.

71-2098 Civil penalties; department; powers.

(1) The department may assess, enforce, and collect civil penalties against a nursing facility which the department has found in violation of federal regulations for participation in the medicaid program pursuant to the authority granted to the department under section 81-604.03.

(2) If the department finds that a violation is life threatening to one or more residents or creates a direct threat of serious adverse harm to one or more residents, a civil penalty shall be imposed for each day the deficiencies which constitute the violation exist. The department may assess an appropriate civil penalty for other violations based on the nature of the violation. Any civil money penalty assessed shall not be less than fifty dollars nor more than ten

thousand dollars for each day the facility is found to be in violation of such federal regulations. Any civil money penalty assessed shall include interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted.

Source: Laws 1996, LB 1155, § 73; Laws 1997, LB 307, § 181; Laws 2007, LB296, § 524; Laws 2019, LB22, § 2.
Effective date September 1, 2019.

71-20,100 Nursing Facility Penalty Cash Fund; created; use; investment.

(1) The Nursing Facility Penalty Cash Fund is created. Any civil money penalty collected by the department as part of any civil penalty imposed pursuant to section 71-2098 or in accordance with the federal Social Security Act, as amended, and imposed by the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. 488.431 and disbursed to the department in accordance with 42 C.F.R. 488.433 or imposed by the department pursuant to 42 C.F.R. 488.432 shall be remitted to the State Treasurer for credit to such fund. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall adopt and promulgate rules and regulations which establish circumstances under which the department may distribute funds from the Nursing Facility Penalty Cash Fund. Funds collected as part of a civil money penalty imposed by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services as described in subsection (1) of this section shall be distributed in accordance with the federal Social Security Act, as amended, and the federal regulations for participation in the medicaid program, to support activities that benefit nursing home residents as provided in 42 C.F.R. 488.433.

Source: Laws 1996, LB 1155, § 75; Laws 1997, LB 307, § 183; Laws 2007, LB296, § 526; Laws 2019, LB22, § 3.
Effective date September 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

**ARTICLE 21
INFANTS**

Section

- 71-2102. Abusive head trauma; legislative findings.
- 71-2103. Information for parents of newborn child; requirements.
- 71-2104. Public awareness activities; duties.

71-2102 Abusive head trauma; legislative findings.

The Legislature finds that abusive head trauma may occur when an infant or child is violently shaken as part of a pattern of abuse or because an adult has momentarily succumbed to the frustration of responding to a crying infant or child. The Legislature further finds that the injuries sustained by the infant or child can include brain swelling and damage, subdural hemorrhage, intellectual disability, or death. The Legislature further finds and declares that there is a

present and growing need to provide programs aimed at reducing the number of cases of abusive head trauma in infants and children in Nebraska.

Source: Laws 2006, LB 994, § 148; Laws 2013, LB23, § 33; Laws 2019, LB60, § 2.

Effective date September 1, 2019.

71-2103 Information for parents of newborn child; requirements.

Every hospital, birth center, or other medical facility that discharges a newborn child shall request that each maternity patient and father of a newborn child, if available, view a video presentation and read printed materials, approved by the Department of Health and Human Services, on the dangers of shaking infants and children, the symptoms of abusive head trauma in infants and children, the dangers associated with rough handling or the striking of an infant, safety measures which can be taken to prevent sudden infant death and abusive head trauma in infants and children, including crying plans, and the dangers associated with infants sleeping on the same surface with other children or adults. After viewing the presentation and reading the materials or upon a refusal to do so, the hospital, birth center, or other medical facility shall request that the mother and father, if available, sign a form stating that he or she has viewed and read or refused to view and read the presentation and materials. Such presentation, materials, and forms may be provided by the department.

Source: Laws 2006, LB 994, § 149; Laws 2019, LB60, § 3.

Effective date September 1, 2019.

71-2104 Public awareness activities; duties.

The Department of Health and Human Services shall conduct public awareness activities designed to promote the prevention of sudden infant death syndrome and abusive head trauma in infants and children. The public awareness activities may include, but not be limited to, public service announcements, information kits and brochures, and the promotion of preventive telephone hotlines.

Source: Laws 2006, LB 994, § 150; Laws 2019, LB60, § 4.

Effective date September 1, 2019.

ARTICLE 24

DRUGS

(h) CLANDESTINE DRUG LABS

Section

71-2433. Property owner; law enforcement agency; Nebraska State Patrol; duties.

(l) PRESCRIPTION DRUG MONITORING PROGRAM

71-2454. Prescription drug monitoring; system established; provisions included; not public records.

(n) DISCLOSURE OF COST, PRICE, OR COPAYMENT OF PRESCRIPTION DRUGS

71-2484. Information regarding cost, price, or copayment of a prescription drug; pharmacist or contracted pharmacy; authorized activities; pharmacy benefit manager; insurer; prohibited acts.

(h) CLANDESTINE DRUG LABS

71-2433 Property owner; law enforcement agency; Nebraska State Patrol; duties.

A property owner with knowledge of a clandestine drug lab on his or her property shall report such knowledge and location as soon as practicable to the local law enforcement agency or to the Nebraska State Patrol. A law enforcement agency that discovers a clandestine drug lab in the State of Nebraska shall report the location of such lab to the Nebraska State Patrol within thirty days after making such discovery. Such report shall include the date of discovery of such lab, the county where the property containing such lab is located, and a legal description of the property or other description or address of such property sufficient to clearly establish its location. As soon as practicable after such discovery, the appropriate law enforcement agency shall provide the Nebraska State Patrol with a complete list of the chemicals, including methamphetamine, its precursors, solvents, and related reagents, found at or removed from the location of such lab. Upon receipt, the Nebraska State Patrol shall promptly forward a copy of such report and list to the department, the Department of Environment and Energy, the municipality or county where the lab is located, the director of the local public health department serving such municipality or county, and the property owner or owners.

Source: Laws 2006, LB 915, § 2; Laws 2019, LB302, § 88.
Operative date July 1, 2019.

(l) PRESCRIPTION DRUG MONITORING PROGRAM

71-2454 Prescription drug monitoring; system established; provisions included; not public records.

(1) An entity described in section 71-2455 shall establish a system of prescription drug monitoring for the purposes of (a) preventing the misuse of controlled substances that are prescribed, (b) allowing prescribers and dispensers to monitor the care and treatment of patients for whom such a prescription drug is prescribed to ensure that such prescription drugs are used for medically appropriate purposes, (c) providing information to improve the health and safety of patients, and (d) ensuring that the State of Nebraska remains on the cutting edge of medical information technology.

(2) Such system of prescription drug monitoring shall be implemented as follows: Except as provided in subsection (4) of this section, all prescription drug information shall be reported to the prescription drug monitoring system. The prescription drug monitoring system shall include, but not be limited to, provisions that:

(a) Prohibit any patient from opting out of the prescription drug monitoring system;

(b) Require any prescription drug that is dispensed in this state or to an address in this state to be entered into the system by the dispenser or his or her designee daily after such prescription drug is dispensed, including prescription drugs for patients paying cash or otherwise not relying on a third-party payor for payment;

(c) Allow all prescribers or dispensers of prescription drugs to access the system at no cost to such prescriber or dispenser;

(d) Ensure that such system includes information relating to all payors, including, but not limited to, the medical assistance program established pursuant to the Medical Assistance Act; and

(e) Make the prescription drug information available to the statewide health information exchange described in section 71-2455 for access by its participants if such access is in compliance with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, except that if a patient opts out of the statewide health information exchange, the prescription drug information regarding that patient shall not be accessible by the participants in the statewide health information exchange.

(3) Except as provided in subsection (4) of this section, prescription drug information that shall be submitted electronically to the prescription drug monitoring system shall be determined by the entity described in section 71-2455 and shall include, but not be limited to:

(a) The patient's name, address, telephone number, if a telephone number is available, gender, and date of birth;

(b) A patient identifier such as a military identification number, driver's license number, state identification card number, or other valid government-issued identification number, insurance identification number, pharmacy software-generated patient-specific identifier, or other identifier associated specifically with the patient;

(c) The name and address of the pharmacy dispensing the prescription drug;

(d) The date the prescription is issued;

(e) The date the prescription is filled;

(f) The number of refills authorized;

(g) The prescription number of the prescription drug;

(h) The National Drug Code number as published by the federal Food and Drug Administration of the prescription drug;

(i) The strength of the prescription drug prescribed;

(j) The quantity of the prescription drug prescribed and the number of days' supply; and

(k) The prescriber's name and National Provider Identifier number or Drug Enforcement Administration number when reporting a controlled substance.

(4) Beginning July 1, 2018, a veterinarian licensed under the Veterinary Medicine and Surgery Practice Act shall be required to report the dispensing of prescription drugs which are controlled substances listed on Schedule II, Schedule III, Schedule IV, or Schedule V pursuant to section 28-405. Each such veterinarian shall indicate that the prescription is an animal prescription and shall include the following information in such report:

(a) The first and last name and address, including city, state, and zip code, of the individual to whom the prescription drug is dispensed in accordance with a valid veterinarian-client-patient relationship;

(b) Reporting status;

(c) The first and last name of the prescribing veterinarian and his or her federal Drug Enforcement Administration number;

(d) The National Drug Code number as published by the federal Food and Drug Administration of the prescription drug and the prescription number;

(e) The date the prescription is written and the date the prescription is filled;

(f) The number of refills authorized, if any; and

(g) The quantity of the prescription drug and the number of days' supply.

(5)(a) All prescription drug information submitted pursuant to this section, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system are confidential, are privileged, are not public records, and may be withheld pursuant to section 84-712.05 except for information released as provided in subsection (9) of this section.

(b) No patient-identifying data as defined in section 81-664, including the data collected under subsection (3) of this section, shall be disclosed, made public, or released to any public or private person or entity except to the statewide health information exchange described in section 71-2455 and its participants, to prescribers and dispensers as provided in subsection (2) of this section, or as provided in subsection (7) of this section.

(c) All other data is for the confidential use of the department and the statewide health information exchange described in section 71-2455 and its participants. The department, or the statewide health information exchange in collaboration with the department, may release such information as Class I, Class II, or Class IV data in accordance with section 81-667 to the private or public persons or entities that the department determines may view such records as provided in sections 81-663 to 81-675. In addition, the department, or the statewide health information exchange in collaboration with the department, may release such information as provided in subsection (9) of this section.

(6) The statewide health information exchange described in section 71-2455, in collaboration with the department, shall establish the minimum administrative, physical, and technical safeguards necessary to protect the confidentiality, integrity, and availability of prescription drug information.

(7) If the entity receiving the prescription drug information has privacy protections at least as restrictive as those set forth in this section and has implemented and maintains the minimum safeguards required by subsection (6) of this section, the statewide health information exchange described in section 71-2455, in collaboration with the department, may release the prescription drug information and any other data collected pursuant to this section to:

(a) Other state prescription drug monitoring programs;

(b) State and regional health information exchanges;

(c) The medical director and pharmacy director of the Division of Medicaid and Long-Term Care of the department, or their designees;

(d) The medical directors and pharmacy directors of medicaid-managed care entities, the state's medicaid drug utilization review board, and any other state-administered health insurance program or its designee if any such entities have a current data-sharing agreement with the statewide health information exchange described in section 71-2455, and if such release is in accordance with the privacy and security provisions of the federal Health Insurance Portability

and Accountability Act of 1996, Public Law 104-191, and all regulations promulgated thereunder;

(e) Organizations which facilitate the interoperability and mutual exchange of information among state prescription drug monitoring programs or state or regional health information exchanges; or

(f) Electronic health record systems or pharmacy-dispensing software systems for the purpose of integrating prescription drug information into a patient's medical record.

(8) The statewide health information exchange described in section 71-2455, in collaboration with the department, may release to patients their prescription drug information collected pursuant to this section. Upon request of the patient, such information may be released directly to the patient or a personal health record system designated by the patient which has privacy protections at least as restrictive as those set forth in this section and that has implemented and maintains the minimum safeguards required by subsection (6) of this section.

(9) The department, or the statewide health information exchange described in section 71-2455 in collaboration with the department, may release data collected pursuant to this section for statistical, public research, public policy, or educational purposes after removing information which identifies or could reasonably be used to identify the patient, prescriber, dispenser, or other person who is the subject of the information.

(10) The statewide health information exchange described in section 71-2455 or the department may request and receive program information from other prescription drug monitoring programs for use in the prescription drug monitoring system in this state.

(11) The statewide health information exchange described in section 71-2455, in collaboration with the department, shall implement technological improvements to facilitate the secure collection of, and access to, prescription drug information in accordance with this section.

(12) Before accessing the prescription drug monitoring system, any user shall undergo training on the purpose of the system, access to and proper usage of the system, and the law relating to the system, including confidentiality and security of the prescription drug monitoring system. Such training shall be administered by the statewide health information exchange described in section 71-2455 which shall have access to the prescription drug monitoring system for training and administrative purposes. Users who have been trained prior to May 10, 2017, or who are granted access by an entity receiving prescription drug information pursuant to subsection (7) of this section, are deemed to be in compliance with the training requirement of this subsection.

(13) For purposes of this section:

(a) Deliver or delivery means to actually, constructively, or attempt to transfer a drug or device from one person to another, whether or not for consideration;

(b) Department means the Department of Health and Human Services;

(c) Designee means any licensed or registered health care professional credentialed under the Uniform Credentialing Act designated by a prescriber or dispenser to act as an agent of the prescriber or dispenser for purposes of submitting or accessing data in the prescription drug monitoring system and who is supervised by such prescriber or dispenser;

(d) Prescription drug or drugs means a prescription drug or drugs dispensed by delivery to the ultimate user or caregiver by or pursuant to the lawful order of a prescriber but does not include (i) the delivery of such prescription drug for immediate use for purposes of inpatient hospital care or emergency department care, (ii) the administration of a prescription drug by an authorized person upon the lawful order of a prescriber, (iii) a wholesale distributor of a prescription drug monitored by the prescription drug monitoring system, or (iv) the dispensing to a nonhuman patient of a prescription drug which is not a controlled substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V of section 28-405;

(e) Dispenser means a person authorized in the jurisdiction in which he or she is practicing to deliver a prescription drug to the ultimate user or caregiver by or pursuant to the lawful order of a prescriber;

(f) Participant means an individual or entity that has entered into a participation agreement with the statewide health information exchange described in section 71-2455 which requires the individual or entity to comply with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder; and

(g) Prescriber means a health care professional authorized to prescribe in the profession which he or she practices.

Source: Laws 2011, LB237, § 1; Laws 2014, LB1072, § 1; Laws 2016, LB471, § 1; Laws 2017, LB223, § 1; Laws 2018, LB1034, § 65; Laws 2019, LB556, § 4.
Effective date May 2, 2019.

Cross References

Medical Assistance Act, see section 68-901.

Uniform Credentialing Act, see section 38-101.

Veterinary Medicine and Surgery Practice Act, see section 38-3301.

(n) DISCLOSURE OF COST, PRICE, OR COPAYMENT OF PRESCRIPTION DRUGS

71-2484 Information regarding cost, price, or copayment of a prescription drug; pharmacist or contracted pharmacy; authorized activities; pharmacy benefit manager; insurer; prohibited acts.

(1) For purposes of this section:

(a) Contracted pharmacy means a pharmacy located in this state that participates either in the network of a pharmacy benefit manager or in a health care or pharmacy benefits management plan through a direct contract or through a contract with a pharmacy services administration organization, a group purchasing organization, or another contracting agent;

(b) Covered entity means (i) a nonprofit hospital or medical services corporation, an insurer, a third-party payor, a managed care company, or a health maintenance organization, (ii) a health program administered by the state in the capacity of provider of health insurance coverage, or (iii) an employer, a labor union, or any other group of persons organized in the state that provides health insurance coverage;

(c) Covered individual means a member, participant, enrollee, contract holder, policyholder, or beneficiary of a covered entity who is provided health

insurance coverage by the covered entity and includes a dependent or other person provided health insurance coverage through a policy, contract, or plan for a covered individual;

(d)(i) Insurer means any person providing life insurance, sickness and accident insurance, workers' compensation insurance, or annuities in this state.

(ii) Insurer includes an authorized insurance company, a prepaid hospital or medical care plan, a managed care plan, a health maintenance organization, any other person providing a plan of insurance subject to state insurance regulation, and an employer who is approved by the Nebraska Workers' Compensation Court as a self-covered entity;

(e) Pharmacist has the same meaning as in section 38-2832;

(f) Pharmacy has the same meaning as in section 71-425;

(g) Pharmacy benefit manager means a person or an entity that performs pharmacy benefits management services for a covered entity and includes any other person or entity acting on behalf of a pharmacy benefit manager pursuant to a contractual or employment relationship;

(h) Pharmacy benefits management means the administration or management of prescription drug benefits provided by a covered entity under the terms and conditions of the contract between the pharmacy benefit manager and the covered entity; and

(i) Prescription drug means a prescription drug or device or legend drug or device as defined in section 38-2841.

(2) A pharmacist or contracted pharmacy shall not be prohibited from or subject to penalties or removal from a network or plan for sharing information regarding the cost, price, or copayment of a prescription drug with a covered individual or a covered individual's caregiver. A pharmacy benefit manager shall not prohibit or inhibit a pharmacist or contracted pharmacy from discussing any such information or selling a more affordable alternative to a covered individual or a covered individual's caregiver.

(3) An insurer that offers a health plan which covers prescription drugs shall not require a covered individual to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

(a) The covered individual's copayment, deductible, or coinsurance for such prescription drug; or

(b) The amount any individual would pay for such prescription drug if that individual paid in cash.

Source: Laws 2019, LB316, § 1.

Effective date April 25, 2019.

ARTICLE 35

RADIATION CONTROL AND RADIOACTIVE WASTE

(a) RADIATION CONTROL ACT

Section

71-3503. Terms, defined.

(a) RADIATION CONTROL ACT

71-3503 Terms, defined.

For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation means ionizing radiation and nonionizing radiation as follows:

(a) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or ultraviolet light; and

(b) Nonionizing radiation means (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material;

(4) Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

(7) Registration means registration with the department pursuant to the Radiation Control Act;

(8) Department means the Department of Health and Human Services;

(9) Administrator means the administrator of radiation control designated pursuant to section 71-3504;

(10) Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(11) License means:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials;

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials; or

(c) A license issued to a radon measurement specialist, radon mitigation specialist, radon measurement business, or radon mitigation business;

(12) Byproduct material means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material;

(c)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity; or

(ii) Any material that (A) has been made radioactive by use of a particle accelerator and (B) is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity; and

(d) Any discrete source of naturally occurring radioactive material, other than source material, that:

(i) The United States Nuclear Regulatory Commission, in consultation with the Administrator of the United States Environmental Protection Agency, the United States Secretary of Energy, the United States Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Is extracted or converted after extraction for use in a commercial, medical, or research activity;

(13) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;

(14) Special nuclear material means:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the federal Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(b) Any material artificially enriched by any material listed in subdivision (14)(a) of this section but does not include source material;

(15) Users of sources of radiation means:

(a) Physicians using radioactive material or radiation-generating equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and

(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

(16) Civil penalty means any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but does not include criminal penalties;

(17) Closure means all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

(18) Decommissioning means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care;

(19) Disposal means the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

(20) Generate means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(21) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

(22) Low-level radioactive waste means radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (12)(b) of this section;

(23) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner;

(24) Source material mill tailings or mill tailings means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

(25) Source material milling means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material and source material mill tailings;

(26) Spent nuclear fuel means irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

(27) Transuranic waste means radioactive waste material containing alpha-emitting radioactive elements, with radioactive half-lives greater than five years, having an atomic number greater than 92 in concentrations in excess of one hundred nanocuries per gram;

(28) Licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician;

(29) X-ray system means an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system;

(30) Licensed facility operator means any person or entity who has obtained a license under the Low-Level Radioactive Waste Disposal Act to operate a facility, including any person or entity to whom an assignment of a license is approved by the Department of Environment and Energy; and

(31) Deliberate misconduct means an intentional act or omission by a person that (a) would intentionally cause a licensee, registrant, or applicant for a license or registration to be in violation of any rule, regulation, or order of or any term, condition, or limitation of any license or registration issued by the department under the Radiation Control Act or (b) constitutes an intentional violation of a requirement, procedure, instruction, contract, purchase order, or policy under the Radiation Control Act by a licensee, a registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee, registrant, or applicant for a license or registration.

Source: Laws 1963, c. 406, § 3, p. 1297; Laws 1975, LB 157, § 3; Laws 1978, LB 814, § 3; Laws 1984, LB 716, § 3; Laws 1987, LB 390, § 4; Laws 1989, LB 342, § 32; Laws 1990, LB 1064, § 17; Laws 1993, LB 121, § 434; Laws 1993, LB 536, § 83; Laws 1995, LB 406, § 42; Laws 1996, LB 1044, § 651; Laws 1996, LB 1201, § 1; Laws 2002, LB 93, § 12; Laws 2002, LB 1021, § 71; Laws 2005, LB 301, § 42; Laws 2006, LB 994, § 103; Laws 2007, LB296 § 566; Laws 2007, LB463, § 1209; Laws 2008, LB928, § 23; Laws 2012, LB794, § 1; Laws 2019, LB302, § 89.

Operative date July 1, 2019.

Cross References

Low-Level Radioactive Waste Disposal Act, see section 81-1578.

ARTICLE 37

BRAIN INJURY TRUST FUND ACT

Section

71-3701. Act, how cited.

71-3702. Terms, defined.

71-3703. Brain Injury Oversight Committee; created; members; terms; meetings; expenses.

71-3704. Committee; duties.

71-3705. Brain Injury Trust Fund; created; use; investment.

71-3706. Legislative intent.

71-3701 Act, how cited.

Sections 71-3701 to 71-3706 shall be known and may be cited as the Brain Injury Trust Fund Act.

Source: Laws 2019, LB481, § 1.

Operative date July 15, 2020.

71-3702 Terms, defined.

For purposes of the Brain Injury Trust Fund Act:

(1) Brain injury has the definition found in section 81-654; and

(2) Committee means the Brain Injury Oversight Committee created in section 71-3703.

Source: Laws 2019, LB481, § 2.

Operative date July 15, 2020.

71-3703 Brain Injury Oversight Committee; created; members; terms; meetings; expenses.

(1) The Brain Injury Oversight Committee is created. The committee shall consist of nine public members and the following directors, or their designees: The Commissioner of Education; the Director of Behavioral Health of the Department of Health and Human Services; and the Director of Public Health of the Department of Health and Human Services. The Governor shall appoint the nine public members which shall include individuals with a brain injury or family members of individuals with a brain injury, a representative of a public or private health-related organization, a representative of a developmental disability advisory or planning group within Nebraska, a representative of service providers for individuals with a brain injury, and a representative of a nonprofit brain injury advocacy organization.

(2) The Governor shall appoint the public members within ninety days after July 15, 2020. The Governor shall designate the initial terms so that three members serve one-year terms, three members serve two-year terms, and three members serve three-year terms. Their successors shall be appointed for four-year terms. Any vacancy shall be filled from the same category for the remainder of the unexpired term. Any member of the committee shall be eligible for reappointment. At least one member of the committee shall be appointed from each congressional district.

(3) The committee shall select a chairperson and such other officers as it deems necessary to perform its functions and shall establish policies to govern its procedures. The committee shall meet at least four times annually, and at

any other time as the business of the committee requires, and shall meet at such place as may be established by the chairperson. The public members of the committee shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 2019, LB481, § 3.
Operative date July 15, 2020.

71-3704 Committee; duties.

The committee shall:

- (1) Provide financial oversight and direction to the University of Nebraska Medical Center in the management of the Brain Injury Trust Fund;
- (2) Develop criteria for expenditures from the Brain Injury Trust Fund; and
- (3) Represent the interests of individuals with a brain injury and their families through advocacy, education, training, rehabilitation, research, and prevention.

Source: Laws 2019, LB481, § 4.
Operative date July 15, 2020.

71-3705 Brain Injury Trust Fund; created; use; investment.

(1) The Brain Injury Trust Fund is created. The fund shall consist of appropriations from the Legislature, transfers authorized by the Legislature, grants, and any contributions designated for the purpose of the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2)(a) The fund shall be administered through a contract with the University of Nebraska Medical Center for administration, accounting, and budgeting purposes and used to pay for contracts for assistance for individuals with a brain injury with outside sources that specialize in the area of brain injury. Such outside sources shall operate, at a minimum, statewide, and also in targeted areas as defined and determined in the contract, with individuals with a brain injury; work to secure and develop community-based services for individuals with a brain injury; provide support groups and access to pertinent information, medical resources, and service referrals for individuals with a brain injury; and educate professionals who work with individuals with a brain injury.

(b) Expenditures from the fund may also include, but not be limited to:

(i) Resource facilitation. Resource facilitation shall be given priority and made available to provide ongoing support for individuals with a brain injury and their families for coping with brain injuries. Resource facilitation may provide a linkage to existing services and increase the capacity of the state's providers of services to individuals with a brain injury by providing brain-injury-specific information, support, and resources and enhancing the usage of support commonly available in a community. Agencies providing resource facilitation shall specialize in providing services to individuals with a brain injury and their families;

(ii) Voluntary training for service providers in the appropriate provision of services to individuals with a brain injury;

(iii) Followup contact to provide information on brain injuries for individuals on the brain injury registry established in the Brain Injury Registry Act;

(iv) Activities to promote public awareness of brain injury and prevention methods;

(v) Supporting research in the field of brain injury;

(vi) Providing and monitoring quality improvement processes with standards of care among brain injury service providers; and

(vii) Collecting data and evaluating how the needs of individuals with a brain injury and their families are being met in this state.

(c) No more than ten percent of the fund shall be used for administration of the fund.

(d) Data collection and evaluation pursuant to this section shall not be a burden or unnecessary hardship to individuals with a brain injury or service providers.

(e) Nothing in this section shall require a professional, provider, caregiver, or individual to receive training as a condition of receiving or providing nonmedical services to individuals with a brain injury.

Source: Laws 2019, LB481, § 5.

Operative date July 15, 2020.

Cross References

Brain Injury Registry Act, see section 81-653.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

71-3706 Legislative intent.

It is the intent of the Legislature to appropriate five hundred thousand dollars from the Nebraska Health Care Cash Fund annually beginning in fiscal year 2020-21 to the Brain Injury Trust Fund for purposes of carrying out the Brain Injury Trust Fund Act.

Source: Laws 2019, LB481, § 6.

Operative date July 15, 2020.

ARTICLE 44

RABIES

Section

71-4401. Terms, defined.

71-4402.01. Repealed. Laws 2019, LB61, § 7.

71-4402.03. Control and prevention of rabies; rules and regulations.

71-4403. Veterinarian; vaccination for rabies; certificate; contents.

71-4406. Post-incident management.

71-4407. Domestic or hybrid animal or livestock; postexposure management.

71-4401 Terms, defined.

For purposes of sections 71-4401 to 71-4412, unless the context otherwise requires:

(1) Compendium means the Compendium of Animal Rabies Prevention and Control as published by the National Association of State Public Health Veterinarians;

(2) Department means the Department of Health and Human Services;

(3) Domestic animal means any dog of the species *Canis familiaris*, cat of the species *Felis domesticus*, or ferret of the species *Mustela putorius furo*, and cat means a cat which is a household pet;

(4) Hybrid animal means any animal which is the product of the breeding of a domestic dog with a nondomestic canine species;

(5) Own, unless otherwise specified, means to possess, keep, harbor, or have control of, charge of, or custody of a domestic or hybrid animal. This term does not apply to domestic or hybrid animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than thirty days;

(6) Owner means any person possessing, keeping, harboring, or having charge or control of any domestic or hybrid animal or permitting any domestic or hybrid animal to habitually be or remain on or be lodged or fed within such person's house, yard, or premises. This term does not apply to veterinarians or kennel operators temporarily maintaining on their premises domestic or hybrid animals owned by other persons for a period of not more than thirty days;

(7) Rabies control authority means county, township, city, or village health and law enforcement officials who shall enforce sections 71-4401 to 71-4412 relating to the vaccination and impoundment of domestic or hybrid animals. Such public officials are not responsible for any accident or disease of a domestic or hybrid animal resulting from the enforcement of such sections; and

(8) Vaccination against rabies means the inoculation of a domestic or hybrid animal with a United States Department of Agriculture-licensed rabies vaccine administered consistent with its labeling. Such vaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska or licensed in the state where the vaccination was administered.

Source: Laws 1969, c. 445, § 1, p. 1484; Laws 1987, LB 104, § 1; Laws 1996, LB 1044, § 674; Laws 2000, LB 1115, § 75; Laws 2007, LB25, § 1; Laws 2007, LB296, § 585; Laws 2019, LB61, § 1. Effective date September 1, 2019.

71-4402.01 Repealed. Laws 2019, LB61, § 7.

71-4402.03 Control and prevention of rabies; rules and regulations.

To protect the health, safety, and welfare of the public and to ensure, to the greatest extent possible, efficient and adequate practices, the department shall adopt and promulgate rules and regulations for the control and prevention of rabies. Such rules and regulations shall generally comply with the compendium and the recommendations of the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services. The department may consider changes in the compendium and recommendations of the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services when adopting and promulgating such rules and regulations.

Source: Laws 2007, LB25, § 4; Laws 2019, LB61, § 2. Effective date September 1, 2019.

71-4403 Veterinarian; vaccination for rabies; certificate; contents.

It shall be the duty of each veterinarian, at the time of vaccinating any domestic or hybrid animal, to complete a certificate of rabies vaccination which shall include, but not be limited to, the following information:

- (1) The owner's name and address;
- (2) An adequate description of the domestic or hybrid animal, including, but not limited to, such items as the domestic or hybrid animal's breed, sex, age, name, and distinctive markings;
- (3) The date of vaccination;
- (4) The rabies vaccination tag number;
- (5) The type of rabies vaccine administered by dosage and number of years of effectiveness;
- (6) The manufacturer's serial number of the vaccine used; and
- (7) The date by which the next vaccination is due.

Such veterinarian shall issue a tag with the certificate of vaccination.

Source: Laws 1969, c. 445, § 3, p. 1485; Laws 1987, LB 104, § 3; Laws 2007, LB25, § 5; Laws 2019, LB61, § 3.
Effective date September 1, 2019.

71-4406 Post-incident management.

Any domestic animal which has bitten any person or caused an abrasion of the skin of any person shall be subjected to post-incident management as provided in rules and regulations adopted and promulgated by the department.

Source: Laws 1969, c. 445, § 6, p. 1486; Laws 1987, LB 104, § 6; Laws 1989, LB 51, § 1; Laws 2007, LB25, § 8; Laws 2019, LB61, § 4.
Effective date September 1, 2019.

71-4407 Domestic or hybrid animal or livestock; postexposure management.

Domestic or hybrid animals or livestock known to have been exposed to a confirmed or suspected rabid animal shall be subjected to postexposure management as provided in rules and regulations adopted and promulgated by the department.

Source: Laws 1969, c. 445, § 7, p. 1487; Laws 1987, LB 104, § 7; Laws 2007, LB25, § 9; Laws 2019, LB61, § 5.
Effective date September 1, 2019.

ARTICLE 47

HEARING

(b) COMMISSION FOR THE DEAF AND HARD OF HEARING

Section

71-4720. Commission for the Deaf and Hard of Hearing; created; members; appointment; qualifications.

(b) COMMISSION FOR THE DEAF AND HARD OF HEARING

71-4720 Commission for the Deaf and Hard of Hearing; created; members; appointment; qualifications.

There is hereby created the Commission for the Deaf and Hard of Hearing which shall consist of nine members to be appointed by the Governor subject to

approval by the Legislature. The commission members shall include three deaf persons, three hard of hearing persons, and three persons who have an interest in and knowledge of deafness and hearing loss issues. A majority of the commission members who are deaf or hard of hearing shall be able to express themselves through sign language. Employees of any state agency other than employees of the commission shall be eligible to serve on the commission. When appointing members to the commission, the Governor shall consider recommendations from individuals, organizations, and the public.

Source: Laws 1979, LB 101, § 1; Laws 1981, LB 250, § 1; Laws 1987, LB 376, § 16; Laws 1995, LB 25, § 1; Laws 1997, LB 851, § 12; Laws 2019, LB248, § 6.
Effective date September 1, 2019.

ARTICLE 53 DRINKING WATER

(a) NEBRASKA SAFE DRINKING WATER ACT

Section

71-5302. Drinking water and monitoring standards; harmful materials; how determined; applicability; priority system.

(b) DRINKING WATER STATE REVOLVING FUND ACT

71-5316. Terms, defined.

71-5318. Drinking Water Facilities Loan Fund; Land Acquisition and Source Water Loan Fund; Drinking Water Administration Fund; created; use; investment.

71-5325. Loan terms.

71-5327. Reserves authorized.

(a) NEBRASKA SAFE DRINKING WATER ACT

71-5302 Drinking water and monitoring standards; harmful materials; how determined; applicability; priority system.

(1) The director shall adopt and promulgate necessary minimum drinking water standards, in the form of rules and regulations, to insure that drinking water supplied to consumers through all public water systems shall not contain amounts of chemical, radiological, physical, or bacteriological material determined by the director to be harmful to human health.

(2) The director may adopt and promulgate rules and regulations to require the monitoring of drinking water supplied to consumers through public water systems for chemical, radiological, physical, or bacteriological material determined by the director to be potentially harmful to human health.

(3) In determining what materials are harmful or potentially harmful to human health and in setting maximum levels for such harmful materials, the director shall be guided by:

(a) General knowledge of the medical profession and related scientific fields as to materials and substances which are harmful to humans if ingested through drinking water; and

(b) General knowledge of the medical profession and related scientific fields as to the maximum amounts of such harmful materials which may be ingested by human beings, over varying lengths of time, without resultant adverse effects on health.

(4) Subject to section 71-5310, state drinking water standards shall apply to each public water system in the state, except that such standards shall not apply to a public water system:

(a) Which consists only of distribution and storage facilities and does not have any collection and treatment facilities;

(b) Which obtains all of its water from, but is not owned or operated by, a public water system to which such standards apply;

(c) Which does not sell water to any person; and

(d) Which is not a carrier which conveys passengers in interstate commerce.

(5) The director may adopt alternative monitoring requirements for public water systems in accordance with section 1418 of the federal Safe Drinking Water Act, as such section existed on May 22, 2001.

(6) The director may adopt a system for the ranking of safe drinking water projects with known needs or for which loan applications have been received by the director or the Department of Environment and Energy. In establishing the ranking system the director shall consider, among other things, the risk to human health, compliance with the federal Safe Drinking Water Act, as the act existed on May 22, 2001, and assistance to systems most in need based upon affordability criteria adopted by the director. This priority system shall be reviewed annually by the director.

Source: Laws 1976, LB 821, § 2; Laws 1988, LB 383, § 3; Laws 1997, LB 517, § 18; Laws 2001, LB 667, § 30; Laws 2007, LB296, § 609; Laws 2019, LB302, § 90.
Operative date July 1, 2019.

Cross References

Drinking water, standards for pesticide levels, see section 2-2626.

(b) DRINKING WATER STATE REVOLVING FUND ACT

71-5316 Terms, defined.

For purposes of the Drinking Water State Revolving Fund Act, unless the context otherwise requires:

(1) Safe Drinking Water Act means the federal Safe Drinking Water Act, as the act existed on October 23, 2018;

(2) Construction means any of the following: Preliminary planning to determine the feasibility of a safe drinking water project for a public water system; engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, designs, plans, working drawings, specifications, procedures, or other necessary preliminary actions; erection, building, acquisition, alteration, remodeling, improvement, or extension of public water systems; or the inspection or supervision of any of such items;

(3) Council means the Environmental Quality Council;

(4) Department means the Department of Environment and Energy;

(5) Director means the Director of Environment and Energy;

(6) Operate and maintain means all necessary activities, including the normal replacement of equipment or appurtenances, to assure the dependable and economical function of a public water system in accordance with its intended purpose;

- (7) Owner means any person owning or operating a public water system;
- (8) Public water system has the definition found in section 71-5301; and
- (9) Safe drinking water project means the structures, equipment, surroundings, and processes required to establish and operate a public water system.

Source: Laws 1997, LB 517, § 5; Laws 2001, LB 667, § 45; Laws 2019, LB302, § 91; Laws 2019, LB307, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB302, section 91, with LB307, section 1, to reflect all amendments.

Note: Changes made by LB302 became operative July 1, 2019. Changes made by LB307 became effective September 1, 2019.

71-5318 Drinking Water Facilities Loan Fund; Land Acquisition and Source Water Loan Fund; Drinking Water Administration Fund; created; use; investment.

(1) The Drinking Water Facilities Loan Fund is created. The fund shall be held as a trust fund for the purposes and uses described in the Drinking Water State Revolving Fund Act.

The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund, repayments of principal and interest on loans, transfers made pursuant to section 71-5327, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water State Revolving Fund Act and may conduct activities related to financial administration of the fund, administration or provision of technical assistance through public water system source water assessment programs, and implementation of a source water petition program under the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for the security, investment, and repayment of bonds.

The fund and the assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to pay or to secure the payment of bonds and the interest thereon, except that amounts deposited into the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

The director may transfer any money in the Drinking Water Facilities Loan Fund to the Wastewater Treatment Facilities Construction Loan Fund to meet the purposes of section 71-5327. The director shall identify any such transfer in the intended use plan presented to the council for annual review and adoption pursuant to section 71-5321.

(2) The Land Acquisition and Source Water Loan Fund is created. The fund shall be held as a trust for the purposes and uses described in the Drinking Water State Revolving Fund Act.

The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund, repayments of principal and interest on loans, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water State Revolving Fund Act and may, in consultation with the Director of Public Health of the Division of Public Health, conduct activities other than the making of loans permitted under section 1452(k) of the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for security, investment, and repayment of bonds.

The fund and assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to pay or secure the payment of bonds and the interest thereon, except that amounts credited to the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

The director may transfer any money in the Land Acquisition and Source Water Loan Fund to the Drinking Water Facilities Loan Fund.

(3) There is hereby created the Drinking Water Administration Fund. Any funds available for administering loans or fees collected pursuant to the Drinking Water State Revolving Fund Act shall be remitted to the State Treasurer for credit to such fund. The fund shall be administered by the department for the purposes of the act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings shall be credited to the fund.

The fund and assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to fund subdivisions (9), (10), and (11) of section 71-5322. The annual obligation of the state pursuant to subdivisions (9) and (11) of section 71-5322 shall not exceed sixty-five percent of the revenue from administrative fees collected pursuant to section 71-5321 in the prior fiscal year.

The director may transfer any money in the Drinking Water Administration Fund to the Drinking Water Facilities Loan Fund to meet the state matching appropriation requirements of any applicable federal capitalization grants or to meet the purposes of subdivision (9) of section 71-5322.

Source: Laws 1997, LB 517, § 7; Laws 2001, LB 667, § 46; Laws 2007, LB80, § 1; Laws 2007, LB296, § 620; Laws 2019, LB307, § 2.
Effective date September 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

71-5325 Loan terms.

Loan terms shall include, but not be limited to, the following:

- (1) The term of the loan shall not exceed thirty years, except for systems serving disadvantaged communities which term may not exceed forty years;
- (2) The interest rate shall be at or below market interest rates;
- (3) The annual principal and interest payment shall commence not later than one year after completion of any project; and
- (4) The loan recipient shall immediately repay any loan when a grant has been received which covers costs provided for by such loan.

Source: Laws 1997, LB 517, § 14; Laws 2019, LB307, § 3.
Effective date September 1, 2019.

71-5327 Reserves authorized.

At any time after the first year the fund is effective the director may: (1) Reserve a dollar amount equal to thirty-three percent of a capitalization grant made pursuant to section 1452 of the Safe Drinking Water Act and add the funds reserved to any funds provided to the state pursuant to section 601 of the Federal Water Pollution Control Act; and (2) reserve in any year a dollar amount up to the dollar amount that may be reserved under subdivision (1) of this section of the capitalization grants made pursuant to section 601 of the Federal Water Pollution Control Act and add the reserved funds to any funds provided to the state pursuant to section 1452 of the federal Safe Drinking Water Act.

Source: Laws 1997, LB 517, § 16; Laws 2019, LB307, § 4.
Effective date September 1, 2019.

ARTICLE 59**ASSISTED-LIVING FACILITY ACT**

Section

- 71-5901. Act, how cited.
71-5907. State Fire Code classification.
71-5909. Grievance procedure.

71-5901 Act, how cited.

Sections 71-5901 to 71-5909 shall be known and may be cited as the Assisted-Living Facility Act.

Source: Laws 2004, LB 1005, § 45; Laws 2019, LB571, § 1.
Effective date September 1, 2019.

71-5907 State Fire Code classification.

For purposes of the State Fire Code under section 81-503.01, an assisted-living facility shall be classified as (1) residential board and care if the facility meets the residential board and care classification requirements of the State Fire Code or (2) limited care if the facility meets the limited care classification requirements of the State Fire Code.

Source: Laws 2004, LB 1005, § 51; Laws 2019, LB195, § 1.
Effective date September 1, 2019.

71-5909 Grievance procedure.

(1) For purposes of this section:

(a) Grievance means a written expression of dissatisfaction that may or may not be the result of an unresolved complaint; and

(b) Grievance procedure means the written policy of an assisted-living facility for addressing a grievance from an individual including an employee or resident.

(2) Each assisted-living facility shall, on or before January 1, 2020, provide to the department the grievance procedure provided to an applicant for admission to the assisted-living facility. When such grievance procedure is modified, updated, or otherwise changed, the new grievance procedure shall be provided to the department within seven business days after such new grievance procedure takes effect. The department shall make such grievance procedure available to the deputy public counsel for institutions.

Source: Laws 2019, LB571, § 2.

Effective date September 1, 2019.

ARTICLE 64**BUILDING CONSTRUCTION**

Section

71-6403. State building code; adopted; amendments.

71-6404. State building code; applicability.

71-6406. County, city, or village; building code; adopt; amend; enforce; copy; fees.

71-6403 State building code; adopted; amendments.

(1) There is hereby created the state building code. The Legislature hereby adopts by reference:

(a) The International Building Code (IBC), chapter 13 of the 2018 edition, and all but such chapter of the 2018 edition, published by the International Code Council, except that (i) section 305.2.3 applies to a facility having twelve or fewer children and (ii) section 310.4.1 applies to a care facility for twelve or fewer persons;

(b) The International Residential Code (IRC), chapter 11 of the 2018 edition, and all but such chapter of the 2018 edition except section R313, published by the International Code Council; and

(c) The International Existing Building Code, 2018 edition, published by the International Code Council.

(2) The codes adopted by reference in subsection (1) of this section and the minimum standards for radon resistant new construction adopted under section 76-3504 shall constitute the state building code except as amended pursuant to the Building Construction Act or as otherwise authorized by state law.

Source: Laws 1987, LB 227, § 3; Laws 1993, LB 319, § 1; Laws 1996, LB 1304, § 4; Laws 2003, LB 643, § 1; Laws 2010, LB799, § 1; Laws 2011, LB546, § 1; Laws 2015, LB540, § 1; Laws 2017, LB590, § 1; Laws 2019, LB130, § 1; Laws 2019, LB348, § 1; Laws 2019, LB405, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB130, section 1, with LB348, section 1, and LB405, section 1, to reflect all amendments.

Note: Changes made by LB130 and LB348 became effective September 1, 2019. Changes made by LB405 became operative July 1, 2020.

71-6404 State building code; applicability.

(1) For purposes of the Building Construction Act:

(a) Component means a portion of the state building code created pursuant to section 71-6403; and

(b) Radon resistant new construction has the same meaning as in section 76-3503.

(2) The state building code shall be the building and construction standard within the state and shall be applicable:

(a) To all buildings and structures owned by the state or any state agency;

(b) In each county, city, or village which elects to adopt the state building code as its local building or construction code pursuant to section 71-6406; and

(c) In each county, city, or village which has not adopted a local building or construction code pursuant to section 71-6406 within two years after an update to the state building code.

Source: Laws 1987, LB 227, § 4; Laws 1993, LB 319, § 2; Laws 2010, LB799, § 2; Laws 2016, LB704, § 213; Laws 2019, LB96, § 1; Laws 2019, LB130, § 2.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB96, section 1, with LB130, section 2, to reflect all amendments.

71-6406 County, city, or village; building code; adopt; amend; enforce; copy; fees.

(1)(a) Any county, city, or village may enact, administer, or enforce a local building or construction code if or as long as such county, city, or village:

(i) Adopts the state building code; or

(ii) Adopts a building or construction code that conforms generally with the state building code.

(b) If a county, city, or village does not adopt a code as authorized under subdivision (a) of this subsection within two years after an update to the state building code, the state building code shall apply in the county, city, or village, except that such code shall not apply to construction on a farm or for farm purposes.

(2) A local building or construction code shall be deemed to conform generally with the state building code if it:

(a) Adopts a special or differing building standard by amending, modifying, or deleting any portion of the state building code in order to reduce unnecessary costs of construction, increase safety, durability, or efficiency, establish best building or construction practices within the county, city, or village, or address special local conditions within the county, city, or village;

(b) Adopts any supplement, new edition, appendix, or component or combination of components of the state building code;

(c) Adopts section 305 or 310 of the 2018 edition of the International Building Code without the exceptions described in subdivision (1)(a) of section

71-6403 or section R313 of the 2018 edition of the International Residential Code;

(d) Adopts a plumbing code, an electrical code, a fire prevention code, or any other standard code as authorized under section 14-419, 15-905, 18-132, or 23-172;

(e) Adopts a local energy code as authorized under section 81-1618; or

(f) Adopts minimum standards for radon resistant new construction which meet the minimum standards adopted under section 76-3504.

(3) A local building or construction code shall not be deemed to conform generally with the state building code if it:

(a) Includes a prior edition of any component or combination of components of the state building code; or

(b) Does not include minimum standards for radon resistant new construction that meet the minimum standards adopted under section 76-3504.

(4) A county, city, or village shall notify the State Energy Office if it amends or modifies its local building or construction code in such a way as to delete any portion of (a) chapter 13 of the 2018 edition of the International Building Code or (b) chapter 11 of the 2018 edition of the International Residential Code. The notification shall be made within thirty days after the adoption of such amendment or modification.

(5) A county, city, or village shall not adopt or enforce a local building or construction code other than as provided by this section.

(6) A county, city, or village which adopts or enforces a local building or construction code under this section shall regularly update its code. For purposes of this section, a code shall be deemed to be regularly updated if the most recently enacted state building code or a code that conforms generally with the state building code is adopted by the county, city, or village within two years after an update to the state building code.

(7) A county, city, or village may adopt amendments for the proper administration and enforcement of its local building or construction code including organization of enforcement, qualifications of staff members, examination of plans, inspections, appeals, permits, and fees. Any amendment adopted pursuant to this section shall be published separately from the local building or construction code.

(8) A county, city, or village which adopts one or more standard codes as part of its local building or construction code under this section shall keep at least one copy of each adopted code, or portion thereof, for use and examination by the public in the office of the clerk of the county, city, or village prior to the adoption of the code and as long as such code is in effect.

(9) Notwithstanding the provisions of the Building Construction Act, a public building of any political subdivision shall be built in accordance with the applicable local building or construction code. Fees, if any, for services which monitor a builder's application of codes shall be negotiable between the political subdivisions involved, but such fees shall not exceed the actual expenses incurred by the county, city, or village doing the monitoring.

Source: Laws 1987, LB 227, § 6; Laws 1993, LB 319, § 4; Laws 2010, LB799, § 4; Laws 2011, LB546, § 3; Laws 2015, LB540, § 2;

Laws 2016, LB704, § 214; Laws 2017, LB590, § 3; Laws 2019, LB96, § 2; Laws 2019, LB130, § 3; Laws 2019, LB348, § 2; Laws 2019, LB405, § 2.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB96, section 2, with LB130, section 3, LB348, section 2, and LB405, section 2, to reflect all amendments.

Note: Changes made by LB96, LB130, and LB348 became effective September 1, 2019. Changes made by LB405 became operative July 1, 2020.

ARTICLE 76 HEALTH CARE

(b) NEBRASKA HEALTH CARE FUNDING ACT

Section

71-7611. Nebraska Health Care Cash Fund; created; use; investment; report.

(b) NEBRASKA HEALTH CARE FUNDING ACT

71-7611 Nebraska Health Care Cash Fund; created; use; investment; report.

(1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer (a) sixty million three hundred thousand dollars on or before July 15, 2014, (b) sixty million three hundred fifty thousand dollars on or before July 15, 2015, (c) sixty million three hundred fifty thousand dollars on or before July 15, 2016, (d) sixty million seven hundred thousand dollars on or before July 15, 2017, (e) five hundred thousand dollars on or before May 15, 2018, (f) sixty-one million six hundred thousand dollars on or before July 15, 2018, (g) sixty-two million dollars on or before July 15, 2019, (h) sixty-one million four hundred fifty thousand dollars on or before July 15, 2020, and (i) sixty-one million one hundred thousand dollars on or before every July 15 thereafter from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund, except that such amount shall be reduced by the amount of the unobligated balance in the Nebraska Health Care Cash Fund at the time the transfer is made. The state investment officer shall advise the State Treasurer on the amounts to be transferred first from the Nebraska Medicaid Intergovernmental Trust Fund until the fund balance is depleted and from the Nebraska Tobacco Settlement Trust Fund thereafter in order to sustain such transfers in perpetuity. The state investment officer shall report electronically to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers. The Nebraska Health Care Cash Fund shall also include money received pursuant to section 77-2602. Except as otherwise provided by law, no more than the amounts specified in this subsection may be appropriated or transferred from the Nebraska Health Care Cash Fund in any fiscal year.

The State Treasurer shall transfer ten million dollars from the Nebraska Medicaid Intergovernmental Trust Fund to the General Fund on June 28, 2018, and June 28, 2019.

Except as otherwise provided in subsection (6) of this section, it is the intent of the Legislature that no additional programs are funded through the Nebraska Health Care Cash Fund until funding for all programs with an appropriation from the fund during FY2012-13 are restored to their FY2012-13 levels.

(2) Any money in the Nebraska Health Care Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) The University of Nebraska and postsecondary educational institutions having colleges of medicine in Nebraska and their affiliated research hospitals in Nebraska, as a condition of receiving any funds appropriated or transferred from the Nebraska Health Care Cash Fund, shall not discriminate against any person on the basis of sexual orientation.

(4) The State Treasurer shall transfer fifty thousand dollars on or before July 15, 2016, from the Nebraska Health Care Cash Fund to the Board of Regents of the University of Nebraska for the University of Nebraska Medical Center. It is the intent of the Legislature that these funds be used by the College of Public Health for workforce training.

(5) It is the intent of the Legislature that the cost of the staff and operating costs necessary to carry out the changes made by Laws 2018, LB439, and not covered by fees or federal funds shall be funded from the Nebraska Health Care Cash Fund for fiscal years 2018-19 and 2019-20.

(6) It is the intent of the Legislature to fund the grants to be awarded pursuant to section 75-1101 with the Nebraska Health Care Cash Fund for FY2019-20 and FY2020-21.

Source: Laws 1998, LB 1070, § 7; Laws 2000, LB 1427, § 9; Laws 2001, LB 692, § 18; Laws 2003, LB 412, § 8; Laws 2004, LB 1091, § 7; Laws 2005, LB 426, § 12; Laws 2007, LB322, § 19; Laws 2007, LB482, § 6; Laws 2008, LB480, § 2; Laws 2008, LB830, § 9; Laws 2008, LB961, § 5; Laws 2009, LB27, § 7; Laws 2009, LB316, § 19; Laws 2012, LB782, § 125; Laws 2012, LB969, § 9; Laws 2013, LB199, § 29; Laws 2014, LB906, § 18; Laws 2015, LB390, § 12; Laws 2015, LB661, § 32; Laws 2017, LB331, § 38; Laws 2018, LB439, § 9; Laws 2018, LB793, § 10; Laws 2018, LB945, § 17; Laws 2019, LB298, § 17; Laws 2019, LB481, § 7; Laws 2019, LB570, § 1; Laws 2019, LB600, § 19; Laws 2019, LB641, § 2.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB298, section 17, with LB481, section 7, LB570, section 1, LB600, section 19, and LB641, section 2, to reflect all amendments.

Note: Changes made by LB570 became effective May 18, 2019. Changes made by LB298 became effective May 28, 2019. Changes made by LB600 became operative July 1, 2019. Changes made by LB641 became effective September 1, 2019. Changes made by LB481 became operative July 15, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 79

HEALTH CARE QUALITY IMPROVEMENT ACT

(b) HEALTH CARE QUALITY IMPROVEMENT ACT

Section

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| 71-7904. | Act, how cited. |
| 71-7906. | Definitions, where found. |
| 71-7907. | Health care provider, defined. |
| 71-7910. | Peer review committee, defined; policies and procedures. |
| 71-7910.01. | Professional health care service entity, defined. |
| 71-7911. | Liability for activities relating to peer review. |
| 71-7912. | Confidentiality; discovery; availability of medical records, documents, or information; limitation; burden of proof. |
| 71-7913. | Incident report or risk management report; how treated; burden of proof. |

(b) HEALTH CARE QUALITY IMPROVEMENT ACT

71-7904 Act, how cited.

Sections 71-7904 to 71-7913 shall be known and may be cited as the Health Care Quality Improvement Act.

Source: Laws 2011, LB431, § 1; Laws 2019, LB119, § 1.
Effective date September 1, 2019.

71-7906 Definitions, where found.

For purposes of the Health Care Quality Improvement Act, the definitions found in sections 71-7907 to 71-7910.01 apply.

Source: Laws 2011, LB431, § 3; Laws 2019, LB119, § 2.
Effective date September 1, 2019.

71-7907 Health care provider, defined.

Health care provider means:

- (1) A facility licensed under the Health Care Facility Licensure Act;
- (2) A health care professional licensed under the Uniform Credentialing Act;
- (3) A professional health care service entity; and
- (4) An organization or association of health care professionals licensed under the Uniform Credentialing Act.

Source: Laws 2011, LB431, § 4; Laws 2019, LB119, § 3.
Effective date September 1, 2019.

Cross References

Health Care Facility Licensure Act, see section 71-401.

Uniform Credentialing Act, see section 38-101.

71-7910 Peer review committee, defined; policies and procedures.

(1) Peer review committee means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee established by a professional health care service entity or by the governing board of a facility which is a health care provider that does either of the following:

(a) Conducts professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by a health care provider, including both an individual who provides health care and an entity that provides health care; or

(b) Conducts any other attendant hearing process initiated as a result of a peer review committee's recommendations or actions.

(2) To conduct peer review pursuant to the Health Care Quality Improvement Act, a professional health care service entity shall adopt and adhere to written policies and procedures governing the peer review committee of the professional health care service entity.

Source: Laws 2011, LB431, § 7; Laws 2019, LB119, § 5.
Effective date September 1, 2019.

71-7910.01 Professional health care service entity, defined.

Professional health care service entity means an entity which is organized for purposes of rendering professional services pursuant to the Nebraska Professional Corporation Act, the Nebraska Uniform Limited Liability Company Act, or the Uniform Partnership Act of 1998 and which renders health care services through individuals credentialed under the Uniform Credentialing Act.

Source: Laws 2019, LB119, § 4.
Effective date September 1, 2019.

Cross References

Nebraska Professional Corporation Act, see section 21-2201.

Nebraska Uniform Limited Liability Company Act, see section 21-101.

Uniform Credentialing Act, see section 38-101.

Uniform Partnership Act of 1998, see section 67-401.

71-7911 Liability for activities relating to peer review.

(1) A health care provider or an individual (a) serving as a member or employee of a peer review committee, working on behalf of a peer review committee, furnishing counsel or services to a peer review committee, or participating in a peer review activity as an officer, director, employee, or member of a professional health care service entity or an officer, director, employee, or member of the governing board of a facility which is a health care provider and (b) acting without malice shall not be held liable in damages to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of a peer review committee.

(2) A person who makes a report or provides information to a peer review committee shall not be subject to suit as a result of providing such information if such person acts without malice.

Source: Laws 2011, LB431, § 8; Laws 2019, LB119, § 6.
Effective date September 1, 2019.

71-7912 Confidentiality; discovery; availability of medical records, documents, or information; limitation; burden of proof.

(1) The proceedings, records, minutes, and reports of a peer review committee shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action. No person who attends a meeting of a peer review committee, works for or on behalf of a peer review committee, provides information to a peer review committee, or participates in a peer review activity as an officer, director, employee, or member of a professional health care service entity or an officer, director, employee, or member of the governing board of a facility which is a health care provider shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings or activities of the peer review committee or as to any findings, recommendations, evaluations, opinions, or other actions of the peer review committee or any members thereof.

(2) Nothing in this section shall be construed to prevent discovery or use in any civil action of medical records, documents, or information otherwise available from original sources and kept with respect to any patient in the ordinary course of business, but the records, documents, or information shall be available only from the original sources and cannot be obtained from the peer review committee's proceedings or records.

(3) A health care provider or individual claiming the privileges under this section has the burden of proving that the communications and documents are protected.

Source: Laws 2011, LB431, § 9; Laws 2019, LB119, § 7.
Effective date September 1, 2019.

71-7913 Incident report or risk management report; how treated; burden of proof.

(1) An incident report or risk management report and the contents of an incident report or risk management report are not subject to discovery in, and are not admissible in evidence in the trial of, a civil action for damages for injury, death, or loss to a patient of a health care provider. A person who prepares or has knowledge of the contents of an incident report or risk management report shall not testify and shall not be required to testify in any civil action as to the contents of the report.

(2) A health care provider or individual claiming the privileges under this section has the burden of proving that the communications and documents are protected.

Source: Laws 2011, LB431, § 10; Laws 2019, LB119, § 8.
Effective date September 1, 2019.

ARTICLE 86

BLIND AND VISUALLY IMPAIRED

Section

71-8607. Commission; powers and duties.

71-8611. Vending facilities; license; priority status.

71-8607 Commission; powers and duties.

(1) The commission shall:

(a) Apply for, receive, and administer money from any state or federal agency to be used for purposes relating to blindness, including federal funds relating to vocational rehabilitation of blind persons as provided in subsection (1) of section 71-8610;

(b) Receive on behalf of the state any gifts, donations, or bequests from any source to be used in carrying out the purposes of the Commission for the Blind and Visually Impaired Act;

(c) Promote self-support of blind persons as provided in sections 71-8608, 71-8609, and 71-8611;

(d) Provide itinerant training of alternative skills of blindness, including, but not limited to, braille, the long white cane for independent travel, adaptive technology, and lifestyle maintenance;

(e) Establish, equip, and maintain a residential training center with qualified instructors for comprehensive prevocational training of eligible blind persons. The center shall also provide comprehensive independent living training as well as orientation and adjustment counseling for blind persons;

(f) Administer and operate a vending facility program in the state, in its capacity as the designated licensing agency pursuant to the federal Randolph-

Sheppard Act, as the act existed on January 1, 2019, 20 U.S.C. 107 et seq., for the benefit of blind persons;

(g) Contract for the purchase of information services for blind persons; and

(h) Perform other duties necessary to fulfill the purposes of the Commission for the Blind and Visually Impaired Act.

(2) The commission may perform educational services relating to blindness and may cooperate and consult with other public and private agencies relating to educational issues.

Source: Laws 2000, LB 352, § 7; Laws 2019, LB220, § 1.

Effective date September 1, 2019.

71-8611 Vending facilities; license; priority status.

For the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of blind persons, and stimulating blind persons to greater efforts in striving to make themselves self-supporting, the commission shall administer and operate vending facilities programs pursuant to the federal Randolph-Sheppard Act, as the act existed on January 1, 2019, 20 U.S.C. 107 et seq. Blind persons licensed by the commission pursuant to its rules and regulations are authorized to operate vending facilities in any federally owned building or on any federally owned or controlled property, in any state-owned building or on any property owned or controlled by the state, or on any property owned or controlled by any county, city, or municipality with the approval of the local governing body, when, in the judgment of the director of the commission, such vending facilities may be properly and satisfactorily operated by blind persons. With respect to vending facilities in any state-owned building or on any property owned or controlled by the state, priority shall be given to blind persons, except that this shall not apply to the Game and Parks Commission or the University of Nebraska. If a blind person is selected to operate vending facilities in such building or on such property, he or she shall do so on a rent-free basis and offer products at prices comparable to similar products sold in similar buildings or on similar property.

Source: Laws 1961, c. 443, § 1, p. 1363; Laws 1973, LB 32, § 1; Laws 1976, LB 674, § 3; Laws 1996, LB 1044, § 929; R.S.1943, (1999), § 83-210.03; Laws 2000, LB 352, § 11; Laws 2004, LB 1005, § 134; Laws 2012, LB858, § 4; Laws 2019, LB220, § 2.

Effective date September 1, 2019.

ARTICLE 87

PATIENT SAFETY IMPROVEMENT ACT

Section

71-8701. Act, how cited.

71-8722. Patient Safety Cash Fund; created; use; investment.

71-8701 Act, how cited.

Sections 71-8701 to 71-8722 shall be known and may be cited as the Patient Safety Improvement Act.

Source: Laws 2005, LB 361, § 1; Laws 2019, LB25, § 2.

Operative date January 1, 2020.

71-8722 Patient Safety Cash Fund; created; use; investment.

The Patient Safety Cash Fund is created. The Patient Safety Cash Fund shall only be used to support the activities of a patient safety organization. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2019, LB25, § 3.
Operative date January 1, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

CHAPTER 72

PUBLIC LANDS, BUILDINGS, AND FUNDS

Article.

- 8. Public Buildings. 72-804 to 72-806.
- 12. Investment of State Funds.
 - (a) Nebraska State Funds Investment Act. 72-1239.01, 72-1243.
 - (d) Review of Nebraska Investment Council. 72-1277, 72-1278.

ARTICLE 8

PUBLIC BUILDINGS

Section

- 72-804. New state building; code requirements.
- 72-805. Buildings constructed with state funds; code requirements.
- 72-806. Enforcement.

72-804 New state building; code requirements.

(1) Any new state building shall meet or exceed the requirements of the 2018 International Energy Conservation Code published by the International Code Council.

(2) Any new lighting, heating, cooling, ventilating, or water heating equipment or controls in a state-owned building and any new building envelope components installed in a state-owned building shall meet or exceed the requirements of the 2018 International Energy Conservation Code.

(3) The State Building Administrator of the Department of Administrative Services, in consultation with the Department of Environment and Energy, may specify:

- (a) A more recent edition of the International Energy Conservation Code;
- (b) Additional energy efficiency or renewable energy requirements for buildings; and
- (c) Waivers of specific requirements which are demonstrated through life-cycle cost analysis to not be in the state's best interest. The agency receiving the funding shall be required to provide a life-cycle cost analysis to the State Building Administrator.

Source: Laws 1999, LB 755, § 1; Laws 2003, LB 643, § 3; Laws 2004, LB 888, § 1; Laws 2011, LB329, § 1; Laws 2019, LB302, § 92; Laws 2019, LB405, § 3.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB302, section 92, with LB405, section 3, to reflect all amendments.

Note: Changes made by LB302 became operative July 1, 2019. Changes made by LB405 became operative July 1, 2020.

72-805 Buildings constructed with state funds; code requirements.

The 2018 International Energy Conservation Code, published by the International Code Council, applies to all new buildings constructed in whole or in part with state funds after July 1, 2020. The Department of Environment and Energy shall review building plans and specifications necessary to determine

whether a building will meet the requirements of this section. The department shall provide a copy of its review to the agency receiving funding. The agency receiving the funding shall verify that the building as constructed meets or exceeds the code. The verification shall be provided to the department. The Director of Environment and Energy may, in consultation with the State Building Administrator of the Department of Administrative Services, adopt and promulgate rules and regulations to carry out this section.

Source: Laws 1999, LB 755, § 2; Laws 2004, LB 888, § 2; Laws 2011, LB329, § 2; Laws 2019, LB302, § 93; Laws 2019, LB405, § 4.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB302, section 93, with LB405, section 4, to reflect all amendments.

Note: Changes made by LB302 became operative July 1, 2019. Changes made by LB405 became operative July 1, 2020.

72-806 Enforcement.

The enforcement provisions of Chapter 1 of the 2018 International Energy Conservation Code, published by the International Code Council, shall not apply to buildings subject to section 72-804.

Source: Laws 1999, LB 755, § 3; Laws 2003, LB 643, § 4; Laws 2004, LB 888, § 3; Laws 2011, LB329, § 3; Laws 2019, LB405, § 5.
Operative date July 1, 2020.

ARTICLE 12

INVESTMENT OF STATE FUNDS

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

Section

72-1239.01. Council; duties and responsibilities.

72-1243. State investment officer; investment and reinvestment of funds; duties; council; analysis required; plan; contents.

(d) REVIEW OF NEBRASKA INVESTMENT COUNCIL

72-1277. Legislative findings.

72-1278. Nebraska Investment Council; comprehensive review of council; contract.

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

72-1239.01 Council; duties and responsibilities.

(1)(a) The appointed members of the council shall have the responsibility for the investment management of the assets of the retirement systems administered by the Public Employees Retirement Board as provided in section 84-1503, the assets of the Nebraska educational savings plan trust created pursuant to sections 85-1801 to 85-1817, the assets of the achieving a better life experience program pursuant to sections 77-1401 to 77-1409, and beginning January 1, 2017, the assets of each retirement system provided for under the Class V School Employees Retirement Act. Except as provided in subsection (4) of this section, the appointed members shall be deemed fiduciaries with respect to the investment of the assets of the retirement systems, of the Nebraska educational savings plan trust, and of the achieving a better life experience program and shall be held to the standard of conduct of a fiduciary specified in subsection (3) of this section. The nonvoting, ex officio members of the council shall not be deemed fiduciaries.

(b) As fiduciaries, the appointed members of the council and the state investment officer shall discharge their duties with respect to the assets of the

retirement systems, of the Nebraska educational savings plan trust, and of the achieving a better life experience program solely in the interests of the members and beneficiaries of the retirement systems or the interests of the participants and beneficiaries of the Nebraska educational savings plan trust and the achieving a better life experience program, as the case may be, for the exclusive purposes of providing benefits to members, members' beneficiaries, participants, and participants' beneficiaries and defraying reasonable expenses incurred within the limitations and according to the powers, duties, and purposes prescribed by law.

(2)(a) The appointed members of the council shall have the responsibility for the investment management of the assets of state funds. The appointed members shall be deemed fiduciaries with respect to the investment of the assets of state funds and shall be held to the standard of conduct of a fiduciary specified in subsection (3) of this section. The nonvoting, ex officio members of the council shall not be deemed fiduciaries.

(b) As fiduciaries, the appointed members of the council and the state investment officer shall discharge their duties with respect to the assets of state funds solely in the interests of the citizens of the state within the limitations and according to the powers, duties, and purposes prescribed by law.

(3) The appointed members of the council shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims by diversifying the investments of the assets of the retirement systems, the Nebraska educational savings plan trust, the achieving a better life experience program, and state funds so as to minimize risk of large losses, unless in light of such circumstances it is clearly prudent not to do so. No assets of the retirement systems, the Nebraska educational savings plan trust, or the achieving a better life experience program shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

(4) Neither the appointed members of the council nor the state investment officer shall be deemed fiduciaries with respect to investments of the assets of a retirement system provided for under the Class V School Employees Retirement Act made by or on behalf of the board of education as defined in section 79-978 or the board of trustees provided for in section 79-980. Neither the council nor any member thereof nor the state investment officer shall be liable for the action or inaction of the board of education or the board of trustees with respect to the investment of the assets of a retirement system provided for under the Class V School Employees Retirement Act, the consequences of any such action or inaction of the board of education or the board of trustees, and any claims, suits, losses, damages, fees, and costs related to such action or inaction or consequences thereof.

Source: Laws 1996, LB 847, § 21; Laws 2002, LB 407, § 18; Laws 2003, LB 574, § 25; Laws 2015, LB591, § 11; Laws 2016, LB447, § 4; Laws 2019, LB610, § 6.

Effective date September 1, 2019.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

72-1243 State investment officer; investment and reinvestment of funds; duties; council; analysis required; plan; contents.

(1) Except as otherwise specifically provided by law, the state investment officer shall direct the investment and reinvestment of money in all state funds not currently needed and all funds described in section 83-133 and order the purchase, sale, or exchange of securities for such funds. He or she shall notify the State Treasurer of any payment, receipt, or delivery that may be required as a result of any investment decision, which notification shall be the authorization and direction for the State Treasurer to make such disbursement, receipt, or delivery from the appropriate fund.

(2) The council shall have an analysis made of the investment returns that have been achieved on the assets of each retirement system administered by the Public Employees Retirement Board as provided in section 84-1503 and, beginning January 1, 2017, on the assets of each retirement system provided for under the Class V School Employees Retirement Act. By March 31 of each year, the analysis shall be presented to the board and the Nebraska Retirement Systems Committee of the Legislature. The analysis shall be prepared by an independent organization which has demonstrated expertise to perform this type of analysis and for which there exists no conflict of interest in the analysis being provided. The analysis may be waived by the council for any retirement system with assets of less than one million dollars.

(3) By March 31 of each year prior to 2020, and by April 10 of each year beginning in 2020, the council shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee of the Legislature at a public hearing. The plan shall include, but not be limited to, the council's investment portfolios, investment strategies, the duties and limitations of the state investment officer, and an organizational structure of the council's office.

Source: Laws 1969, c. 584, § 7, p. 2351; Laws 1971, LB 53, § 7; Laws 1985, LB 335, § 2; Laws 1991, LB 549, § 21; Laws 1996, LB 847, § 24; Laws 2005, LB 503, § 7; Laws 2011, LB509, § 14; Laws 2016, LB447, § 5; Laws 2019, LB33, § 1.
Effective date March 7, 2019.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

(d) REVIEW OF NEBRASKA INVESTMENT COUNCIL**72-1277 Legislative findings.**

The Legislature finds that:

(1) The Nebraska Investment Council was created by the Legislature in Laws 1967, LB 335. Additional legislation was passed in Laws 1969, LB 1345, which provided for centralization of the investment of state funds and addressed types of authorized investments and since then the statutory framework of the council has been modified periodically by the Legislature;

(2) The laws of Nebraska provide that the appointed members of the council and the state investment officer are deemed fiduciaries with respect to investment of the assets (a) in the retirement systems, the achieving a better life experience program pursuant to sections 77-1401 to 77-1409, and the Nebraska

educational savings plan trust and as fiduciaries are required to discharge their duties with respect to such assets solely in the best interest of the members and beneficiaries of such plans and (b) of other state funds solely in the best interest of the residents of Nebraska;

(3) As fiduciaries, the appointed members of the council and the officer must act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character with like aims by diversifying the investments of assets in the various plans so as to minimize the risk of large losses;

(4) The council managed over fifteen billion three hundred million dollars of assets as of September 30, 2007. Those assets have quadrupled since 1995. The assets managed by the council produced almost one billion five hundred million dollars in investment earnings in 2006 and almost seven billion dollars of investment earnings since December 31, 1995;

(5) The council has the responsibility of the management of portfolios for over thirty state entities. The financial markets and investment strategies that must be employed to achieve satisfactory returns have become more complex and the best practices of similar state government investment agencies have evolved since the creation of the council; and

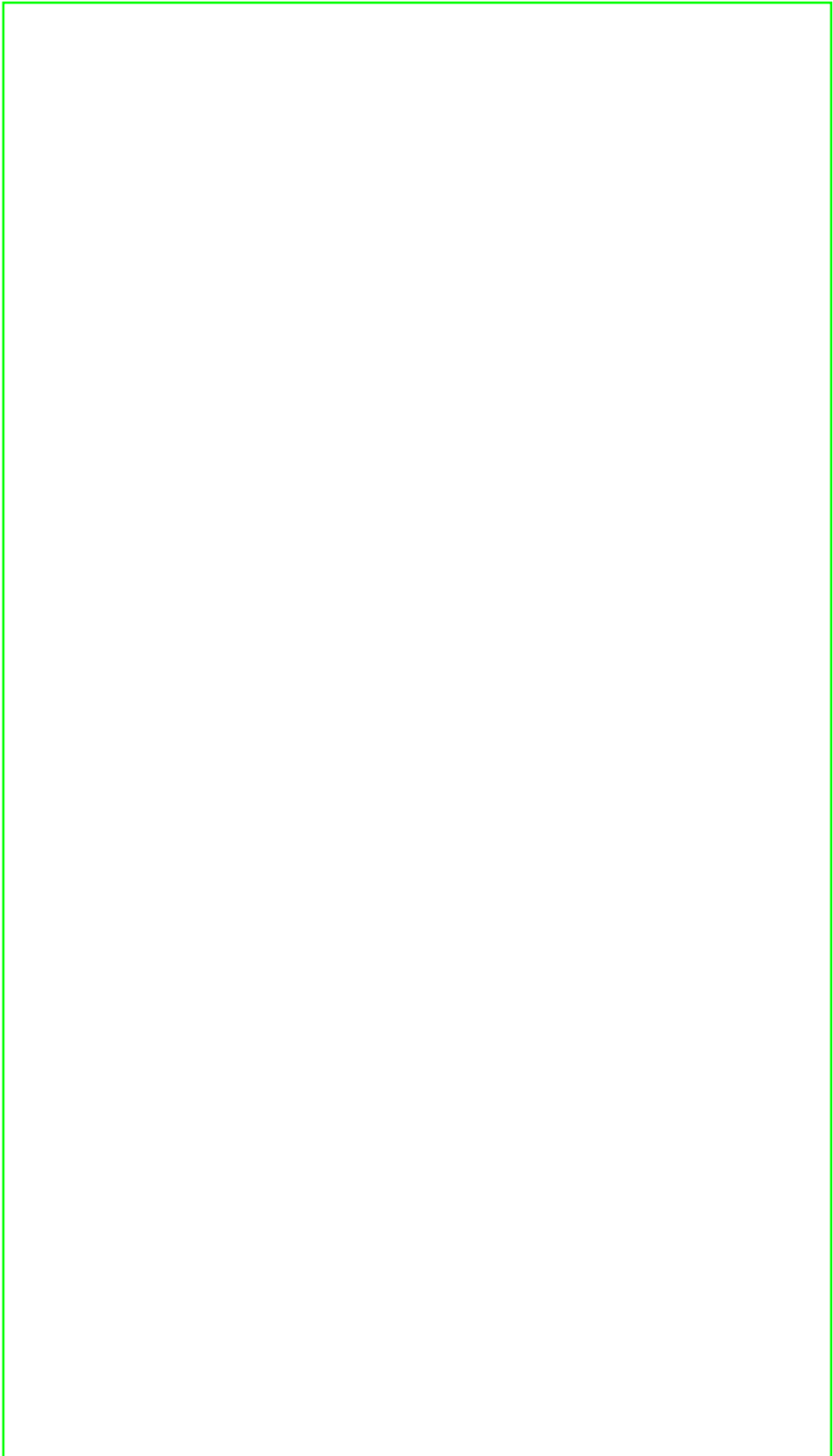
(6) Pursuant to section 72-1249.02, the operating costs of the council are charged to the income of each fund managed by the council, and such charges are transferred to the State Investment Officer's Cash Fund. Management, custodial, and service costs that are a direct expense of state funds are paid from the income of such funds.

Source: Laws 2008, LB1147, § 17; Laws 2019, LB33, § 2.
Effective date March 7, 2019.

72-1278 Nebraska Investment Council; comprehensive review of council; contract.

The Nebraska Investment Council shall enter into a contract with a qualified independent organization familiar with similar state investment offices to complete a comprehensive review of the current statutory, regulatory, and organizational situation of the council, review best practices of similar state investment offices, and make recommendations to the council, the Governor, and the Legislature for changes needed to ensure that the council has adequate authority to independently execute its fiduciary responsibilities to the members and beneficiaries of the retirement systems, the achieving a better life experience program pursuant to sections 77-1401 to 77-1409, and the Nebraska educational savings plan trust and the residents of Nebraska with regards to other state funds. The recommendations submitted to the Legislature shall be submitted electronically.

Source: Laws 2008, LB1147, § 18; Laws 2012, LB782, § 131; Laws 2019, LB33, § 3.
Effective date March 7, 2019.



CHAPTER 75

PUBLIC SERVICE COMMISSION

Article.

3. Motor Carriers.
 - (a) Intrastate Motor Carriers. 75-303.
 - (e) Safety Regulations. 75-363 to 75-366.
 - (l) Unified Carrier Registration Plan and Agreement. 75-392, 75-393.
11. 211 Information and Referral Network. 75-1101.

ARTICLE 3

MOTOR CARRIERS

(a) INTRASTATE MOTOR CARRIERS

Section

75-303. Motor carriers; scope of law.

(e) SAFETY REGULATIONS

75-363. Federal motor carrier safety regulations; provisions adopted; exceptions.

75-364. Additional federal motor carrier regulations; provisions adopted.

75-366. Enforcement powers.

(l) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

75-392. Terms, defined.

75-393. Unified carrier registration plan and agreement; director; powers.

(a) INTRASTATE MOTOR CARRIERS

75-303 Motor carriers; scope of law.

Sections 75-301 to 75-322 shall apply to transportation by a motor carrier or the transportation of passengers and household goods by a regulated motor carrier for hire in intrastate commerce except for the following:

(1) A motor carrier for hire in the transportation of school children and teachers to and from school;

(2) A motor carrier for hire operated in connection with a part of a streetcar system;

(3) An ambulance, ambulance owner, hearse, or automobile used exclusively as an incident to conducting a funeral;

(4) A motor carrier exempt by subdivision (1) of this section which hauls for hire (a) persons of a religious, fraternal, educational, or charitable organization, (b) pupils of a school to athletic events, (c) players of American Legion baseball teams when the point of origin or termination is within five miles of the domicile of the carrier, and (d) the elderly as defined in section 13-1203 and their spouses and dependents under a contract with a municipality or county authorized in section 13-1208;

(5) A motor carrier operated by a city and engaged in the transportation of passengers, and such exempt operations shall be no broader than those authorized in intrastate commerce at the time the city or other political subdivision assumed ownership of the operation;

(6) A motor vehicle owned and operated by a nonprofit organization which is exempt from payment of federal income taxes, as provided by section 501(c)(4), Internal Revenue Code, transporting solely persons over age sixty, persons who are spouses and dependents of persons over age sixty, and handicapped persons;

(7) A motor carrier engaged in the transportation of passengers operated by a transit authority or regional metropolitan transit authority established under and acting pursuant to the laws of the State of Nebraska;

(8) A motor carrier operated by a municipality or county, as authorized in section 13-1208, in the transportation of elderly persons;

(9) A motor vehicle having a seating capacity of twenty or less which is operated by a governmental subdivision or a qualified public-purpose organization as defined in section 13-1203 engaged in the transportation of passengers in the state;

(10) A motor vehicle owned and operated by a nonprofit entity organized for the purpose of furnishing electric service;

(11) A motor carrier engaged in attended services under contract or subcontract with the Department of Health and Human Services or with any agency organized under the Nebraska Community Aging Services Act;

(12) A motor carrier engaged in residential care transportation services if the motor carrier complies with the requirements of the Department of Health and Human Services adopted, promulgated, and enforced to protect the safety and well-being of the passengers, including insurance, training, and age requirements;

(13) A motor carrier engaged in supported transportation services if the motor carrier complies with the requirements of the Department of Health and Human Services adopted, promulgated, and enforced to protect the safety and well-being of the passengers, including insurance, training, and age requirements; and

(14) A motor carrier engaged in licensed care transportation services if the motor carrier files a certificate with the commission that such provider meets the minimum driver standards, insurance requirements, and equipment standards prescribed by the commission. Insurance requirements established by the commission shall be consistent with the insurance requirements established by the Department of Health and Human Services for attended services, residential care transportation services, and supported transportation services.

Source: Laws 1963, c. 425, art. III, § 3, p. 1376; Laws 1969, c. 606, § 2, p. 2468; Laws 1972, LB 1178, § 1; Laws 1973, LB 54, § 1; Laws 1973, LB 70, § 1; Laws 1973, LB 345, § 2; Laws 1974, LB 762, § 1; Laws 1981, LB 85, § 2; Laws 1981, LB 144, § 8; Laws 1983, LB 98, § 1; Laws 1989, LB 78, § 19; Laws 1993, LB 412, § 3; Laws 1993, LB 413, § 3; Laws 1995, LB 424, § 23; Laws 1996, LB 1218, § 44; Laws 1999, LB 594, § 67; Laws 2011, LB112, § 2; Laws 2019, LB492, § 41.

Effective date September 1, 2019.

Cross References

Nebraska Community Aging Services Act, see section 81-2201.

(e) SAFETY REGULATIONS

75-363 Federal motor carrier safety regulations; provisions adopted; exceptions.

(1) The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, as modified in this section, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, 2019, are adopted as Nebraska law.

(2) Except as otherwise provided in this section, the regulations shall be applicable to:

(a) All motor carriers, drivers, and vehicles to which the federal regulations apply; and

(b) All motor carriers transporting persons or property in intrastate commerce to include:

(i) All vehicles of such motor carriers with a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight over ten thousand pounds;

(ii) All vehicles of such motor carriers designed or used to transport more than eight passengers, including the driver, for compensation, or designed or used to transport more than fifteen passengers, including the driver, and not used to transport passengers for compensation;

(iii) All vehicles of such motor carriers transporting hazardous materials required to be placarded pursuant to section 75-364; and

(iv) All drivers of such motor carriers if the drivers are operating a commercial motor vehicle as defined in section 60-465 which requires a commercial driver's license.

(3) The Legislature hereby adopts, as modified in this section, the following parts of Title 49 of the Code of Federal Regulations:

(a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING;

(b) Part 385 - SAFETY FITNESS PROCEDURES;

(c) Part 386 - RULES OF PRACTICE FOR FMCSA PROCEEDINGS;

(d) Part 387 - MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS;

(e) Part 390 - FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL;

(f) Part 391 - QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS;

(g) Part 392 - DRIVING OF COMMERCIAL MOTOR VEHICLES;

(h) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION;

(i) Part 395 - HOURS OF SERVICE OF DRIVERS;

(j) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE;

(k) Part 397 - TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES; and

(l) Part 398 - TRANSPORTATION OF MIGRANT WORKERS.

(4) The provisions of subpart E - Physical Qualifications And Examinations of 49 C.F.R. part 391 - QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS shall not apply to any driver subject to this section who: (a) Operates a commercial motor vehicle exclusively in intrastate commerce; and (b) holds, or has held, a commercial driver's license issued by this state prior to July 30, 1996.

(5) The regulations adopted in subsection (3) of this section shall not apply to farm trucks registered pursuant to section 60-3,146 with a gross weight of sixteen tons or less. The following parts and sections of 49 C.F.R. chapter III shall not apply to drivers of farm trucks registered pursuant to section 60-3,146 and operated solely in intrastate commerce:

- (a) All of part 391;
- (b) Section 395.8 of part 395; and
- (c) Section 396.11 of part 396.

(6) The following parts and subparts of 49 C.F.R. chapter III shall not apply to the operation of covered farm vehicles:

- (a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING;
- (b) Part 391, subpart E - Physical Qualifications and Examinations;
- (c) Part 395 - HOURS OF SERVICE OF DRIVERS; and
- (d) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE.

(7) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION and Part 396 - INSPECTION, REPAIR, AND MAINTENANCE shall not apply to fertilizer and agricultural chemical application and distribution equipment transported in units with a capacity of three thousand five hundred gallons or less.

(8) For purposes of this section, intrastate motor carriers shall not include any motor carrier or driver excepted from 49 C.F.R. chapter III by section 390.3(f) of part 390.

(9)(a) Part 395 - HOURS OF SERVICE OF DRIVERS shall apply to motor carriers and drivers who engage in intrastate commerce as defined in section 75-362, except that no motor carrier who engages in intrastate commerce shall permit or require any driver used by it to drive nor shall any driver drive:

- (i) More than twelve hours following ten consecutive hours off duty; or
- (ii) For any period after having been on duty sixteen hours following ten consecutive hours off duty.

(b) No motor carrier who engages in intrastate commerce shall permit or require a driver of a commercial motor vehicle, regardless of the number of motor carriers using the driver's services, to drive, nor shall any driver of a commercial motor vehicle drive, for any period after:

- (i) Having been on duty seventy hours in any seven consecutive days if the employing motor carrier does not operate every day of the week; or
- (ii) Having been on duty eighty hours in any period of eight consecutive days if the employing motor carrier operates motor vehicles every day of the week.

(10) Part 395 - HOURS OF SERVICE OF DRIVERS, as adopted in subsections (3) and (9) of this section, shall not apply to drivers transporting agricul-

tural commodities or farm supplies for agricultural purposes during planting and harvesting season when:

(a) The transportation of such agricultural commodities is from the source of the commodities to a location within a one-hundred-fifty-air-mile radius of the source of the commodities;

(b) The transportation of such farm supplies is from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used which is within a one-hundred-fifty-air-mile radius of the wholesale or retail distribution point; or

(c) The transportation of such farm supplies is from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies which is within a one-hundred-fifty-air-mile radius of the wholesale distribution point.

(11) 49 C.F.R. 390.21 - Marking of self-propelled CMVs and intermodal equipment shall not apply to farm trucks and farm truck-tractors registered pursuant to section 60-3,146 and operated solely in intrastate commerce.

(12) 49 C.F.R. 392.9a - Operating authority shall not apply to Nebraska motor carriers operating commercial motor vehicles solely in intrastate commerce.

(13) No motor carrier shall permit or require a driver of a commercial motor vehicle to violate, and no driver of a commercial motor vehicle shall violate, any out-of-service order.

Source: Laws 1986, LB 301, § 1; Laws 1987, LB 224, § 23; Laws 1988, LB 884, § 1; Laws 1989, LB 285, § 140; Laws 1990, LB 980, § 29; Laws 1991, LB 854, § 3; Laws 1993, LB 410, § 1; Laws 1994, LB 1061, § 5; Laws 1995, LB 461, § 1; Laws 1996, LB 938, § 4; Laws 1997, LB 722, § 1; Laws 1998, LB 1056, § 8; Laws 1999, LB 161, § 1; Laws 1999, LB 704, § 49; Laws 2000, LB 1361, § 11; Laws 2001, LB 375, § 1; Laws 2002, LB 499, § 5; Laws 2003, LB 480, § 2; Laws 2004, LB 878, § 1; Laws 2005, LB 83, § 1; Laws 2005, LB 274, § 271; Laws 2006, LB 1007, § 13; Laws 2007, LB239, § 8; Laws 2008, LB756, § 28; Laws 2008, LB845, § 1; Laws 2009, LB48, § 1; Laws 2009, LB331, § 15; Laws 2010, LB725, § 3; Laws 2010, LB805, § 13; Laws 2011, LB178, § 21; Laws 2011, LB212, § 7; Laws 2012, LB751, § 49; Laws 2013, LB35, § 6; Laws 2014, LB983, § 61; Laws 2015, LB313, § 7; Laws 2016, LB929, § 11; Laws 2017, LB263, § 88; Laws 2018, LB909, § 121; Laws 2019, LB79, § 22.
Effective date March 7, 2019.

Cross References

Violation of section, penalty, see section 75-367.

75-364 Additional federal motor carrier regulations; provisions adopted.

The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, 2019, are adopted as part of Nebraska law and shall be applicable to all motor carriers whether engaged in interstate or intrastate commerce, drivers of such motor carriers, and vehicles of such motor carriers:

(1) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart F - Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design Certifying Engineers;

(2) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart G - Registration of Persons Who Offer or Transport Hazardous Materials;

(3) Part 171 - GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS;

(4) Part 172 - HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS;

(5) Part 173 - SHIPPERS - GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS;

(6) Part 177 - CARRIAGE BY PUBLIC HIGHWAY;

(7) Part 178 - SPECIFICATIONS FOR PACKAGINGS; and

(8) Part 180 - CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS.

Source: Laws 1986, LB 301, § 2; Laws 1987, LB 538, § 1; Laws 1988, LB 884, § 2; Laws 1990, LB 980, § 30; Laws 1991, LB 854, § 4; Laws 1993, LB 410, § 2; Laws 1994, LB 1061, § 6; Laws 1995, LB 461, § 2; Laws 1996, LB 938, § 5; Laws 1997, LB 722, § 2; Laws 1998, LB 1056, § 9; Laws 1999, LB 161, § 2; Laws 2000, LB 1361, § 12; Laws 2001, LB 375, § 2; Laws 2002, LB 499, § 6; Laws 2003, LB 480, § 3; Laws 2004, LB 878, § 2; Laws 2005, LB 83, § 2; Laws 2006, LB 1007, § 15; Laws 2007, LB239, § 9; Laws 2008, LB756, § 29; Laws 2009, LB48, § 2; Laws 2009, LB331, § 16; Laws 2010, LB805, § 14; Laws 2011, LB178, § 22; Laws 2011, LB212, § 8; Laws 2012, LB751, § 50; Laws 2013, LB35, § 7; Laws 2014, LB983, § 62; Laws 2015, LB313, § 8; Laws 2016, LB929, § 12; Laws 2017, LB263, § 89; Laws 2018, LB909, § 122; Laws 2019, LB79, § 23.

Effective date March 7, 2019.

75-366 Enforcement powers.

For the purpose of enforcing Chapter 75, article 3, any officer of the Nebraska State Patrol may, upon demand, inspect the accounts, records, and equipment of any motor carrier or shipper. Any officer of the Nebraska State Patrol shall have the authority to enforce the federal motor carrier safety regulations, as such regulations existed on January 1, 2019, and federal hazardous materials regulations, as such regulations existed on January 1, 2019, and is authorized to enter upon, inspect, and examine any and all lands, buildings, and equipment of any motor carrier, any shipper, and any other person subject to the federal Interstate Commerce Act, the federal Department of Transportation Act, and other related federal laws and to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of a motor carrier, a shipper, and any other person subject to Chapter 75, article 3, for the purposes of enforcing Chapter 75, article 3. To promote uniformity of enforcement, the carrier enforcement division of the

Nebraska State Patrol shall cooperate and consult with the Public Service Commission and the Division of Motor Carrier Services.

Source: Laws 1986, LB 301, § 4; Laws 1987, LB 538, § 2; Laws 1990, LB 980, § 31; Laws 1995, LB 424, § 48; Laws 1996, LB 1218, § 60; Laws 2002, LB 93, § 18; Laws 2003, LB 480, § 4; Laws 2012, LB751, § 51; Laws 2013, LB35, § 8; Laws 2014, LB983, § 63; Laws 2015, LB313, § 9; Laws 2016, LB929, § 13; Laws 2017, LB263, § 90; Laws 2018, LB909, § 123; Laws 2019, LB79, § 24. Effective date March 7, 2019.

(I) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

75-392 Terms, defined.

For purposes of sections 75-392 to 75-399:

- (1) Director means the Director of Motor Vehicles;
- (2) Division means the Division of Motor Carrier Services of the Department of Motor Vehicles; and
- (3) Unified carrier registration plan and agreement means the plan and agreement established and authorized pursuant to 49 U.S.C. 14504a, as such section existed on January 1, 2019.

Source: Laws 2007, LB358, § 1; Laws 2014, LB776, § 7; Laws 2016, LB929, § 14; Laws 2017, LB263, § 92; Laws 2018, LB909, § 125; Laws 2019, LB79, § 25. Effective date March 7, 2019.

75-393 Unified carrier registration plan and agreement; director; powers.

The director may participate in the unified carrier registration plan and agreement pursuant to the Unified Carrier Registration Act of 2005, 49 U.S.C. 13908, as the act existed on January 1, 2019, and may file on behalf of this state the plan required by such plan and agreement for enforcement of the act in this state.

Source: Laws 2007, LB358, § 2; Laws 2009, LB331, § 19; Laws 2011, LB212, § 9; Laws 2012, LB751, § 52; Laws 2013, LB35, § 9; Laws 2014, LB776, § 8; Laws 2015, LB313, § 10; Laws 2016, LB929, § 15; Laws 2017, LB263, § 93; Laws 2018, LB909, § 126; Laws 2019, LB79, § 26. Effective date March 7, 2019.

ARTICLE 11

211 INFORMATION AND REFERRAL NETWORK

Section

75-1101. 211 Information and Referral Network; Public Service Commission; award grant; application; eligibility; use; 211 Cash Fund; created; use; investment.

75-1101 211 Information and Referral Network; Public Service Commission; award grant; application; eligibility; use; 211 Cash Fund; created; use; investment.

(1) For purposes of this section, 211 Information and Referral Network means a statewide information and referral network providing information to

the public regarding disaster and emergency response and health and human services provided by public and private entities throughout the state.

(2) The Public Service Commission shall award a grant annually to a 211 Information and Referral Network which submits an application and meets the requirements of this section. The amount of each grant shall be three hundred thousand dollars.

(3) To be eligible for a grant, the 211 Information and Referral Network shall update the information and referral services on the network at least annually, shall geographically index the services to provide information on a county-by-county basis, and shall be accredited as meeting the standards for service delivery and quality by the Alliance of Information and Referral Systems or a similar organization approved by the commission.

(4) The grant may be used to establish a web site which includes links to providers of health and human services, the name, address, and telephone number of any organization listed on the web site, a description of the type of services provided by the organization, and other information to educate the public about the health and human services available on a geographic basis. The grant may also be used to provide access to the network twenty-four hours per day, seven days per week, through telephone access and web site access.

(5) There is hereby created the 211 Cash Fund. The fund shall be used solely for the purpose of providing grants pursuant to this section and associated administrative costs. All money received by the Public Service Commission for such grants shall be remitted to the State Treasurer for credit to such fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2019, LB641, § 1.
Effective date September 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

CHAPTER 76

REAL PROPERTY

Article.

- 2. Conveyances.
 - (q) Real Estate Closing Agents. 76-2,121.
- 8. Condominium Law.
 - (a) Condominium Property Act. 76-808, 76-816.
 - (c) Nebraska Condominium Act.
 - Management of Condominium. 76-861.
- 14. Landlord and Tenant.
 - (a) Uniform Residential Landlord and Tenant Act. 76-1416, 76-1431.
- 22. Real Property Appraiser Act. 76-2207.27 to 76-2238.
- 23. One-Call Notification System. 76-2301 to 76-2332.
- 26. Uniform Environmental Covenants Act. 76-2602, 76-2608.
- 32. Nebraska Appraisal Management Company Registration Act. 76-3202 to 76-3216.
- 35. Radon Resistant New Construction Act. 76-3501 to 76-3507.

ARTICLE 2

CONVEYANCES

(q) REAL ESTATE CLOSING AGENTS

Section

76-2,121. Real estate closing agents; terms, defined.

(q) REAL ESTATE CLOSING AGENTS

76-2,121 Real estate closing agents; terms, defined.

For purposes of sections 76-2,121 to 76-2,123:

(1) Federally insured financial institution shall mean an institution in which the monetary deposits are insured by the Federal Deposit Insurance Corporation or National Credit Union Administration;

(2) Good funds shall mean: (a) Lawful money of the United States; (b) wired funds when unconditionally held by the real estate closing agent or employee; (c) cashier's checks, certified checks, bank money orders, or teller's checks issued by a federally insured financial institution and unconditionally held by the real estate closing agent or employee; or (d) United States treasury checks, federal reserve bank checks, federal home loan bank checks, State of Nebraska warrants, and warrants of a city of the metropolitan or primary class;

(3) Real estate closing agent shall mean a person who collects and disburses funds on behalf of another in closing a real estate transaction but shall not include a seller or buyer closing a real estate transaction on his or her own behalf or a lender closing a real estate loan transaction; and

(4) Regulating entity shall mean the:

- (a) Department of Insurance;
- (b) Supreme Court;
- (c) State Real Estate Commission;
- (d) Department of Banking and Finance;

- (e) Federal Deposit Insurance Corporation;
- (f) Office of the Comptroller of the Currency;
- (g) Consumer Financial Protection Bureau;
- (h) Federal Farm Credit Administration; or
- (i) National Credit Union Administration.

Source: Laws 1994, LB 1275, § 1; Laws 1999, LB 248, § 1; Laws 2019, LB258, § 16.
Effective date March 8, 2019.

ARTICLE 8 CONDOMINIUM LAW

(a) CONDOMINIUM PROPERTY ACT

Section

- 76-808. Co-owner; use of common elements; responsibility for maintenance, repair, and replacement.
- 76-816. Board of administrators; records; examination; condominium statement; filing with register of deeds.

(c) NEBRASKA CONDOMINIUM ACT MANAGEMENT OF CONDOMINIUM

- 76-861. Executive board; members and officers; powers and duties; condominium statement; filing with register of deeds.

(a) CONDOMINIUM PROPERTY ACT

76-808 Co-owner; use of common elements; responsibility for maintenance, repair, and replacement.

(1) Each co-owner may use the elements held in common in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other co-owners.

(2) The association of co-owners and board of administrators, or other administrative body governing the condominium, is responsible for maintenance, repair, and replacement of the common elements. Each co-owner of an apartment is responsible for maintenance, repair, and replacement of such co-owner's apartment.

Source: Laws 1963, c. 429, § 8, p. 1439; Laws 2019, LB42, § 1.
Effective date September 1, 2019.

76-816 Board of administrators; records; examination; condominium statement; filing with register of deeds.

(1) The board of administrators or other administrative body specified in the bylaws shall keep or cause to be kept a book with a detailed account, in chronological order, of the receipts and expenditures affecting the condominium property regime and its administration and specifying the maintenance and repair expenses of the common elements and all other expenses incurred. Both the book and the vouchers accrediting the entries made thereupon shall be available for examination by any co-owner or any prospective purchaser at convenient hours on working days that shall be set and announced for general knowledge. Any prospective purchaser must be designated as such by a co-owner in writing. For condominiums created in this state before January 1,

1984, the provision on the records of the administrative body or association in section 76-876 shall apply to the extent necessary in construing the provisions of sections 76-827, 76-829 to 76-831, 76-840, 76-841, 76-869, 76-874, 76-876, 76-884, and 76-891.01, and subdivisions (a)(1) to (a)(6) and (a)(11) to (a)(16) of section 76-860 which apply to events and circumstances which occur after January 1, 1984.

(2) The association of co-owners and board of administrators, or other administrative body governing the condominium property regime, and its common elements, shall file with the register of deeds of the county in which the condominium is located a condominium statement listing the name of such board or other administrative body and the names and addresses of the current officers of such board or other administrative body. Such filing shall be made every year on or before December 31. The receipt of any legal notice by or service of process on such officer personally or at such officer's filed address shall constitute notice to the board or other administrative body administering the condominium and its common elements. If the board or other administrative body fails to make the filing required by this subsection, the posting of the legal notice or process at the entrance, main office, or other prominent location in the common area of the condominium shall constitute notice to the board or other administrative body until such filing is made.

Source: Laws 1963, c. 429, § 16, p. 1442; Laws 1974, LB 730, § 9; Laws 1983, LB 433, § 77; Laws 1993, LB 478, § 6; Laws 2019, LB42, § 2.

Effective date September 1, 2019.

(c) NEBRASKA CONDOMINIUM ACT
MANAGEMENT OF CONDOMINIUM

76-861 Executive board; members and officers; powers and duties; condominium statement; filing with register of deeds.

(a) Except as provided in the declaration, the bylaws, subsection (b) of this section, or other provisions of the Nebraska Condominium Act, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are required to exercise ordinary and reasonable care.

(b) The executive board may not act on behalf of the association to amend the declaration pursuant to section 76-854, to terminate the condominium pursuant to section 76-855, or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members pursuant to subsection (f) of this section, but the executive board may fill vacancies in its membership for the unexpired portion of any term.

(c) Within thirty days after adoption of any proposed budget for the condominium, the executive board shall provide a summary of the budget to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than thirty days after mailing of the summary. Unless at that meeting a majority of all votes in the association or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners

shall be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board.

(d) Subject to subsection (e) of this section, the declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by him or her, may appoint and remove the officers and members of the executive board. Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of: (i) Sixty days after conveyance of ninety percent of the units which may be created to unit owners other than a declarant; or (ii) two years after all declarants have ceased to offer units for sale in the ordinary course of business. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event he or she may require, for the duration of the period of declarant control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Successor boards following declarant control may not discriminate nor act arbitrarily with respect to units still owned by a declarant or a successor declarant.

(e) Not later than sixty days after conveyance of twenty-five percent of the units which may be created to unit owners other than a declarant, at least one member and not less than twenty-five percent of the members of the executive board shall be elected exclusively by unit owners other than the declarant. Not later than sixty days after conveyance of fifty percent of the units which may be created to unit owners other than a declarant, not less than thirty-three and one-third percent of the members of the executive board shall be elected exclusively by unit owners other than the declarant.

(f) Not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least three members, at least a majority of whom must be unit owners. The executive board shall elect the officers. The executive board members and officers shall take office upon election.

(g) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the declarant.

(h) The association shall file with the register of deeds of the county in which the condominium is located a condominium statement listing the name of the association and the names and addresses of the current officers of the association. Such filing shall be made every year on or before December 31. The receipt of any legal notice by or service of process on such officer personally or at such officer's filed address shall constitute notice to the association. If the association fails to make the filing required by this subsection, the posting of the legal notice or process at the entrance, main office, or other prominent location in the common area of the condominium shall constitute notice to the association until such filing is made.

Source: Laws 1983, LB 433, § 37; Laws 2019, LB42, § 3.
Effective date September 1, 2019.

ARTICLE 14
LANDLORD AND TENANT

(a) UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT

Section

76-1416. Security deposits; prepaid rent.

76-1431. Noncompliance; failure to pay rent; effect; violent criminal activity upon premises; landlord; powers.

(a) UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT

76-1416 Security deposits; prepaid rent.

(1) A landlord may not demand or receive security, however denominated, in an amount or value in excess of one month's periodic rent, except that a pet deposit not in excess of one-fourth of one month's periodic rent may be demanded or received when appropriate, but this subsection shall not be applicable to housing agencies organized or existing under the Nebraska Housing Agency Act.

(2) Upon termination of the tenancy, property or money held by the landlord as prepaid rent and security may be applied to the payment of rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with the rental agreement or section 76-1421. The balance, if any, and a written itemization shall be delivered or mailed to the tenant within fourteen days after the date of termination of the tenancy. If no mailing address or instructions are provided by the tenant to the landlord, the landlord shall mail, by first-class mail, the balance of the security deposit to be returned, if any, and a written itemization of the amount of the security deposit not returned to the tenant's last-known mailing address. If the mailing is returned as undeliverable, or if the returned balance of the security deposit remains outstanding thirty days after the date of the mailing, the landlord shall, not later than sixty days after the date of the mailing, remit the outstanding balance of the security deposit to the State Treasurer for disposition pursuant to the Uniform Disposition of Unclaimed Property Act.

(3) If the landlord fails to comply with subsection (2) of this section, the tenant may recover the property and money due him or her, court costs, and reasonable attorney's fees. In addition, if the landlord's failure to comply with subsection (2) of this section is willful and not in good faith, the tenant may recover an amount equal to one month's periodic rent or two times the amount of the security deposit, whichever is less, as liquidated damages.

(4) This section does not preclude the landlord or tenant from recovering other damages to which he or she may be entitled under the Uniform Residential Landlord and Tenant Act. However, a tenant shall not be liable for damages directly related to the tenant's removal from the premises by order of any governmental entity as a result of the premises not being fit for habitation due to the negligence or neglect of the landlord.

(5) The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section.

Source: Laws 1974, LB 293, § 16; Laws 1999, LB 105, § 99; Laws 2001, LB 7, § 12; Laws 2019, LB433, § 1.
Effective date September 1, 2019.

Cross References

Nebraska Housing Agency Act, see section 71-1572.

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

76-1431 Noncompliance; failure to pay rent; effect; violent criminal activity upon premises; landlord; powers.

(1) Except as provided in the Uniform Residential Landlord and Tenant Act, if there is a noncompliance with section 76-1421 materially affecting health and safety or a material noncompliance by the tenant with the rental agreement or any separate agreement, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days, and the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement.

(2) If rent is unpaid when due and the tenant fails to pay rent within seven calendar days after written notice by the landlord of nonpayment and his or her intention to terminate the rental agreement if the rent is not paid within that period of time, the landlord may terminate the rental agreement.

(3) Except as provided in the Uniform Residential Landlord and Tenant Act, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or section 76-1421. If the tenant's noncompliance is willful, the landlord may recover reasonable attorney's fees.

(4) Notwithstanding subsections (1) and (2) of this section or section 25-21,221, a landlord may, after five days' written notice of termination of the rental agreement and without the right of the tenant to cure the default, file suit and have judgment against any tenant or occupant for recovery of possession of the premises if the tenant, occupant, member of the tenant's household, guest, or other person who is under the tenant's control or who is present upon the premises with the tenant's consent, engages in any violent criminal activity on the premises, the illegal sale of any controlled substance on the premises, or any other activity that threatens the health or safety of other tenants, the landlord, or the landlord's employees or agents. Such activity shall include, but not be limited to, any of the following activities of the tenant, occupant, member of the tenant's household, guest, or other person who is under the tenant's control or who is present upon the premises with the tenant's consent: (a) Physical assault or the threat of physical assault; (b) illegal use of a firearm or other weapon or the threat of illegal use of a firearm or other weapon; (c) possession of a controlled substance if the tenant knew or should have known of the possession, unless such controlled substance was obtained directly from or pursuant to a medical order issued by a practitioner legally authorized to prescribe while acting in the course of his or her professional practice; or (d) any other activity or threatened activity which would otherwise threaten the

health or safety of any person or involving threatened, imminent, or actual damage to the property.

(5) Subsection (4) of this section does not apply to a tenant if the violent criminal activity, illegal sale of any controlled substance, or other activity that threatens the health or safety of other tenants, the landlord, or the landlord's employees or agents, as set forth in subsection (4) of this section, is conducted by a person on the premises other than the tenant and the tenant takes at least one of the following measures against the person engaging in such activity:

(a) The tenant seeks a protective order, restraining order, or other similar relief which would apply to the person conducting such activity; or

(b) The tenant reports such activity to a law enforcement agency in an effort to initiate a criminal action against the person conducting the activity.

Source: Laws 1974, LB 293, § 31; Laws 2001, LB 7, § 18; Laws 2016, LB221, § 4; Laws 2019, LB433, § 2.
Effective date September 1, 2019.

ARTICLE 22

REAL PROPERTY APPRAISER ACT

Section

- 76-2207.27. Education provider, defined.
- 76-2207.30. Financial Institutions Reform, Recovery, and Enforcement Act of 1989, defined.
- 76-2222. Real Property Appraiser Board; created; members; terms; compensation; expenses.
- 76-2228.01. Trainee real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.
- 76-2228.02. Trainee real property appraiser; direct supervision; supervisory appraiser; qualifications; disciplinary action; effect; appraisal experience log.
- 76-2230. Credential as a licensed residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.
- 76-2231.01. Credential as a certified residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.
- 76-2232. Credential as a certified general real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; scope of practice.
- 76-2236. Continuing education; requirements.
- 76-2238. Disciplinary action; denial of application; grounds.

76-2207.27 Education provider, defined.

Education provider means: Any real property appraisal or real-estate-related organization; proprietary school; accredited degree-awarding community college, college, or university; state or federal agency; or such other provider that may be approved by the board that provides appraiser training or education.

Source: Laws 2015, LB139, § 19; R.S.Supp.,2016, § 76-2207.11; Laws 2018, LB741, § 16; Laws 2019, LB77, § 1.
Effective date September 1, 2019.

76-2207.30 Financial Institutions Reform, Recovery, and Enforcement Act of 1989, defined.

Financial Institutions Reform, Recovery, and Enforcement Act of 1989 means the act as it existed on January 1, 2019.

Source: Laws 2014, LB717, § 8; R.S.Supp.,2014, § 76-2212.02; Laws 2015, LB139, § 22; Laws 2016, LB731, § 3; R.S.Supp.,2016, § 76-2207.14; Laws 2018, LB741, § 19; Laws 2019, LB77, § 2. Effective date September 1, 2019.

76-2222 Real Property Appraiser Board; created; members; terms; compensation; expenses.

(1) The Real Property Appraiser Board is hereby created. The board shall consist of five members. One member who is a certified real property appraiser shall be selected from each of the three congressional districts, and two members shall be selected at large. The two members selected at large shall include one representative of financial institutions and one licensed real estate broker. The Governor shall appoint the members of the board.

(2) The term of each member of the board shall be five years. Upon the expiration of his or her term, a member of the board shall continue to hold office until the appointment and qualification of his or her successor. No person shall serve as a member of the board for consecutive terms. Any vacancy shall be filled in the same manner as the original appointment. The Governor may remove a member for cause.

(3) The members of the board shall elect a chairperson during the first meeting of each year from among the members.

(4) Three members of the board, at least two of whom are real property appraisers, shall constitute a quorum.

(5) Each member of the board shall receive a per diem of one hundred dollars per day (a) for each scheduled meeting of the board or a committee of the board at which the member is present and (b) actually spent in traveling to and from and attending meetings and conferences of the Association of Appraiser Regulatory Officials and its committees and subcommittees or of The Appraisal Foundation and its committees and subcommittees, board committee meetings, or other business as authorized by the board.

(6) Each member of the board shall be reimbursed for actual and necessary expenses incident to the performance of his or her duties under the Real Property Appraiser Act and Nebraska Appraisal Management Company Registration Act as provided in sections 81-1174 to 81-1177.

Source: Laws 1990, LB 1153, § 22; Laws 1991, LB 203, § 23; Laws 1994, LB 1107, § 18; Laws 2001, LB 162, § 14; Laws 2006, LB 778, § 42; Laws 2008, LB1011, § 5; Laws 2015, LB139, § 42; Laws 2016, LB731, § 8; Laws 2018, LB741, § 28; Laws 2019, LB77, § 3. Effective date September 1, 2019.

Cross References

Nebraska Appraisal Management Company Registration Act, see section 76-3201.

76-2228.01 Trainee real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.

(1) To qualify for a credential as a trainee real property appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the Real Property Appraiser Board;

(c)(i) Have successfully completed and passed examination for no fewer than seventy-five class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented. Except for the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course, which shall be completed within the two-year period immediately preceding submission of the application, all class hours shall be completed within the five-year period immediately preceding submission of the application; or

(ii) Hold a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or the equivalent as determined by the Appraiser Qualifications Board. The degree shall be conferred within the five-year period immediately preceding submission of the application. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real Property Appraiser Board-approved qualifying education pursuant to subdivision (c)(i) of this subsection;

(d) As prescribed by rules and regulations of the Real Property Appraiser Board, successfully complete a Real Property Appraiser Board-approved supervisory appraiser and trainee course within one year immediately preceding the date of application; and

(e) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board.

(2) Prior to engaging in appraisal practice or real property appraisal activity, a trainee real property appraiser shall submit a written request for supervisory appraiser approval on a form approved by the board. The request for supervisory appraiser approval may be made at the time of application or any time after approval as a trainee real property appraiser.

(3) To qualify for an upgraded credential, a trainee real property appraiser shall satisfy the appropriate requirements as follows:

(a) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebras-

ka State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(b) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board for an upgraded credential, pass an appropriate examination approved by the Appraiser Qualifications Board for that upgraded credential, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(4) To qualify for a credential as a licensed residential real property appraiser, a trainee real property appraiser shall:

(a) Successfully complete and pass proctored, closed-book examinations for no fewer than seventy-five additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(c)(ii) of section 76-2230; and

(b) Meet the experience requirements pursuant to subdivision (1)(d) of section 76-2230.

(5) To qualify for a credential as a certified residential real property appraiser, a trainee real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2231.01;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than one hundred twenty-five additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2231.01; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2231.01.

(6) To qualify for a credential as a certified general real property appraiser, a trainee real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2232;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than two hundred twenty-five additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2232; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2232.

(7) The scope of practice for the trainee real property appraiser shall be limited to the appraisal of the types of real property or real estate that the supervisory certified real property appraiser is permitted to appraise by his or

her current credential and that the supervisory appraiser is competent to appraise.

Source: Laws 2006, LB 778, § 49; Laws 2007, LB186, § 12; Laws 2010, LB931, § 10; Laws 2012, LB714, § 4; Laws 2014, LB717, § 15; Laws 2015, LB139, § 47; Laws 2016, LB731, § 11; Laws 2019, LB77, § 4.

Effective date September 1, 2019.

76-2228.02 Trainee real property appraiser; direct supervision; supervisory appraiser; qualifications; disciplinary action; effect; appraisal experience log.

(1) Each trainee real property appraiser's experience shall be subject to direct supervision by a supervisory appraiser. To qualify as a supervisory appraiser, a real property appraiser shall:

(a) Be a certified residential real property appraiser or certified general real property appraiser in good standing;

(b) Have held a certified real property appraiser credential in this state, or the equivalent in any other jurisdiction, for a minimum of three years immediately preceding the date of the written request for approval as supervisory appraiser;

(c) Have not successfully completed disciplinary action by the board or any other jurisdiction, which action limited the real property appraiser's legal eligibility to engage in real property appraisal activity within three years immediately preceding the date the written request for approval as supervisory appraiser is submitted by the applicant or trainee real property appraiser on a form approved by the board;

(d) As prescribed by rules and regulations of the board, have successfully completed a board-approved supervisory appraiser and trainee course preceding the date the written request for approval as supervisory appraiser is submitted by the applicant or trainee real property appraiser on a form approved by the board; and

(e) Certify that he or she understands his or her responsibilities and obligations under the Real Property Appraiser Act as a supervisory appraiser and applies his or her signature to the written request for approval as supervisory appraiser submitted by the applicant or trainee real property appraiser.

(2) The supervisory appraiser shall be responsible for the training and direct supervision of the trainee real property appraiser's experience by:

(a) Accepting responsibility for the report by applying his or her signature and certifying that the report is in compliance with the Uniform Standards of Professional Appraisal Practice;

(b) Reviewing the trainee real property appraiser reports; and

(c) Personally inspecting each appraised property with the trainee real property appraiser as is consistent with his or her scope of practice until the supervisory appraiser determines that the trainee real property appraiser is competent in accordance with the competency rule of the Uniform Standards of Professional Appraisal Practice.

(3) A certified real property appraiser disciplined by the board or any other appraiser regulatory agency in another jurisdiction, which discipline may or may not have limited the real property appraiser's legal eligibility to engage in

real property appraisal activity, shall not be eligible as a supervisory appraiser as of the date disciplinary action was imposed against the appraiser by the board or any other appraiser regulatory agency. The certified real property appraiser shall be considered to be in good standing and eligible as a supervisory appraiser upon the successful completion of disciplinary action that does not limit the real property appraiser's legal eligibility to engage in real property appraisal activity, or three years after the successful completion of disciplinary action that limits the real property appraiser's legal eligibility to engage in real property appraisal activity.

(4) The trainee real property appraiser may have more than one supervisory appraiser, but a supervisory appraiser may not supervise more than three trainee real property appraisers at one time.

(5) As prescribed by rules and regulations of the board, an appraisal experience log shall be maintained jointly by the supervisory appraiser and the trainee real property appraiser.

Source: Laws 2014, LB717, § 16; Laws 2015, LB139, § 48; Laws 2018, LB17, § 1; Laws 2019, LB77, § 5.
Effective date September 1, 2019.

76-2230 Credential as a licensed residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.

(1) To qualify for a credential as a licensed residential real property appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the Real Property Appraiser Board;

(c)(i) Have successfully completed and passed examination for no fewer than one hundred fifty class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented; or

(ii) Hold a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or the equivalent as determined by the Appraiser Qualifications Board. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real Property Appraiser Board-approved qualifying education pursuant to subdivision (c)(i) of this subsection;

(d) Have no fewer than one thousand hours of experience as prescribed by rules and regulations of the Real Property Appraiser Board. The required experience shall be acceptable to the Real Property Appraiser Board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than six months;

(e) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(f) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board, pass a licensed residential real property appraiser examination, certified residential real property appraiser examination, or certified general real property appraiser examination, approved by the Appraiser Qualifications Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(2) To qualify for an upgraded credential, a licensed residential real property appraiser shall satisfy the appropriate requirements as follows:

(a) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(b) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board for an upgraded credential, pass an appropriate examination approved by the Appraiser Qualifications Board for that upgraded credential, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(3) To qualify for a credential as a certified residential real property appraiser, a licensed residential real property appraiser shall:

(a)(i) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2231.01; or

(ii)(A) Have held a credential as a licensed residential real property appraiser for a minimum of five years; and

(B) Not have been subject to a nonappealable disciplinary action by the board or any other jurisdiction, which action limited the real property appraiser's legal eligibility to engage in real property appraisal activity within five years immediately preceding the date of application for the certified residential real property appraiser credential;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than fifty additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2231.01; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2231.01.

(4) To qualify for a credential as a certified general real property appraiser, a licensed residential real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2232;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than one hundred fifty additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2232; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2232.

(5) An appraiser holding a valid licensed residential real property appraiser credential shall satisfy the requirements for the trainee real property appraiser credential for a downgraded credential.

(6) The scope of practice for a licensed residential real property appraiser shall be limited to the appraisal of, and review of appraisal of, noncomplex residential real property or real estate having no more than four units, if any, with a transaction value of less than one million dollars and complex residential real property or real estate having no more than four units, if any, with a transaction value of less than two hundred fifty thousand dollars. The appraisal of subdivisions for which a development analysis or appraisal is necessary is not included in the scope of practice for a licensed residential real property appraiser.

Source: Laws 1990, LB 1153, § 30; Laws 1991, LB 203, § 33; Laws 1994, LB 1107, § 28; Laws 1997, LB 29, § 1; Laws 1997, LB 752, § 205; Laws 2001, LB 162, § 22; Laws 2006, LB 778, § 52; Laws 2007, LB186, § 15; Laws 2008, LB1011, § 10; Laws 2010, LB931, § 13; Laws 2012, LB714, § 6; Laws 2014, LB717, § 17; Laws 2015, LB139, § 49; Laws 2016, LB731, § 12; Laws 2019, LB77, § 6.

Effective date September 1, 2019.

76-2231.01 Credential as a certified residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.

(1) To qualify for a credential as a certified residential real property appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b)(i) Hold a bachelor's degree, or higher, from an accredited degree-awarding college or university;

(ii) Hold an associate's degree from an accredited degree-awarding community college, college, or university in the study of business administration, accounting, finance, economics, or real estate;

(iii) Successfully complete thirty semester hours of college-level education from an accredited degree-awarding community college, college, or university that includes:

(A) Three semester hours in each of the following: English composition; microeconomics; macroeconomics; finance; algebra, geometry, or higher mathematics; statistics; computer science; and business law or real estate law; and

(B) Three semester hours each in two elective courses in any of the topics listed in subdivision (b)(iii)(A) of this subsection, or in accounting, geography, agricultural economics, business management, or real estate;

(iv) Successfully complete thirty semester hours of the College-Level Examination Program from an accredited degree-awarding community college, college, or university that includes three semester hours in each of the following subject matter areas: College algebra; college composition; college composition modular; college mathematics; principles of macroeconomics; principles of microeconomics; introductory business law; and information systems; or

(v) Successfully complete any combination of subdivisions (b)(iii) and (iv) of this subsection that ensures coverage of all topics and hours identified in subdivision (b)(iii) of this subsection;

(c) Have his or her education evaluated for equivalency by one of the following if the college degree is from a foreign country:

(i) An accredited degree-awarding college or university;

(ii) A foreign degree credential evaluation service company that is a member of the National Association of Credential Evaluation Services; or

(iii) A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-awarding college or university;

(d)(i) Have successfully completed and passed examination for no fewer than two hundred class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented; or

(ii) Hold a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or the equivalent as determined by the Appraiser Qualifications Board. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real Property Appraiser Board-approved qualifying education pursuant to subdivision (d)(i) of this subsection;

(e) Have no fewer than one thousand five hundred hours of experience as prescribed by rules and regulations of the Real Property Appraiser Board. The required experience shall be acceptable to the Real Property Appraiser Board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than twelve months;

(f) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based

national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(g) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board, pass a certified residential real property appraiser examination or certified general real property appraiser examination, approved by the Appraiser Qualifications Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(2) To qualify for an upgraded credential, a certified residential real property appraiser shall satisfy the following requirements:

(a) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(b) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board for an upgrade to a certified general real property appraiser credential, pass a certified general real property appraiser examination approved by the Appraiser Qualifications Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(3) To qualify for a credential as a certified general real property appraiser, a certified residential real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2232;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than one hundred additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2232; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2232.

(4) An appraiser holding a valid certified residential real property appraiser credential shall satisfy the requirements for the trainee real property appraiser credential and licensed residential real property appraiser credential for a downgraded credential. If requested, evidence acceptable to the Real Property Appraiser Board concerning the experience shall be presented along with an application in the form of written reports or file memoranda.

(5) The scope of practice for a certified residential real property appraiser shall be limited to the appraisal of, and review of appraisal of, residential real property or real estate having no more than four residential units, if any, without regard to transaction value or complexity. The appraisal of subdivisions

for which a development analysis or appraisal is necessary is not included in the scope of practice for a certified residential real property appraiser.

Source: Laws 1994, LB 1107, § 29; Laws 1997, LB 29, § 2; Laws 1997, LB 752, § 206; Laws 2001, LB 162, § 23; Laws 2006, LB 778, § 53; Laws 2007, LB186, § 16; Laws 2008, LB1011, § 11; Laws 2010, LB931, § 14; Laws 2012, LB714, § 7; Laws 2014, LB717, § 18; Laws 2015, LB139, § 50; Laws 2016, LB731, § 13; Laws 2019, LB77, § 7.

Effective date September 1, 2019.

76-2232 Credential as a certified general real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; scope of practice.

(1) To qualify for a credential as a certified general real property appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b) Hold a bachelor's degree, or higher, from an accredited degree-awarding college or university;

(c) Have his or her education evaluated for equivalency by one of the following if the college degree is from a foreign country:

(i) An accredited degree-awarding college or university;

(ii) A foreign degree credential evaluation service company that is a member of the National Association of Credential Evaluation Services; or

(iii) A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-awarding college or university;

(d)(i) Have successfully completed and passed examination for no fewer than three hundred class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented; or

(ii) Hold a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or the equivalent as determined by the Appraiser Qualifications Board. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real Property Appraiser Board-approved qualifying education pursuant to subdivision (d)(i) of this subsection;

(e) Have no fewer than three thousand hours of experience, of which one thousand five hundred hours shall be in nonresidential appraisal work, as prescribed by rules and regulations of the Real Property Appraiser Board. The required experience shall be acceptable to the Real Property Appraiser Board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than eighteen months;

(f) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(g) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board, pass a certified general real property appraiser examination, approved by the Appraiser Qualifications Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(2) An appraiser holding a valid certified general real property appraiser credential shall satisfy the requirements for the trainee real property appraiser credential, licensed residential real property appraiser credential, and certified residential real property appraiser credential for a downgraded credential. If requested, evidence acceptable to the Real Property Appraiser Board concerning the experience shall be presented along with an application in the form of written reports or file memoranda.

(3) The scope of practice for the certified general real property appraiser is the appraisal of all types of real property or real estate that appraiser is competent to appraise.

Source: Laws 1990, LB 1153, § 32; Laws 1991, LB 203, § 34; Laws 1994, LB 1107, § 30; Laws 1997, LB 29, § 3; Laws 1997, LB 752, § 207; Laws 2001, LB 162, § 24; Laws 2006, LB 778, § 54; Laws 2007, LB186, § 17; Laws 2008, LB1011, § 12; Laws 2010, LB931, § 15; Laws 2012, LB714, § 8; Laws 2014, LB717, § 19; Laws 2015, LB139, § 51; Laws 2016, LB731, § 14; Laws 2019, LB77, § 8.

Effective date September 1, 2019.

76-2236 Continuing education; requirements.

(1) Every credential holder shall furnish evidence to the board that he or she has satisfactorily completed no fewer than twenty-eight hours of approved continuing education activities in each two-year continuing education period. The continuing education period begins on January 1 of the next year for any credential holder who first obtained his or her credential at the current level on or after July 1. Hours of satisfactorily completed approved continuing education activities cannot be carried over from one two-year continuing education period to another. Evidence of successful completion of such continuing education activities for the two-year continuing education period, including passing examination if applicable, shall be submitted to the board in the manner prescribed by the board. No continuing education activity shall be less than two hours in duration. A person who holds a temporary credential does not have to meet any continuing education requirements in the Real Property Appraiser Act.

(2) As prescribed by rules and regulations of the Real Property Appraiser Board and at least once every two years, the seven-hour National Uniform Standards of Professional Appraisal Practice Update Course as approved by the Appraiser Qualifications Board or the equivalent of the course as approved by

the Real Property Appraiser Board, shall be included in the continuing education requirement of each credential holder. An instructor certified by the Appraiser Qualifications Board satisfies this requirement by successfully completing a seven-hour instructor recertification course and examination as approved by the Appraiser Qualifications Board.

(3) A continuing education activity conducted in another jurisdiction in which the activity is approved to meet the continuing education requirements for renewal of a credential in such other jurisdiction shall be accepted by the board if that jurisdiction has adopted and enforces standards for such continuing education activity that meet or exceed the standards established by the Real Property Appraiser Act and the rules and regulations of the board.

(4) The board may adopt a program of continuing education for individual credentials as long as the program is compliant with the Appraiser Qualifications Board's criteria specific to continuing education.

(5) No more than fourteen hours may be approved by the Real Property Appraiser Board as continuing education in each two-year continuing education period for participation, other than as a student, in appraisal educational processes and programs, which includes teaching, program development, authorship of textbooks, or similar activities that are determined by the board to be equivalent to obtaining continuing education. Evidence of participation shall be submitted to the board upon completion of the appraisal educational process or program. No preapproval will be granted for participation in appraisal educational processes or programs.

(6) Qualifying education, as approved by the board, successfully completed by a credential holder to fulfill the class-hour requirement to upgrade to a higher classification than his or her current classification, shall be approved by the board as continuing education.

(7) Qualifying education, as approved by the board, taken by a credential holder not to fulfill the class-hour requirement to upgrade to a higher classification, shall be approved by the board as continuing education if the credential holder completes the examination.

(8) A board-approved supervisory appraiser and trainee course successfully completed by a certified real property appraiser shall be approved by the board as continuing education no more than once during each two-year continuing education period.

(9) The Real Property Appraiser Board shall approve continuing education activities and instructors which it determines would protect the public by improving the competency of credential holders.

Source: Laws 1990, LB 1153, § 36; Laws 1991, LB 203, § 40; Laws 1994, LB 1107, § 37; Laws 1997, LB 29, § 4; Laws 2001, LB 162, § 28; Laws 2006, LB 778, § 58; Laws 2007, LB186, § 20; Laws 2010, LB931, § 19; Laws 2012, LB714, § 9; Laws 2014, LB717, § 22; Laws 2015, LB139, § 56; Laws 2016, LB731, § 17; Laws 2018, LB741, § 32; Laws 2019, LB77, § 9.
Effective date September 1, 2019.

76-2238 Disciplinary action; denial of application; grounds.

The following acts and omissions shall be considered grounds for disciplinary action or denial of an application by the board:

(1) Failure to meet the minimum qualifications for credentialing established by or pursuant to the Real Property Appraiser Act;

(2) Procuring or attempting to procure a credential under the act by knowingly making a false statement, submitting false information, or making a material misrepresentation in an application filed with the board or procuring or attempting to procure a credential through fraud or misrepresentation;

(3) Paying money or other valuable consideration other than the fees provided for by the act to any member or employee of the board to procure a credential;

(4) An act or omission involving real estate or appraisal practice which constitutes dishonesty, fraud, or misrepresentation with or without the intent to substantially benefit the credential holder or another person or with the intent to substantially injure another person;

(5) Failure to demonstrate character and general fitness such as to command the confidence and trust of the public;

(6) Conviction, including a conviction based upon a plea of guilty or nolo contendere, of any felony unless his or her civil rights have been restored;

(7) Entry of a final civil or criminal judgment, including dismissal with settlement, on grounds of fraud, dishonesty, breach of trust, money laundering, misrepresentation, or deceit involving real estate, financial services, or in the making of an appraisal;

(8) Conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is related to the qualifications, functions, or duties of a real property appraiser;

(9) Performing services as a credentialed real property appraiser under an assumed or fictitious name;

(10) Paying a finder's fee or a referral fee to any person in connection with the appraisal of real estate or real property or an appraisal review, except that an intracompany payment for business development shall not be considered to be unethical or a violation of this subdivision;

(11) Making a false or misleading statement in that portion of a written report that deals with professional qualifications or in any testimony concerning professional qualifications;

(12) Any violation of the act or any rules and regulations adopted and promulgated pursuant to the act;

(13) Violation of the confidential nature of any information to which a credential holder gained access through employment for evaluation assignments or valuation assignments;

(14) Acceptance of a fee for performing a real property appraisal valuation assignment, evaluation assignment, or appraisal review assignment when the fee is or was contingent upon (a) the real property appraiser reporting a predetermined analysis, opinion, or conclusion, (b) the analysis, opinion, conclusion, or valuation reached, or (c) the consequences resulting from an appraisal or appraisal review;

(15) Failure or refusal to exercise reasonable diligence in developing an appraisal or appraisal review, preparing a report, or communicating a report or assignment results;

(16) Negligence or incompetence in developing an appraisal or appraisal review, preparing a report, or communicating a report or assignment results, including failure to follow the standards and ethical rules adopted by the board;

(17) Failure to maintain, or to make available for inspection and copying, records required by the board;

(18) Demonstrating negligence, incompetence, or unworthiness to act as a real property appraiser, whether of the same or of a different character as otherwise specified in this section;

(19) Suspension or revocation of an appraisal credential or a license in another regulated occupation, trade, or profession in this or any other jurisdiction or disciplinary action taken by another jurisdiction that limits the real property appraiser's ability to engage in real property appraisal activity;

(20) Failure to renew or surrendering an appraisal credential or any other registration, license, or certification issued by any other regulatory agency or held in any other jurisdiction in lieu of disciplinary action pending or threatened;

(21) Failure to report disciplinary action taken against an appraisal credential or any other registration, license, or certification issued by any other regulatory agency or held in any other jurisdiction within sixty days of receiving notice of such disciplinary action;

(22) Failure to comply with terms of a consent agreement or settlement agreement;

(23) Failure to submit or produce books, records, documents, workfiles, reports, or other materials requested by the board concerning any matter under investigation;

(24) Failure of an education provider to produce records, documents, reports, or other materials, including, but not limited to, required student attendance reports, to the board;

(25) Knowingly offering or attempting to offer a qualifying or continuing education course or activity as being approved by the board to an appraiser credentialed under the Real Property Appraiser Act, or an applicant, without first obtaining approval of the activity from the board, except for courses required by an accredited degree-awarding college or university for completion of a degree in real estate, if the college or university had its curriculum approved by the Appraiser Qualifications Board as qualifying education;

(26) Presentation to the Real Property Appraiser Board of any check which is returned to the State Treasurer unpaid, whether payment of fee is for an initial or renewal credential or for examination; and

(27) Failure to pass the examination.

Source: Laws 1990, LB 1153, § 38; Laws 1991, LB 203, § 42; Laws 1994, LB 1107, § 39; Laws 2001, LB 162, § 30; Laws 2006, LB 778, § 60; Laws 2010, LB931, § 21; Laws 2014, LB717, § 23; Laws 2015, LB139, § 59; Laws 2016, LB731, § 18; Laws 2018, LB741, § 34; Laws 2019, LB77, § 10.

Effective date September 1, 2019.

ARTICLE 23

ONE-CALL NOTIFICATION SYSTEM

Section

76-2301.	Act, how cited.
76-2303.	Definitions, where found.
76-2305.	Center, defined.
76-2310.01.	Locator, defined.
76-2315.	Person, defined.
76-2316.	Repealed. Laws 2019, LB462, § 24.
76-2316.01.	Ticket, defined.
76-2318.	Center; membership required.
76-2319.	Board of directors; rules and regulations; selection of vendor.
76-2319.01.	Board of directors; duties; report.
76-2320.01.	Locator; training required.
76-2320.02.	Use of plastic or nonmetallic underground facilities; installation requirements.
76-2322.	Excavator; notice to center.
76-2323.	Underground facilities; mark or identify.
76-2325.	Violations; civil penalty.
76-2325.02.	Attorney General; annual report; contents.
76-2332.	State Fire Marshal; powers.

76-2301 Act, how cited.

Sections 76-2301 to 76-2332 shall be known and may be cited as the One-Call Notification System Act.

Source: Laws 1994, LB 421, § 1; Laws 2002, LB 1105, § 494; Laws 2013, LB589, § 1; Laws 2014, LB930, § 1; Laws 2019, LB462, § 1.
Effective date September 1, 2019.

76-2303 Definitions, where found.

For purposes of the One-Call Notification System Act, the definitions found in sections 76-2303.01 to 76-2317 shall be used.

Source: Laws 1994, LB 421, § 3; Laws 2013, LB589, § 2; Laws 2019, LB462, § 2.
Effective date September 1, 2019.

76-2305 Center, defined.

Center means a call center which shall have as its principal purpose the statewide receipt and dissemination to participating operators of information on a fair and uniform basis concerning intended excavations by excavators in areas where operators have underground facilities.

Source: Laws 1994, LB 421, § 5; Laws 2019, LB462, § 3.
Effective date September 1, 2019.

76-2310.01 Locator, defined.

Locator means a person who identifies and marks underground facilities for an operator, including a contractor who performs such location services for an operator.

Source: Laws 2019, LB462, § 4.
Effective date September 1, 2019.

76-2315 Person, defined.

Person means an individual, partnership, limited liability company, association, municipality, state, county, political subdivision, utility, joint venture, or corporation and shall include the employer, employee, or contractor of an individual.

Source: Laws 1994, LB 421, § 15; Laws 2019, LB462, § 5.
Effective date September 1, 2019.

76-2316 Repealed. Laws 2019, LB462, § 24.**76-2316.01 Ticket, defined.**

Ticket means the compilation of data received by the center in the notice of excavation and the facility locations provided to the center and which is assigned a unique identifying number.

Source: Laws 2019, LB462, § 6.
Effective date September 1, 2019.

76-2318 Center; membership required.

Operators of underground facilities shall become members of and participate in the center.

Source: Laws 1994, LB 421, § 18; Laws 2019, LB462, § 7.
Effective date September 1, 2019.

76-2319 Board of directors; rules and regulations; selection of vendor.

(1) The center shall be governed by a board of directors who shall oversee operation of the center pursuant to rules and regulations adopted and promulgated by the State Fire Marshal to carry out the One-Call Notification System Act. The board of directors shall have the authority to propose rules and regulations which may be adopted and promulgated pursuant to this section and have such other authority as provided by rules and regulations adopted and promulgated by the State Fire Marshal that are not inconsistent with the One-Call Notification System Act.

(2) The board of directors shall also establish a competitive bidding procedure to select a vendor to provide the notification service, establish a procedure by which members of the center share the costs of the center on a fair, reasonable, and nondiscriminatory basis, and do all other things necessary to implement the purpose of the center. Any agreement between the center and a vendor for the notification service may be modified from time to time by the board of directors, and any agreement shall be reviewed by the board of directors at least once every three years, with an opportunity to receive new bids if desired by the board of directors.

(3) The rules and regulations adopted and promulgated by the State Fire Marshal to carry out subsection (2) of this section may provide for:

(a) Any requirements necessary to comply with United States Department of Transportation programs;

(b) The qualifications, appointment, retention, and composition of the board of directors; and

(c) Best practices for the marking, location, and notification of proposed excavations which shall govern the center, excavators, and operators of underground facilities.

(4) Any rule or regulation adopted and promulgated by the State Fire Marshal pursuant to subdivision (3)(c) of this section shall originate with the board of directors.

Source: Laws 1994, LB 421, § 19; Laws 2017, LB263, § 95; Laws 2019, LB462, § 8.
Effective date September 1, 2019.

76-2319.01 Board of directors; duties; report.

The board of directors shall assess the effectiveness of enforcement programs, enforcement actions, and its damage prevention and public awareness programs and make a report to the Governor and the Legislature no later than December 1, 2021, and by December 1 every odd-numbered year thereafter. The report to the Legislature shall be made electronically.

Source: Laws 2019, LB462, § 11.
Effective date September 1, 2019.

76-2320.01 Locator; training required.

Any locator acting as a contractor for an operator to perform location services shall be trained in locator standards and practices applicable to the industry. The board of directors may review locator training materials provided by operators, locators, and excavators and may make recommendations regarding best practices for locators, if deemed appropriate.

Source: Laws 2019, LB462, § 9.
Effective date September 1, 2019.

76-2320.02 Use of plastic or nonmetallic underground facilities; installation requirements.

Notwithstanding any other provision of the One-Call Notification System Act, any plastic or nonmetallic underground facilities installed underground on or after January 1, 2021, shall be installed in such a manner as to be locatable, either by mapping or by use of tracer wire, by the operator for purposes of the act.

Source: Laws 2019, LB462, § 10.
Effective date September 1, 2019.

76-2322 Excavator; notice to center.

An excavator shall serve notice of intent to excavate upon the center by submitting a locate request using a method provided by the center. The center shall inform the excavator of all operators to whom such notice will be transmitted and shall promptly transmit such notice to every operator having an underground facility in the area of intended excavation. The notice shall be transmitted to operators and excavators as a ticket. The center shall assign an

identification number to each notice received, which number shall be evidenced on the ticket.

Source: Laws 1994, LB 421, § 22; Laws 2014, LB736, § 1; Laws 2019, LB462, § 12.

Effective date September 1, 2019.

76-2323 Underground facilities; mark or identify.

(1) Upon receipt of the information contained in the notice pursuant to section 76-2321, an operator shall advise the excavator of the approximate location of underground facilities in the area of the proposed excavation by marking or identifying the location of the underground facilities with stakes, flags, paint, or any other clearly identifiable marking or reference point and shall indicate if the underground facilities are subject to section 76-2331. The location of the underground facility given by the operator shall be within a strip of land eighteen inches on either side of the marking or identification plus one-half of the width of the underground facility. If in the opinion of the operator the precise location of a facility cannot be determined and marked as required, the operator shall provide all pertinent information and field locating assistance to the excavator at a mutually agreed to time. The location shall be marked or identified using color standards prescribed by the center. The operator shall respond no later than two business days after receipt of the information in the notice or at a time mutually agreed to by the parties.

(2) The marking or identification shall be done in a manner that will last for a minimum of five business days on any nonpermanent surface and a minimum of ten business days on any permanent surface. If the excavation will continue for longer than five business days, the operator shall remark or reidentify the location of the underground facility upon the request of the excavator. The request for remarking or reidentification shall be made through the center.

(3) An operator who determines that such operator does not have any underground facility located in the area of the proposed excavation shall notify the center of the determination prior to the date of commencement of the excavation, or prior to two full business days after transmittal of the ticket, whichever occurs sooner. All ticket responses made under this subsection shall be transmitted to the operator and excavator by the center.

Source: Laws 1994, LB 421, § 23; Laws 2014, LB930, § 3; Laws 2019, LB462, § 13.

Effective date September 1, 2019.

76-2325 Violations; civil penalty.

(1) Any person who violates section 76-2320, 76-2320.01, 76-2320.02, 76-2321, 76-2322, 76-2323, 76-2326, 76-2330, or 76-2331 shall be subject to a civil penalty as follows:

(a) For a violation by an excavator or an operator related to a gas or hazardous liquid underground pipeline facility or a fiber optic telecommunications facility, an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand dollars; and

(b) For a violation by an excavator or an operator related to any other underground facility, an amount not to exceed five thousand dollars for each day the violation persists, up to a maximum of fifty thousand dollars.

(2) An action to recover a civil penalty shall be brought by the Attorney General or a prosecuting attorney on behalf of the State of Nebraska in any court of competent jurisdiction of this state. The trial shall be before the court, which shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require in determining the amount of penalty imposed. All penalties shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1994, LB 421, § 25; Laws 2014, LB930, § 5; Laws 2017, LB263, § 97; Laws 2019, LB462, § 14.
Effective date September 1, 2019.

76-2325.02 Attorney General; annual report; contents.

The Attorney General shall make an annual report to the Legislature, the State Fire Marshal, and the board of directors by each March 15 on the number of complaints filed and the number of such complaints prosecuted under section 76-2325 during the previous calendar year. The report to the Legislature shall be made electronically.

Source: Laws 2019, LB462, § 15.
Effective date September 1, 2019.

76-2332 State Fire Marshal; powers.

The State Fire Marshal may, by rule and regulation, define occurrences relating to damage of an underground facility that creates an emergency condition that requires an excavator to immediately notify an operator or a locator, if applicable, and the center regarding the location and extent of damage to an underground facility.

Source: Laws 2019, LB462, § 16.
Effective date September 1, 2019.

ARTICLE 26

UNIFORM ENVIRONMENTAL COVENANTS ACT

Section

76-2602. Terms, defined.

76-2608. Recording.

76-2602 Terms, defined.

In the Uniform Environmental Covenants Act:

(1) Activity and use limitations means restrictions or obligations created under the act with respect to real property.

(2) Agency means the Department of Environment and Energy or any other Nebraska or federal agency that determines or approves the environmental response project pursuant to which the environmental covenant is created.

(3) Common interest community means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums, or for maintenance, or improvement of other real property described in a recorded covenant that creates the common interest community.

(4) Environmental covenant means a servitude arising under an environmental response project that imposes activity and use limitations.

(5) Environmental response project means a plan or work performed for environmental remediation of real property and conducted:

(A) Under a federal or state program governing environmental remediation of real property, including the Petroleum Release Remedial Action Act;

(B) Incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of an agency; or

(C) Under a state voluntary cleanup program authorized by the Remedial Action Plan Monitoring Act.

(6) Holder means the grantee of an environmental covenant as specified in subsection (a) of section 76-2603.

(7) Person means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(8) Record, used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(9) State means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Source: Laws 2005, LB 298, § 3; Laws 2019, LB302, § 94.
Operative date July 1, 2019.

Cross References

Petroleum Release Remedial Action Act, see section 66-1501.

Remedial Action Plan Monitoring Act, see section 81-15,181.

76-2608 Recording.

(a) An environmental covenant, any amendment or termination of the covenant under section 76-2609 or 76-2610, and any subordination agreement must be recorded in every county in which any portion of the real property subject to the covenant is located. For purposes of indexing, a holder shall be treated as a grantee.

(b) Except as otherwise provided in subsection (c) of section 76-2609, an environmental covenant is subject to the laws of this state governing recording and priority of interests in real property.

(c) A copy of a document recorded under subsection (a) of this section shall also be provided to the Department of Environment and Energy if the department has not signed the covenant.

(d) The department shall make available to the public a listing of all documents under subsection (a) of this section or documents under subsection (c) of this section which have been provided to the department.

Source: Laws 2005, LB 298, § 9; Laws 2019, LB302, § 95.
Operative date July 1, 2019.

ARTICLE 32

NEBRASKA APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT

Section

- 76-3202. Terms, defined.
76-3203. Registration; application; contents; form; surety bond; qualifications; renewal.
76-3203.01. Appraiser panel; removal; notice; reconsideration of removal.
76-3204. Act; exemptions.
76-3216. Prohibited acts; board; violations; enforcement actions; fine; considerations; report required.

76-3202 Terms, defined.

For purposes of the Nebraska Appraisal Management Company Registration Act:

(1) Affiliate means any person that controls, is controlled by, or is under common control with, another person;

(2) AMC appraiser means a person who holds a valid credential or equivalent to appraise real estate and real property under the laws of this state or another jurisdiction, and holds the status of active on the National Registry of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council in one or more jurisdictions;

(3) AMC final rule means, collectively, the rules adopted by the federal agencies as required in section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as such rules existed on January 1, 2019;

(4) AMC National Registry means the registry of appraisal management companies that hold a registration as an appraisal management company issued by the board or the equivalent issued in another jurisdiction, and federally regulated appraisal management companies, maintained by the Appraisal Subcommittee;

(5) Appraisal has the same meaning as in section 76-2204;

(6) Appraisal management company means a person that:

(a) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(b) Provides appraisal management services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(c) Within a twelve-month period, oversees an appraiser panel of:

(i) More than fifteen AMC appraisers who each hold a credential in this state;

or

(ii) Twenty-five or more AMC appraisers who each hold a credential or equivalent in two or more jurisdictions;

(7) Appraisal management services means one or more of the following:

(a) To recruit, select, and retain AMC appraisers;

(b) To contract with AMC appraisers to perform assignments;

(c) To manage the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and reports, submitting completed reports to creditors and secondary mortgage market participants, collecting fees from creditors and secondary mortgage market participants for services provided, and paying AMC appraisers for valuation services performed; or

(d) To review and verify the work of AMC appraisers;

(8) Appraisal practice has the same meaning as in section 76-2205.01;

(9) Appraisal Subcommittee means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;

(10) Appraiser panel means a network, list, or roster of AMC appraisers approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company;

(11) Assignment has the same meaning as in section 76-2207.01;

(12) Board has the same meaning as in section 76-2207.18;

(13) Consumer credit means credit offered or extended to a consumer primarily for personal, family, or household purposes;

(14) Contact person means a person designated by the appraisal management company as the main contact for all communication between the appraisal management company and the board;

(15) Covered transaction means any consumer credit transaction secured by the consumer's principal dwelling;

(16) Credential has the same meaning as in section 76-2207.25;

(17) Creditor means a person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a downpayment, and to whom the obligation is initially payable, either on the face of the note or contract or by agreement when there is no note or contract. A person regularly extends consumer credit if:

(a) The person extended credit, other than credit subject to the requirements of 12 C.F.R. 1026.32, as such regulation existed on January 1, 2019, more than five times for transactions secured by a dwelling in the preceding calendar year, or in the current calendar year if a person did not meet these standards in the preceding calendar year; and

(b) In any twelve-month period, the person originates more than one credit extension that is subject to the requirements of 12 C.F.R. 1026.32, as such regulation existed on January 1, 2019, or one or more such credit extensions through a mortgage broker;

(18) Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property, including an individual condominium unit, cooperative unit, mobile home, or trailer if used as a residence. With respect to a dwelling:

(a) A consumer may have only one principal dwelling at a time;

(b) A vacation or secondary dwelling is not a principal dwelling; and

(c) A dwelling bought or built by a consumer with the intention of that dwelling becoming the consumer's principal dwelling within one year, or upon completion of construction, is considered to be the consumer's principal dwelling for the purpose of the Nebraska Appraisal Management Company Registration Act;

(19) Federally regulated appraisal management company means an appraisal management company that is:

(a) Owned and controlled by an insured depository institution as defined in 12 U.S.C. 1813, as such section existed on January 1, 2019; and

(b) Regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the successor of any such agencies;

(20) Federal agencies means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration, the Consumer Financial Protection Bureau, the Federal Housing Finance Agency, or the successor of any of such agencies;

(21) Financial Institutions Reform, Recovery, and Enforcement Act of 1989 has the same meaning as in section 76-2207.30;

(22) Independent contractor means a person established as an independent contractor by the appraisal management company for the purpose of federal income taxation;

(23) Jurisdiction has the same meaning as in section 76-2207.32;

(24) Person has the same meaning as in section 76-2213.02;

(25) Real estate has the same meaning as in section 76-2214;

(26) Real property has the same meaning as in section 76-2214.01;

(27) Real property appraisal activity has the same meaning as in section 76-2215;

(28) Registration means a registration as an appraisal management company in this state issued by the board if all requirements for approval as an appraisal management company required in the Nebraska Appraisal Management Company Registration Act have been met by a person making application to the board, including the submission of all required fees, and the board has granted all rights to the person to operate as an appraisal management company in this state as allowed under the act;

(29) Report has the same meaning as in section 76-2216.02;

(30) Secondary mortgage market participant means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities, and only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security;

(31) Uniform Standards of Professional Appraisal Practice has the same meaning as in section 76-2218.02; and

(32) Valuation services has the same meaning as in section 76-2219.01.

Source: Laws 2011, LB410, § 2; Laws 2015, LB139, § 72; Laws 2018, LB17, § 3; Laws 2019, LB77, § 11.
Effective date September 1, 2019.

76-3203 Registration; application; contents; form; surety bond; qualifications; renewal.

(1) An application for issuance of a registration shall be made in writing to the board on forms approved by the board, which includes, but is not limited to, all information required by the board necessary to administer and enforce the Nebraska Appraisal Management Company Registration Act, and the name of the contact person for the appraisal management company.

(2) An applicant for issuance of a registration shall furnish to the board, at the time of making application, a surety bond in the amount of twenty-five thousand dollars. The surety bond required under this subsection shall be issued by a bonding company or insurance company authorized to do business in this state, and a copy of the bond shall be filed with the board. The bond shall be in favor of the state for the benefit of any person who is damaged by any violation of the Nebraska Appraisal Management Company Registration Act. The bond shall also be in favor of any person damaged by such a violation. Any person claiming against the bond for a violation of the act may maintain an action at law against the appraisal management company and against the surety. The aggregate liability of the surety to all persons damaged by a violation of the act by an appraisal management company shall not exceed the amount of the bond. The bond shall be maintained until one year after the date that the appraisal management company ceases operation in this state.

(3) A registration shall be issued only to persons who:

(a) Meet the requirements for issuance of a registration;

(b) Have a good reputation for honesty, trustworthiness, integrity, and competence to perform appraisal management services in such manner as to safeguard the interest of the public as determined by the board; and

(c) Have not had a final civil or criminal judgment entered against them for fraud, dishonesty, breach of trust, or misrepresentation involving real estate, financial services, or appraisal management services within a five-year period immediately preceding the date of application.

(4) A registration shall be valid for a period of twelve months beginning on the date which the registration was issued or renewed unless canceled, revoked, or surrendered.

(5) All information related to an appraisal management company's registration shall be reported to the Appraisal Subcommittee as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC final rule, and any policy or rule established by the Appraisal Subcommittee.

(6) The renewal of a registration includes the same requirements found in subsections (1) through (5) of this section. An application for renewal of a registration shall be furnished to the board no later than sixty days prior to the date of expiration of the registration.

(7) For the purpose of subdivision (6) of section 76-3202, the twelve-month period for renewal of a registration shall consist of the twelve months pursuant to subsection (4) of this section.

Source: Laws 2011, LB410, § 3; Laws 2018, LB17, § 4; Laws 2019, LB77, § 12.

Effective date September 1, 2019.

76-3203.01 Appraiser panel; removal; notice; reconsideration of removal.

(1) Only AMC appraisers considered to be in good standing in all jurisdictions in which an active credential is held shall be included on an appraisal management company's appraiser panel.

(2) An appraisal management company shall remove any AMC appraiser from its appraiser panel within thirty days after receiving notice that the AMC appraiser:

(a) Is no longer considered to be in good standing in one or more jurisdictions in which he or she holds an active credential or equivalent;

(b) The AMC appraiser's credential or equivalent has been refused, denied, canceled, or revoked; or

(c) The AMC appraiser has surrendered his or her credential or equivalent in lieu of revocation.

(3) Pursuant to subdivision (6)(c) of section 76-3202, an appraiser panel shall include each AMC appraiser as of the earliest date on which such person was accepted by the appraisal management company:

(a) For consideration for future assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions; or

(b) For engagement to perform one or more appraisals on behalf of a creditor for a covered transaction or for a secondary mortgage market participant in connection with covered transactions.

(4) Any AMC appraiser included on an appraisal management company's appraiser panel pursuant to subsection (3) of this section shall remain on such appraiser panel until the date on which the appraisal management company:

(a) Sends written notice to the AMC appraiser removing him or her from the appraiser panel. Such written notice shall include an explanation of the action taken by the appraisal management company;

(b) Receives written notice from the AMC appraiser requesting that he or she be removed from the appraiser panel. Such written notice shall include an explanation of the action requested by the AMC appraiser; or

(c) Receives written notice on behalf of the AMC appraiser of the death or incapacity of the AMC appraiser. Such written notice shall include an explanation on behalf of the AMC appraiser.

(5) Upon receipt of notice that he or she has been removed from the appraisal management company's appraiser panel, an AMC appraiser shall have thirty days to provide a response to the appraisal management company that removed the AMC appraiser from its appraiser panel. Upon receipt of the AMC appraiser's response, the appraisal management company shall have thirty days to reconsider the removal and provide a written response to the AMC appraiser.

(6) If an AMC appraiser is removed from an appraisal management company's appraiser panel pursuant to subsection (4) of this section, nothing shall prevent the appraisal management company at any time during the twelve months after removal from the appraiser panel from considering such person for future assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions, or for engagement to perform one or more appraisals on behalf of a creditor for a covered transaction or for a secondary mortgage market participant in connection with

covered transactions. If such consideration or engagement takes place, the removal shall be deemed not to have occurred and such person shall be deemed to have been included on the appraiser panel without interruption.

(7) Any AMC appraiser included on an appraisal management company's appraiser panel engaged in appraisal practice or real property appraisal activity as a result of an assignment provided by an appraisal management company shall be free from inappropriate influence and coercion as required by the appraisal independence standards established under section 129E of the federal Truth in Lending Act, as such section existed on January 1, 2018, including the requirements for payment of a reasonable and customary fee to AMC appraisers when the appraisal management company is engaged in providing appraisal management services.

(8) An appraisal management company shall select an AMC appraiser from its appraiser panel for an assignment who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the assignment for the particular market and property type.

Source: Laws 2018, LB17, § 5; Laws 2019, LB77, § 13.

Effective date September 1, 2019.

76-3204 Act; exemptions.

The Nebraska Appraisal Management Company Registration Act does not apply to:

(1) A department or division of a person that provides appraisal management services only to itself; or

(2) A person that provides appraisal management services but does not meet the requirement established by subdivision (6)(c) of section 76-3202.

Source: Laws 2011, LB410, § 4; Laws 2015, LB139, § 73; Laws 2018, LB17, § 7; Laws 2019, LB77, § 14.

Effective date September 1, 2019.

76-3216 Prohibited acts; board; violations; enforcement actions; fine; considerations; report required.

(1) It is unlawful for a person to directly or indirectly engage in or attempt to engage in business as an appraisal management company or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration or by meeting the requirements as a federally regulated appraisal management company.

(2) Except as provided in section 76-3204, any person who, directly or indirectly for another, offers, attempts, or agrees to perform all actions described in subdivision (6) of section 76-3202 or any action described in subdivision (7) of such section, shall be deemed an appraisal management company within the meaning of the Nebraska Appraisal Management Company Registration Act, and such action shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action arising out of the act.

(3) The board may issue a cease and desist order against any person who violates this section by performing any action described in subdivision (6) or (7) of section 76-3202 without the appropriate registration. Such order shall be final ten days after issuance unless such person requests a hearing pursuant to

section 76-3217. The board may, through the Attorney General, obtain an order from the district court for the enforcement of the cease and desist order.

(4) To the extent permitted by any applicable federal legislation or regulation, the board may censure an appraisal management company, conditionally or unconditionally suspend or revoke its registration, or levy fines or impose civil penalties not to exceed five thousand dollars for a first offense and not to exceed ten thousand dollars for a second or subsequent offense, if the board determines that an appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following:

- (a) A material violation of the act;
- (b) A violation of any rule or regulation adopted and promulgated by the board; or
- (c) Procurement of a registration for itself or any other person by fraud, misrepresentation, or deceit.

(5) In order to promote voluntary compliance, encourage appraisal management companies to correct errors promptly, and ensure a fair and consistent approach to enforcement, the board shall endeavor to impose fines or civil penalties that are reasonable in light of the nature, extent, and severity of the violation. The board shall also take action against an appraisal management company's registration only after less severe sanctions have proven insufficient to ensure behavior consistent with the Nebraska Appraisal Management Company Registration Act. When deciding whether to impose a sanction permitted by subsection (4) of this section, determining the sanction that is most appropriate in a specific instance, or making any other discretionary decision regarding the enforcement of the act, the board shall consider whether an appraisal management company:

- (a) Has an effective program reasonably designed to ensure compliance with the act;
- (b) Has taken prompt and appropriate steps to correct and prevent the recurrence of any detected violations; and
- (c) Has independently reported to the board any significant violations or potential violations of the act prior to an imminent threat of disclosure or investigation and within a reasonably prompt time after becoming aware of the occurrence of such violations.

(6) Any violation of appraisal-related laws or rules and regulations, and disciplinary action taken against an appraisal management company, shall be reported to the Appraisal Subcommittee as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC final rule, and any policy or rule established by the Appraisal Subcommittee.

Source: Laws 2011, LB410, § 16; Laws 2018, LB17, § 17; Laws 2019, LB77, § 15.

Effective date September 1, 2019.

ARTICLE 35

RADON RESISTANT NEW CONSTRUCTION ACT

Section

- 76-3501. Act, how cited.
- 76-3502. Legislative findings.
- 76-3503. Terms, defined.

Section

- 76-3504. Radon resistant new construction; minimum standards.
- 76-3505. New construction not required to use radon resistant new construction; when.
- 76-3506. Conversion of passive radon mitigation system to active radon mitigation system authorized.
- 76-3507. Department; duties.

76-3501 Act, how cited.

Sections 76-3501 to 76-3507 shall be known and may be cited as the Radon Resistant New Construction Act.

Source: Laws 2017, LB9, § 1; Laws 2019, LB130, § 4.
Effective date September 1, 2019.

76-3502 Legislative findings.

The Legislature finds that:

(1) Radon is a radioactive element that is part of the radioactive decay chain of naturally occurring uranium in soil;

(2) Radon is the leading cause of lung cancer among nonsmokers and is the number one risk in homes according to the Harvard Center for Risk Analysis at the Harvard T.H. Chan School of Public Health;

(3) The World Health Organization Handbook on Indoor Radon includes key messages which state:

(a) “There is no known threshold concentration below which radon exposure presents no risk.”; and

(b) “The majority of radon-induced lung cancers are caused by low and moderate radon concentrations rather than by high radon concentrations, because in general less people are exposed to high indoor radon concentrations.”;

(4) The Surgeon General of the United States urged Americans to test their homes to find out how much radon they might be breathing;

(5) The United States Environmental Protection Agency estimates that more than twenty thousand Americans die of radon-related lung cancer each year;

(6) The United States Environmental Protection Agency has identified radon levels in Nebraska as the third highest in the United States because of the high concentration of uranium in the soil; and

(7) In 2018, the Radon Resistant New Construction Task Force recommended minimum standards for radon resistant new construction to the Governor, the Health and Human Services Committee of the Legislature, and the Urban Affairs Committee of the Legislature.

Source: Laws 2017, LB9, § 2; Laws 2019, LB130, § 5.
Effective date September 1, 2019.

76-3503 Terms, defined.

For purposes of the Radon Resistant New Construction Act:

(1) Active radon mitigation system means a family of radon mitigation systems involving mechanically driven soil depressurization, including subslab depressurization, drain tile depressurization, block wall depressurization, and

submembrane depressurization. Active radon mitigation system is also known as active soil depressurization;

(2) Building contractor means any individual, corporation, partnership, limited liability company, or other business entity that engages in new construction;

(3) Department means the Department of Health and Human Services;

(4) New construction means any original construction of a single-family home or a multifamily dwelling, including apartments, group homes, condominiums, and townhouses, or any original construction of a building used for commercial, industrial, educational, or medical purposes. New construction does not include additions to existing structures or remodeling of existing structures;

(5) Passive radon mitigation system means a pipe installed in new construction that relies solely on the convective flow of air upward for soil gas depressurization and may consist of multiple pipes routed through conditioned space from below the foundation to above the roof;

(6) Radon mitigation specialist means an individual who is licensed by the department as a radon mitigation specialist in accordance with the Radiation Control Act; and

(7) Radon resistant new construction means construction that utilizes design elements and construction techniques that passively resist radon entry and prepare a building for an active postconstruction mitigation system.

Source: Laws 2017, LB9, § 3; Laws 2019, LB130, § 6.

Effective date September 1, 2019.

Cross References

Radiation Control Act, see section 71-3519.

76-3504 Radon resistant new construction; minimum standards.

Except as provided in section 76-3505, new construction built after September 1, 2019, in the State of Nebraska that is intended to be regularly occupied by people shall be built using radon resistant new construction. Such construction shall meet the following minimum standards:

(1) Sumps:

(a) A sump pit open to soil or serving as the termination point for subslab or exterior drain tile loops shall be covered with a gasketed or otherwise sealed lid;

(b) A sump used as the suction point in a subslab depressurization system shall have a lid designed to accommodate the vent pipe; and

(c) A sump used as a floor drain shall have a lid equipped with a trapped inlet;

(2) A passive subslab depressurization system shall be installed during construction in basement or slab-on-grade buildings, including the following components:

(a) Vent pipe:

(i)(A) A minimum three-inch diameter acrylonitrile butadiene styrene (ABS), polyvinyl chloride (PVC), or equivalent gas-tight pipe shall be embedded vertically into the subslab permeable material before the slab is cast. A “T” fitting or

equivalent method shall be used to ensure that the pipe opening remains within the subslab permeable material; or

(B) A minimum three-inch diameter ABS, PVC, or equivalent gas-tight pipe shall be inserted directly into an interior perimeter drain tile loop or through a sealed sump cover where the sump is exposed to the subslab or connected to it through a drainage system;

(ii) The pipe shall be extended up through the building floors and terminate at least twelve inches above the surface of the roof in a location at least ten feet away from any window or other opening into the conditioned spaces of the building that is less than two feet below the exhaust point and ten feet from any window or other opening in adjoining or adjacent buildings; and

(iii) In buildings where interior footings or other barriers separate the subslab gas-permeable material, each area shall be fitted with an individual vent pipe. Vent pipes shall connect to a single vent that terminates above the roof or each individual vent pipe shall terminate separately above the roof. All exposed and visible interior radon vent pipes shall be identified with at least one label on each floor and in accessible attics. Such label shall read: Radon Reduction System; and

(3) Power source: In order to provide for future installation of an active radon mitigation system, an electrical circuit terminated in an approved box shall be installed during construction in the attic or other anticipated location of vent pipe fans.

Source: Laws 2017, LB9, § 4; Laws 2019, LB130, § 7.

Effective date September 1, 2019.

76-3505 New construction not required to use radon resistant new construction; when.

New construction after September 1, 2019, shall not be required to use radon resistant new construction if (1) the construction project utilizes the design of an architect or professional engineer licensed under the Engineers and Architects Regulation Act, (2) the construction project is located in a county in which the average radon concentration is less than two and seven-tenths picocuries per liter of air as determined by the department pursuant to section 76-3507, or (3) other than for any residential dwelling unit, a local building official makes a determination, after a review of relevant guidelines for the intended use of the structure and property conditions, that radon resistant new construction is not necessary.

Source: Laws 2017, LB9, § 5; Laws 2019, LB130, § 8.

Effective date September 1, 2019.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

76-3506 Conversion of passive radon mitigation system to active radon mitigation system authorized.

A building contractor or a subcontractor of a building contractor may convert a passive radon mitigation system to an active radon mitigation system in accordance with rules and regulations adopted and promulgated by the department under the Radiation Control Act for radon mitigation, but the contractor or subcontractor is not required to be a radon mitigation specialist

to convert such system. A radon mitigation specialist shall conduct any post-installation testing of such system.

Source: Laws 2019, LB130, § 9.
Effective date September 1, 2019.

Cross References

Radiation Control Act, see section 71-3519.

76-3507 Department; duties.

On or before January 1, 2020, and on or before January 1 of each year thereafter, the department shall compile the results of the radon measurements performed in the past five years that were reported to the department pursuant to the rules and regulations adopted and promulgated by the department regarding the control of radiation and report such compilation electronically to the Clerk of the Legislature. Such report shall determine the average radon concentration in Nebraska by county and identify each county in which such average concentration exceeds two and seven-tenths picocuries per liter of air.

Source: Laws 2019, LB130, § 10.
Effective date September 1, 2019.

CHAPTER 77

REVENUE AND TAXATION

Article.

1. Definitions. 77-103 to 77-118.
2. Property Taxable, Exemptions, Liens. 77-202.03.
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35. Homestead Exemption. 77-3506 to 77-3519.
41. Employment and Investment Growth Act. 77-4111.
46. Revenue Forecasting. 77-4602.
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ARTICLE 1

DEFINITIONS

Section

- 77-103. Real property, defined.
- 77-117. Improvements on leased land, defined.
- 77-118. Nebraska adjusted basis, defined; trade in of property; how treated.

77-103 Real property, defined.

Real property shall mean:

- (1) All land;
- (2) All buildings, improvements, and fixtures, except trade fixtures;

(3) All electric generation, transmission, distribution, and street lighting structures or facilities owned by a political subdivision of the state;

(4) Mobile homes, cabin trailers, and similar property, not registered for highway use, which are used, or designed to be used, for residential, office, commercial, agricultural, or other similar purposes, but not including mobile homes, cabin trailers, and similar property when unoccupied and held for sale by persons engaged in the business of selling such property when such property is at the location of the business;

(5) Mines, minerals, quarries, mineral springs and wells, oil and gas wells, overriding royalty interests, and production payments with respect to oil or gas leases; and

(6) All privileges pertaining to real property described in subdivisions (1) through (5) of this section.

Source: Laws 1903, c. 73, § 1, p. 389; R.S.1913, § 6289; Laws 1921, c. 133, art. I, § 2, p. 545; C.S.1922, § 5809; C.S.1929, § 77-102; R.S.1943, § 77-103; Laws 1951, c. 257, § 1, p. 881; Laws 1961, c. 372, § 1, p. 1147; Laws 1969, c. 638, § 1, p. 2551; Laws 1989, Spec. Sess., LB 1, § 1; Laws 1991, LB 829, § 5; Laws 1992, LB 1063, § 44; Laws 1992, Second Spec. Sess., LB 1, § 43; Laws 1997, LB 270, § 3; Laws 2007, LB334, § 13; Laws 2019, LB218, § 1.

Operative date July 1, 2019.

77-117 Improvements on leased land, defined.

Improvements on leased land shall mean any item of real property defined in subdivisions (2) through (5) of section 77-103 which is located on land owned by a person other than the owner of the item.

Source: Laws 1992, LB 1063, § 45; Laws 1992, Second Spec. Sess., LB 1, § 44; Laws 1997, LB 270, § 5; Laws 2019, LB218, § 2.

Operative date July 1, 2019.

77-118 Nebraska adjusted basis, defined; trade in of property; how treated.

(1) Nebraska adjusted basis shall mean the adjusted basis of property as determined under the Internal Revenue Code increased by the total amount allowed under the code for depreciation or amortization or pursuant to an election to expense depreciable property under section 179 of the code.

(2) For purchases of depreciable personal property occurring on or after January 1, 2018, if similar personal property is traded in as part of the payment for the newly acquired property, the Nebraska adjusted basis shall be the remaining federal tax basis of the property traded in, plus the additional amount that was paid by the taxpayer for the newly acquired property.

Source: Laws 1992, LB 1063, § 47; Laws 1992, Second Spec. Sess., LB 1, § 46; Laws 1995, LB 574, § 63; Laws 2018, LB1089, § 1; Laws 2019, LB663, § 1.

Effective date September 1, 2019.

ARTICLE 2

PROPERTY TAXABLE, EXEMPTIONS, LIENS

Section

77-202.03. Property taxable; exempt status; period of exemption; change of status; late filing authorized; when; penalty; lien; new applications; reviewed; hearing; procedure; list.

77-202.03 Property taxable; exempt status; period of exemption; change of status; late filing authorized; when; penalty; lien; new applications; reviewed; hearing; procedure; list.

(1) A properly granted exemption of real or tangible personal property, except real property used for cemetery purposes, provided for in subdivisions (1)(c) and (d) of section 77-202 shall continue for a period of four years if the statement of reaffirmation of exemption required by subsection (2) of this section is filed when due. The four-year period shall begin with years evenly divisible by four.

(2) In each intervening year occurring between application years, the organization or society which filed the granted exemption application for the real or tangible personal property, except real property used for cemetery purposes, shall file a statement of reaffirmation of exemption with the county assessor on or before December 31 of the year preceding the year for which the exemption is sought, on forms prescribed by the Tax Commissioner, certifying that the ownership and use of the exempted property has not changed during the year. Any organization or society which misses the December 31 deadline for filing the statement of reaffirmation of exemption may file the statement of reaffirmation of exemption by June 30. Such filing shall maintain the tax-exempt status of the property without further action by the county and regardless of any previous action by the county board of equalization to deny the exemption due to late filing of the statement of reaffirmation of exemption. Upon any such late filing, the county assessor shall assess a penalty against the property of ten percent of the tax that would have been assessed had the statement of reaffirmation of exemption not been filed or one hundred dollars, whichever is less, for each calendar month or fraction thereof for which the filing of the statement of reaffirmation of exemption is late. The penalty shall be collected and distributed in the same manner as a tax on the property and interest shall be assessed at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax would have been delinquent until paid. The penalty shall also become a lien in the same manner as a tax pursuant to section 77-203.

(3)(a) If any organization or society seeks a tax exemption for any real or tangible personal property acquired on or after January 1 of any year or converted to exempt use on or after January 1 of any year, the organization or society shall make application for exemption on or before July 1 of that year as provided in subsection (1) of section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.05, except that the exempt use shall be determined as of the date of application and the review by the county board of equalization shall be completed by August 15.

(b) If an organization as described in subdivision (1)(c) or (d) of section 77-202 purchases, between July 1 and the levy date, property that has been granted tax exemption and the property continues to be qualified for a property

tax exemption, the purchaser shall on or before November 15 make application for exemption as provided in section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.05, and the review by the county board of equalization shall be completed by December 15.

(4) In any year, the county assessor or the county board of equalization may cause a review of any exemption to determine whether the exemption is proper. Such a review may be taken even if the ownership or use of the property has not changed from the date of the allowance of the exemption. If it is determined that a change in an exemption is warranted, the procedure for hearing set out in section 77-202.02 shall be followed, except that the published notice shall state that the list provided in the county assessor's office only includes those properties being reviewed. If an exemption is denied, the county board of equalization shall place the property on the tax rolls retroactive to January 1 of that year if on the date of the decision of the county board of equalization the property no longer qualifies for an exemption.

The county board of equalization shall give notice of the assessed value of the real property in the same manner as outlined in section 77-1507, and the procedures for filing a protest shall be the same as those in section 77-1502.

When personal property which was exempt becomes taxable because of lost exemption status, the owner or his or her agent has thirty days after the date of denial to file a personal property return with the county assessor. Upon the expiration of the thirty days for filing a personal property return pursuant to this subsection, the county assessor shall proceed to list and value the personal property and apply the penalty pursuant to section 77-1233.04.

(5) During the month of September of each year, the county board of equalization shall cause to be published in a paper of general circulation in the county a list of all real estate in the county exempt from taxation for that year pursuant to subdivisions (1)(c) and (d) of section 77-202. Such list shall be grouped into categories as provided by the Property Tax Administrator. An electronic copy of the list of real property exemptions and a copy of the proof of publication shall be forwarded to the Property Tax Administrator on or before November 1 of each year.

Source: Laws 1963, c. 441, § 3, p. 1460; Laws 1965, c. 470, § 1, p. 1517; Laws 1969, c. 641, § 1, p. 2554; Laws 1973, LB 114, § 1; Laws 1973, LB 530, § 1; Laws 1976, LB 786, § 1; Laws 1979, LB 17, § 8; Laws 1980, LB 688, § 3; Laws 1981, LB 179, § 3; Laws 1983, LB 494, § 1; Laws 1986, LB 817, § 2; Laws 1989, LB 133, § 1; Laws 1990, LB 919, § 1; Laws 1993, LB 734, § 42; Laws 1995, LB 490, § 30; Laws 1996, LB 1122, § 2; Laws 1997, LB 270, § 14; Laws 1997, LB 271, § 42; Laws 1998, LB 1104, § 6; Laws 1999, LB 194, § 11; Laws 1999, LB 271, § 6; Laws 2000, LB 968, § 28; Laws 2004, LB 973, § 7; Laws 2007, LB166, § 4; Laws 2007, LB334, § 17; Laws 2010, LB708, § 1; Laws 2019, LB512, § 10.

Operative date May 31, 2019.

ARTICLE 3

DEPARTMENT OF REVENUE

Section

77-377.02. Delinquent tax collection; collection agency; fees; remit funds.

77-377.02 Delinquent tax collection; collection agency; fees; remit funds.

(1) Fees for services, reimbursements, or other remuneration to such collection agency shall be based on the amount of tax, penalty, and interest actually collected and shall not be subject to the requirements of section 73-203 or 73-204. Each contract entered into between the Tax Commissioner and the collection agency shall provide for the payment of fees for such services, reimbursements, or other remuneration not in excess of fifty percent of the total amount of delinquent taxes, penalties, and interest actually collected.

(2) All funds collected, less the fees for collection services as provided in the contract, shall be remitted to the Tax Commissioner within forty-five days from the date of collection from a taxpayer. Forms to be used for such remittances shall be prescribed by the Tax Commissioner.

Source: Laws 1981, LB 170, § 2; Laws 2019, LB512, § 11.
Operative date May 31, 2019.

ARTICLE 7**PROPERTY ASSESSMENT DIVISION**

Section

77-702. Property Tax Administrator; qualifications; duties.

77-702 Property Tax Administrator; qualifications; duties.

(1) The Governor shall appoint a Property Tax Administrator with the approval of a majority of the members of the Legislature. The Property Tax Administrator shall have experience and training in the fields of taxation and property appraisal and shall meet all the qualifications required for members of the Tax Equalization and Review Commission under subsections (1) and (2) of section 77-5004.

(2) In addition to any duties, powers, or responsibilities otherwise conferred upon the Property Tax Administrator, he or she shall administer and enforce all laws related to the state supervision of local property tax administration and the central assessment of property subject to property taxation. The Property Tax Administrator shall also advise county assessors regarding the administration and assessment of taxable property within the state and measure assessment performance in order to determine the accuracy and uniformity of assessments.

Source: Laws 1999, LB 36, § 22; Laws 2001, LB 465, § 1; Laws 2007, LB334, § 44; Laws 2011, LB210, § 4; Laws 2011, LB384, § 5; Laws 2019, LB512, § 12.
Operative date May 31, 2019.

ARTICLE 12**PERSONAL PROPERTY, WHERE AND HOW LISTED**

Section

77-1239. Reimbursement for tax revenue lost because of exemption; calculation.

77-1239 Reimbursement for tax revenue lost because of exemption; calculation.

(1) Reimbursement to taxing subdivisions for tax revenue that will be lost because of the personal property tax exemptions allowed in subsection (1) of

section 77-1238 shall be as provided in this subsection. The county assessor and county treasurer shall, on or before November 30 of each year, certify to the Tax Commissioner, on forms prescribed by the Tax Commissioner, the total tax revenue that will be lost to all taxing subdivisions within his or her county from taxes levied and assessed in that year because of the personal property tax exemptions allowed in subsection (1) of section 77-1238. The county assessor and county treasurer may amend the certification to show any change or correction in the total tax revenue that will be lost until May 30 of the next succeeding year. The Tax Commissioner shall, on or before January 1 next following the certification, notify the Director of Administrative Services of the amount so certified to be reimbursed by the state. Reimbursement of the tax revenue lost shall be made to each county according to the certification and shall be distributed in two approximately equal installments on the last business day of February and the last business day of June. The State Treasurer shall, on the business day preceding the last business day of February and the last business day of June, notify the Director of Administrative Services of the amount of funds available in the General Fund to pay the reimbursement. The Director of Administrative Services shall, on the last business day of February and the last business day of June, draw warrants against funds appropriated. Out of the amount received, the county treasurer shall distribute to each of the taxing subdivisions within his or her county the full tax revenue lost by each subdivision, except that one percent of such amount shall be deposited in the county general fund.

(2) Reimbursement to taxing subdivisions for tax revenue that will be lost because of the compensating exemption factor in subsection (2) of section 77-1238 shall be as provided in this subsection. The Property Tax Administrator shall establish the average tax rate that will be used for purposes of reimbursing taxing subdivisions pursuant to this subsection. The average tax rate shall be equal to the total property taxes levied in the state divided by the total taxable value of all taxable property in the state as certified pursuant to section 77-1613.01. The total valuation that will be lost to all taxing subdivisions within each county because of the compensating exemption factor in subsection (2) of section 77-1238, multiplied by the average tax rate calculated pursuant to this subsection, shall be the tax revenue to be reimbursed to the taxing subdivisions by the state. Reimbursement of the tax revenue lost for public service entities shall be made to each county according to the certification and shall be distributed among the taxing subdivisions within each county in the same proportion as all public service entity taxes levied by the taxing subdivisions. Reimbursement of the tax revenue lost for railroads shall be made to each county according to the certification and shall be distributed among the taxing subdivisions within each county in the same proportion as all railroad taxes levied by taxing subdivisions. Reimbursement of the tax revenue lost for car line companies shall be distributed in the same manner as the taxes collected pursuant to section 77-684. Reimbursement of the tax revenue lost for air carriers shall be distributed in the same manner as the taxes collected pursuant to section 77-1250.

(3) Each taxing subdivision shall, in preparing its annual or biennial budget, take into account the amounts to be received under this section.

Source: Laws 2015, LB259, § 3; Laws 2019, LB512, § 13.
Operative date May 31, 2019.

ARTICLE 13

ASSESSMENT OF PROPERTY

Section

- 77-1301. Real property; assessment date; notice of preliminary valuation; destroyed real property; adjustment.
- 77-1307. Destroyed real property; legislative findings and declarations; terms, defined.
- 77-1308. Destroyed real property; property owner; file report; form; county board of equalization; duties.
- 77-1309. Destroyed real property; county board of equalization; adjust assessed valuation; notice; protests; filing; decision; appeal.
- 77-1344. Agricultural or horticultural land; special valuation; when applicable.
- 77-1347. Agricultural or horticultural lands; special valuation; disqualification.
- 77-1363. Agricultural and horticultural land; classes and subclasses.

77-1301 Real property; assessment date; notice of preliminary valuation; destroyed real property; adjustment.

(1) All real property in this state subject to taxation shall be assessed as of January 1 at 12:01 a.m., and such assessment shall be used as a basis of taxation until the next assessment unless the property is destroyed real property as defined in section 77-1307, in which case the assessed value for the destroyed real property shall be adjusted as provided in sections 77-1307 to 77-1309.

(2) Beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall provide notice of preliminary valuations to real property owners on or before January 15 of each year. Such notice shall be (a) mailed to the taxpayer or (b) published on a web site maintained by the county assessor or by the county.

(3) The county assessor shall complete the assessment of real property on or before March 19 of each year, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall complete the assessment of real property on or before March 25 of each year.

Source: Laws 1903, c. 73, § 105, p. 422; R.S.1913, § 6420; Laws 1921, c. 125, § 1, p. 535; C.S.1922, § 5955; Laws 1925, c. 167, § 1, p. 439; C.S.1929, § 77-1601; Laws 1933, c. 130, § 1, p. 507; C.S.Supp.,1941, § 77-1601; R.S.1943, § 77-1301; Laws 1945, c. 188, § 1, p. 581; Laws 1947, c. 251, § 31, p. 823; Laws 1947, c. 255, § 1, p. 835; Laws 1953, c. 270, § 1, p. 891; Laws 1953, c. 269, § 1, p. 889; Laws 1955, c. 288, § 19, p. 913; Laws 1959, c. 355, § 20, p. 1263; Laws 1959, c. 370, § 1, p. 1301; Laws 1963, c. 450, § 1, p. 1474; Laws 1980, LB 742, § 1; Laws 1984, LB 833, § 1; Laws 1987, LB 508, § 36; Laws 1992, LB 1063, § 114; Laws 1992, Second Spec. Sess., LB 1, § 87; Laws 1997, LB 270, § 63; Laws 1999, LB 194, § 15; Laws 2004, LB 973, § 18; Laws 2011, LB384, § 6; Laws 2019, LB512, § 14.
Operative date May 31, 2019.

77-1307 Destroyed real property; legislative findings and declarations; terms, defined.

(1) The Legislature finds and declares that fires, earthquakes, floods, and tornadoes occur with enough frequency in this state that provision should be made to grant property tax relief to owners of real property adversely affected by such events.

(2) For purposes of sections 77-1307 to 77-1309:

(a) Calamity means a disastrous event, including, but not limited to, a fire, an earthquake, a flood, a tornado, or other natural event which significantly affects the assessed value of real property;

(b) Destroyed real property means real property that suffers significant property damage as a result of a calamity occurring on or after January 1, 2019, and before July 1 of the current assessment year. Destroyed real property does not include property suffering significant property damage that is caused by the owner of the property; and

(c) Significant property damage means:

(i) Damage to an improvement exceeding twenty percent of the improvement's assessed value in the current tax year as determined by the county assessor;

(ii) Damage to land exceeding twenty percent of a parcel's assessed land value in the current tax year as determined by the county assessor; or

(iii) Damage exceeding twenty percent of the property's assessed value in the current tax year as determined by the county assessor if (A) such property is located in an area that has been declared a disaster area by the Governor and (B) a housing inspector or health inspector has determined that the property is uninhabitable or unlivable.

Source: Laws 2019, LB512, § 15.

Operative date May 31, 2019.

77-1308 Destroyed real property; property owner; file report; form; county board of equalization; duties.

(1) If real property becomes destroyed real property during the current assessment year, the property owner shall file a report of the destroyed real property with the county assessor and county clerk of the county in which the property is located on or before July 15 of the current assessment year. The report of destroyed real property shall be made on a form prescribed by the Tax Commissioner.

(2) If the destroyed real property was a mobile home that was moved pursuant to section 77-3708 and required to pay an accelerated tax pursuant to section 77-1725.01, the property owner shall report the destroyed real property on or before July 15 in the same manner as other real property. The property owner may make a request for refund of the accelerated tax paid pursuant to section 77-1734.01 for any portion of value reduced by the county board of equalization pursuant to section 77-1309.

(3) The county board of equalization shall consider any report of destroyed real property received pursuant to this section, and the assessment of such property shall be made by the county board of equalization in accordance with section 77-1309. After county board of equalization action pursuant to section

77-1309, the county assessor shall correct the current year's assessment roll as provided in section 77-1613.02.

Source: Laws 2019, LB512, § 16.

Operative date May 31, 2019.

77-1309 Destroyed real property; county board of equalization; adjust assessed valuation; notice; protests; filing; decision; appeal.

(1) If the county board of equalization receives a report of destroyed real property pursuant to section 77-1308, the county board of equalization shall adjust the assessed value of the destroyed real property to its assessed value on the date it suffers significant property damage.

(2) The county board of equalization may meet on or after June 1 and on or before July 25, or on or before August 10 if the board has adopted a resolution to extend the deadline for hearing protests under section 77-1502, for the purpose of considering the assessed value of destroyed real property pursuant to this section. Any action of the county board of equalization which changes the assessed value of destroyed real property pursuant to this section shall be for the current assessment year only.

(3) The county board of equalization shall give notice of the assessed value of the destroyed real property to the record owner or agent at his or her last-known address. Protests of the assessed value proposed for destroyed real property pursuant to this section shall be filed with the county board of equalization within thirty days after the mailing of the notice. All provisions of section 77-1502 except dates for filing a protest, the period for hearing protests, and the date for mailing notice of the county board of equalization's decision are applicable to any protest filed pursuant to this section. The county board of equalization shall issue its decision on the protest within thirty days after the filing of the protest. Within seven days after the county board of equalization's final decision, the county clerk shall mail to the protester written notice of the decision. The notice shall contain a statement advising the protester that a report of the decision is available at the county clerk's or county assessor's office, whichever is appropriate.

(4) The action of the county board of equalization upon a protest filed pursuant to this section may be appealed to the Tax Equalization and Review Commission within thirty days after the board's final decision.

Source: Laws 2019, LB512, § 17.

Operative date May 31, 2019.

77-1344 Agricultural or horticultural land; special valuation; when applicable.

(1) Agricultural or horticultural land which has an actual value as defined in section 77-112 reflecting purposes or uses other than agricultural or horticultural purposes or uses shall be assessed as provided in subsection (3) of section 77-201 if the land meets the qualifications of this subsection and an application for such special valuation is filed and approved pursuant to section 77-1345. In order for the land to qualify for special valuation, all of the following criteria shall be met: (a) The land must be located outside the corporate boundaries of any sanitary and improvement district, city, or village except as provided in subsection (2) of this section; and (b) the land must be agricultural or horticultural land. If the land consists of five contiguous acres or less, the owner or

lessee of the land must also provide an Internal Revenue Service Schedule F documenting a profit or loss from farming for two out of the last three years in order for such land to qualify for special valuation.

(2) Special valuation may be applicable to agricultural or horticultural land included within the corporate boundaries of a city or village if the land is subject to a conservation or preservation easement as provided in the Conservation and Preservation Easements Act and the governing body of the city or village approves the agreement creating the easement.

(3) The eligibility of land for the special valuation provisions of this section shall be determined each year as of January 1. If the land so qualified becomes disqualified on or before December 31 of that year, it shall continue to receive the special valuation until January 1 of the year following.

(4) The special valuation placed on such land by the county assessor under this section shall be subject to equalization by the county board of equalization and the Tax Equalization and Review Commission.

Source: Laws 1974, LB 359, § 2; Laws 1983, LB 26, § 2; Laws 1985, LB 271, § 16; Laws 1989, LB 361, § 10; Laws 1991, LB 320, § 5; Laws 1996, LB 934, § 2; Laws 1996, LB 1039, § 1; Laws 1997, LB 270, § 76; Laws 1998, LB 611, § 3; Laws 2000, LB 968, § 49; Laws 2001, LB 170, § 10; Laws 2004, LB 973, § 26; Laws 2005, LB 261, § 5; Laws 2006, LB 808, § 28; Laws 2007, LB166, § 6; Laws 2009, LB166, § 10; Laws 2019, LB185, § 1.
Operative date January 1, 2020.

Cross References

Conservation and Preservation Easements Act, see section 76-2,118.

77-1347 Agricultural or horticultural lands; special valuation; disqualification.

Upon approval of an application, the county assessor shall value the land as provided in section 77-1344 until the land becomes disqualified for such valuation by:

(1) Written notification by the applicant or his or her successor in interest to the county assessor to remove such special valuation;

(2) Except as provided in subsection (2) of section 77-1344, inclusion of the land within the corporate boundaries of any sanitary and improvement district, city, or village;

(3) The land no longer qualifying as agricultural or horticultural land; or

(4) For land that consists of five contiguous acres or less, the owner or lessee of the land not being able to provide an Internal Revenue Service Schedule F documenting a profit or loss from farming for two out of the last three years.

Source: Laws 1974, LB 359, § 5; Laws 1983, LB 26, § 4; Laws 1985, LB 271, § 19; Laws 1989, LB 361, § 12; Laws 2000, LB 968, § 53; Laws 2001, LB 170, § 11; Laws 2002, LB 994, § 18; Laws 2005, LB 263, § 12; Laws 2006, LB 808, § 31; Laws 2010, LB806, § 1; Laws 2019, LB185, § 2.
Operative date January 1, 2020.

77-1363 Agricultural and horticultural land; classes and subclasses.

Agricultural land and horticultural land shall be divided into classes and subclasses of real property under section 77-103.01, including, but not limited to, irrigated cropland, dryland cropland, grassland, wasteland, nurseries, feedlots, and orchards, so that the categories reflect uses appropriate for the valuation of such land according to law. Classes shall be inventoried by subclasses of real property based on soil classification standards developed by the Natural Resources Conservation Service of the United States Department of Agriculture as converted into land capability groups by the Property Tax Administrator. Land capability groups shall be Natural Resources Conservation Service specific to the applied use and not all based on a dryland farming criterion. County assessors shall utilize soil surveys from the Natural Resources Conservation Service of the United States Department of Agriculture as directed by the Property Tax Administrator. Nothing in this section shall be construed to limit the classes and subclasses of real property that may be used by county assessors or the Tax Equalization and Review Commission to achieve more uniform and proportionate valuations.

Source: Laws 1985, LB 271, § 8; Laws 1988, LB 1207, § 5; Laws 1989, LB 361, § 17; Laws 1991, LB 320, § 9; Laws 1994, LB 902, § 19; Laws 1995, LB 490, § 139; Laws 1997, LB 270, § 81; Laws 1999, LB 403, § 7; Laws 2001, LB 170, § 15; Laws 2004, LB 973, § 30; Laws 2006, LB 808, § 36; Laws 2006, LB 1115, § 31; Laws 2010, LB877, § 3; Laws 2019, LB372, § 1.
Effective date September 1, 2019.

ARTICLE 16

LEVY AND TAX LIST

Section

77-1601.02. Property tax request; procedure; public hearing; resolution or ordinance; contents.

77-1601.02 Property tax request; procedure; public hearing; resolution or ordinance; contents.

(1) If the annual assessment of property would result in an increase in the total property taxes levied by a county, municipality, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, such political subdivision's property tax request for the current year shall be no more than its property tax request in the prior year, and the political subdivision's rate of levy for the current year shall be decreased accordingly when such rate is set by the county board of equalization pursuant to section 77-1601. The governing body of the political subdivision shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in subsection (3) of this section. If the governing body of a political subdivision seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in subsection (3) of this section and by passing a resolution or ordinance that complies with subsection (4) of this section.

(2) If the annual assessment of property would result in no change or a decrease in the total property taxes levied by a county, municipality, school district, learning community, sanitary and improvement district, natural re-

sources district, educational service unit, or community college, as determined using the previous year's rate of levy, such political subdivision's property tax request for the current year shall be no more than its property tax request in the prior year, and the political subdivision's rate of levy for the current year shall be adjusted accordingly when such rate is set by the county board of equalization pursuant to section 77-1601. The governing body of the political subdivision shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in subsection (3) of this section. If the governing body of a political subdivision seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in subsection (3) of this section and by passing a resolution or ordinance that complies with subsection (4) of this section.

(3) The resolution or ordinance required under this section shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the political subdivision at least four calendar days prior to the hearing. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. If the political subdivision's total operating budget, not including reserves, does not exceed ten thousand dollars per year or twenty thousand dollars per biennial period, the notice may be posted at the governing body's principal headquarters. The hearing notice shall contain the following information: The certified taxable valuation under section 13-509 for the prior year, the certified taxable valuation under section 13-509 for the current year, and the percentage increase or decrease in such valuations from the prior year to the current year; the dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request; the property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; the proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request; the percentage increase or decrease in the property tax rate from the prior year to the current year; and the percentage increase or decrease in the total operating budget from the prior year to the current year.

(4) Any resolution or ordinance setting a political subdivision's property tax request at an amount that exceeds the political subdivision's property tax request in the prior year shall include, but not be limited to, the following information:

(a) The name of the political subdivision;

(b) The amount of the property tax request;

(c) The following statements:

(i) The total assessed value of property differs from last year's total assessed value by percent;

(ii) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$. per \$100 of assessed value;

(iii) The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be \$. per \$100 of assessed value; and

(iv) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will exceed last year's by percent; and

(d) The record vote of the governing body in passing such resolution or ordinance.

(5) Any resolution or ordinance setting a property tax request under this section shall be certified and forwarded to the county clerk on or before October 13 of the year for which the tax request is to apply.

(6) Any levy which is not in compliance with this section and section 77-1601 shall be construed as an unauthorized levy under section 77-1606.

Source: Laws 1996, LB 693, § 10; Laws 1996, LB 1085, § 55; Laws 1997, LB 269, § 43; Laws 1998, LB 306, § 24; Laws 2001, LB 797, § 3; Laws 2006, LB 1024, § 5; Laws 2019, LB103, § 1; Laws 2019, LB212, § 4.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB103, section 1, with LB212, section 4, to reflect all amendments.

Note: Changes made by LB103 became effective March 13, 2019. Changes made by LB212 became effective September 1, 2019.

ARTICLE 17

COLLECTION OF TAXES

Section

77-1725.01. Collection of taxes; real property; removal or demolition; public officials; duties; lien on personal property.

77-1734.01. Refund of tax paid; claim; verification required; county board approval.

77-1725.01 Collection of taxes; real property; removal or demolition; public officials; duties; lien on personal property.

Except in any city or village that has adopted a building code with provisions for demolition of unsafe buildings or structures, it shall be the duty of any assessor, sheriff, constable, city council member, and village trustee to at once inform the county treasurer of the removal or demolition of or a levy of attachment upon any item of real property known to him or her. Except for property considered to be destroyed real property as defined in section 77-1307, it shall be the duty of the county treasurer to immediately proceed with the collection of any delinquent or current taxes when such acts become known to him or her in any manner. Except for property considered to be destroyed real property as defined in section 77-1307, the taxes shall be due and collectible, which taxes shall include taxes on all real property then assessed upon which the tax shall be computed on the basis of the last preceding levy, and a distress warrant shall be issued when (1) any person attempts to remove or demolish all or a substantial portion of his or her real property or (2) a levy of attachment is made upon the real property. From the date the taxes are due and collectible, the taxes shall be a first lien upon the personal property of the person to whom assessed until paid.

Source: Laws 1992, LB 1063, § 137; Laws 1992, Second Spec. Sess., LB 1, § 110; Laws 2019, LB512, § 18.
Operative date May 31, 2019.

77-1734.01 Refund of tax paid; claim; verification required; county board approval.

(1) In the case of an amended federal income tax return or whenever a person's return is changed or corrected by the Internal Revenue Service or other competent authority that decreases the Nebraska adjusted basis of the person's taxable tangible personal property, the county treasurer shall refund that portion of the tax paid that is in excess of the amount due after the amendment or correction.

(2) In case of payment made of any property taxes or any payments in lieu of taxes with respect to property as a result of a clerical error or honest mistake or misunderstanding, on the part of a county or other political subdivision of the state or any taxpayer, or accelerated tax paid for real property that was later adjusted by the county board of equalization under sections 77-1307 to 77-1309, the county treasurer to whom the tax was paid shall refund that portion of the tax paid as a result of the clerical error or honest mistake or misunderstanding or that portion of the tax paid that is in excess of the amount due after the adjustment under sections 77-1307 to 77-1309. A claim for a refund pursuant to this section shall be made in writing to the county treasurer to whom the tax was paid within three years after the date the tax was due or within ninety days after filing the amended return or the correction becomes final.

(3) Before the refund is made, the county treasurer shall receive verification from the county assessor or other taxing official that such error or mistake was made, such adjustment was made, or the amended return was filed or the correction made, and the claim for refund shall be submitted to the county board. Upon verification, the county board shall approve the claim. The refund shall be made in the manner prescribed in section 77-1736.06. Such refund shall not have a dispositional effect on any similar refund for another taxpayer. This section may not be used to challenge the valuation of property, the equalization of property, or the constitutionality of a tax.

Source: Laws 1957, c. 336, § 1, p. 1173; Laws 1959, c. 373, § 1, p. 1312; Laws 1961, c. 385, § 1, p. 1179; Laws 1977, LB 245, § 1; Laws 1988, LB 819, § 1; Laws 1989, LB 762, § 2; Laws 1991, LB 829, § 12; Laws 1992, LB 719A, § 174; Laws 1999, LB 194, § 32; Laws 2008, LB965, § 17; Laws 2019, LB512, § 19.
Operative date May 31, 2019.

ARTICLE 18

COLLECTION OF DELINQUENT REAL PROPERTY TAXES BY SALE OF REAL PROPERTY

Section

- 77-1802. Real property taxes; delinquent tax list; notice of sale.
77-1824.01. Repealed. Laws 2019, LB463, § 10.
77-1831. Real property taxes; issuance of treasurer's tax deed; notice given by purchaser; contents.
77-1832. Real property taxes; issuance of treasurer's tax deed; service of notice; upon whom made.
77-1833. Real property taxes; issuance of treasurer's tax deed; proof of service; fees.
77-1834. Real property taxes; issuance of treasurer's tax deed; notice to owner or encumbrancer by publication.
77-1835. Real property taxes; issuance of treasurer's tax deed; manner and proof of publication; false affidavit; penalty.
77-1837. Real property taxes; issuance of treasurer's tax deed; when.
77-1837.01. Real property taxes; tax deed proceedings; changes in law not retroactive; exceptions.

77-1802 Real property taxes; delinquent tax list; notice of sale.

The county treasurer shall, not less than four nor more than six weeks prior to the first Monday of March in each year, make out a list of all real property subject to sale and the amount of all delinquent taxes against each item with an accompanying notice stating that so much of such property described in the list as may be necessary for that purpose will, on the first Monday of March next thereafter, be sold by such county treasurer at public auction at his or her office for the taxes, interest, and costs thereon. In making such list, the county treasurer shall describe the property as it is described on the tax list and shall include the property's parcel number, if any.

Source: Laws 1903, c. 73, § 194, p. 459; R.S.1913, § 6522; C.S.1922, § 6050; Laws 1929, c. 169, § 1, p. 583; C.S.1929, § 77-2002; Laws 1933, c. 136, § 5, p. 519; Laws 1937, c. 167, § 24, p. 655; Laws 1939, c. 98, § 24, p. 442; Laws 1941, c. 157, § 24, p. 626; C.S.Supp.,1941, § 77-2002; R.S.1943, § 77-1802; Laws 1986, LB 531, § 2; Laws 1992, LB 1063, § 139; Laws 1992, Second Spec. Sess., LB 1, § 112; Laws 2019, LB463, § 1.
Effective date September 1, 2019.

77-1824.01 Repealed. Laws 2019, LB463, § 10.**77-1831 Real property taxes; issuance of treasurer's tax deed; notice given by purchaser; contents.**

No purchaser at any sale for taxes or his or her assignees shall be entitled to a tax deed from the county treasurer for the real property so purchased unless such purchaser or assignee, at least three months before applying for the tax deed, serves or causes to be served a notice that states, after the expiration of at least three months from the date of service of such notice, the tax deed will be applied for.

The notice shall include:

(1) The following statement in sixteen-point type: **UNLESS YOU ACT YOU WILL LOSE THIS PROPERTY;**

(2) The date when the purchaser purchased the real property sold by the county for taxes;

(3) The description of the real property;

(4) In whose name the real property was assessed;

(5) The amount of taxes represented by the tax sale certificate, the year the taxes were levied or assessed, and a statement that subsequent taxes may have been paid and interest may have accrued as of the date the notice is signed by the purchaser; and

(6) The following statements:

(a) That the issuance of a tax deed is subject to the right of redemption under sections 77-1824 to 77-1830;

(b) The right of redemption requires payment to the county treasurer, for the use of such purchaser, or his or her heirs or assigns, the amount of taxes represented by the tax sale certificate for the year the taxes were levied or assessed and any subsequent taxes paid and interest accrued as of the date payment is made to the county treasurer; and

(c) The right of redemption expires at the close of business on the date of application for the tax deed, and a deed may be applied for after the expiration of three months from the date of service of this notice.

Source: Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1831; Laws 1992, LB 1063, § 157; Laws 1992, Second Spec. Sess., LB 1, § 130; Laws 2012, LB370, § 4; Laws 2013, LB341, § 12; Laws 2019, LB463, § 2.
Effective date September 1, 2019.

77-1832 Real property taxes; issuance of treasurer's tax deed; service of notice; upon whom made.

(1) Service of the notice provided by section 77-1831 shall be made by:

(a) Personal or residence service as described in section 25-505.01 upon a person in actual possession or occupancy of the real property and upon the person in whose name the title to the real property appears of record who can be found in this state. If a person in actual possession or occupancy of the real property cannot be served by personal or residence service, service of the notice shall be made upon such person by certified mail service or designated delivery service as described in section 25-505.01, and the notice shall be sent to the address of the property. If the person in whose name the title to the real property appears of record cannot be found in this state or if such person cannot be served by personal or residence service, service of the notice shall be made upon such person by certified mail service or designated delivery service as described in section 25-505.01, and the notice shall be sent to the name and address to which the property tax statement was mailed; and

(b) Certified mail or designated delivery service as described in section 25-505.01 upon every encumbrancer of record found by the title search required in section 77-1833. The notice shall be sent to the encumbrancer's name and address appearing of record as shown in the encumbrance filed with the register of deeds.

(2) Personal or residence service shall be made by the county sheriff of the county where service is made or by a person authorized by section 25-507. The sheriff or other person serving the notice shall be entitled to the statutory fee prescribed in section 33-117.

Source: Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1832; Laws 1987, LB 93, § 20; Laws 1992, LB 1063, § 158; Laws 1992, Second Spec. Sess., LB 1, § 131; Laws 2003, LB 319, § 1; Laws 2012, LB370, § 5; Laws 2013, LB341, § 13; Laws 2017, LB217, § 7; Laws 2019, LB463, § 3.
Effective date September 1, 2019.

77-1833 Real property taxes; issuance of treasurer's tax deed; proof of service; fees.

The service of notice provided by section 77-1832 shall be proved by affidavit. The purchaser or assignee shall also affirm in the affidavit that a title search was conducted by a registered abstractor to determine those persons entitled to

notice pursuant to such section. If personal or residence service is used, the receipt or returns provided by the person authorized in subsection (2) of section 77-1832 to carry out such service shall be filed with and accompany the affidavit. If certified mail or designated delivery service is used, the certified mail return receipt or a copy of the signed delivery receipt shall be filed with and accompany the affidavit. The affidavit, a copy of the notice, and a copy of such title search shall be filed with the application for the tax deed pursuant to section 77-1837. For each service of such notice, a fee of one dollar shall be allowed. The amount of such fees shall be noted by the county treasurer in the record opposite the real property described in the notice and shall be collected by the county treasurer in case of redemption for the benefit of the holder of the certificate.

Source: Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1833; Laws 1969, c. 645, § 9, p. 2561; Laws 1992, LB 1063, § 159; Laws 1992, Second Spec. Sess., LB 1, § 132; Laws 2003, LB 319, § 2; Laws 2012, LB370, § 6; Laws 2013, LB341, § 14; Laws 2017, LB217, § 8; Laws 2019, LB463, § 4.
Effective date September 1, 2019.

77-1834 Real property taxes; issuance of treasurer's tax deed; notice to owner or encumbrancer by publication.

If any person or encumbrancer who is entitled to notice under subsection (1) of section 77-1832 cannot, upon diligent inquiry, be found, the purchaser or his or her assignee shall publish the notice in a newspaper of general circulation in the county which has been designated by the county board in the year publication is required under this section.

Source: Laws 1903, c. 73, § 215, p. 467; R.S.1913, § 6543; C.S.1922, § 6071; C.S.1929, § 77-2023; R.S.1943, § 77-1834; Laws 1992, LB 1063, § 160; Laws 1992, Second Spec. Sess., LB 1, § 133; Laws 2003, LB 319, § 3; Laws 2008, LB893, § 1; Laws 2012, LB370, § 7; Laws 2019, LB463, § 5.
Effective date September 1, 2019.

77-1835 Real property taxes; issuance of treasurer's tax deed; manner and proof of publication; false affidavit; penalty.

The notice provided by section 77-1834 shall be published three consecutive weeks, the last time not less than three months before applying for the tax deed. Proof of publication shall be made by filing in the county treasurer's office the affidavit of the publisher, manager, or other employee of such newspaper, affirming that to his or her personal knowledge, the notice was published for the time and in the manner provided in this section, setting out a copy of the notice and the date upon which the same was published. The purchaser or assignee shall also file in the county treasurer's office an affidavit affirming that a title search was conducted by a registered abstractor to determine those persons entitled to notice pursuant to section 77-1832 and a copy of such title search. The affidavits, the copy of the notice, and the copy of the title search shall be filed with the application for the tax deed pursuant to section 77-1837. Such documents shall be preserved as a part of the files of the office. Any

publisher, manager, or employee of a newspaper knowingly or negligently making a false affidavit regarding any such matters shall be guilty of perjury and shall be punished accordingly. Section 25-520.01 does not apply to publication of notice pursuant to section 77-1834.

Source: Laws 1903, c. 73, § 215, p. 467; R.S.1913, § 6543; C.S.1922, § 6071; C.S.1929, § 77-2023; R.S.1943, § 77-1835; Laws 2012, LB370, § 8; Laws 2019, LB463, § 6.
Effective date September 1, 2019.

Cross References

Perjury, see section 28-915.

77-1837 Real property taxes; issuance of treasurer's tax deed; when.

(1) At any time within nine months after the expiration of three years after the date of sale of any real estate for taxes or special assessments, if such real estate has not been redeemed, the purchaser or his or her assignee may apply to the county treasurer for a tax deed for the real estate described in such purchaser's or assignee's tax sale certificate. The county treasurer shall execute and deliver a deed of conveyance for the real estate described in such tax sale certificate if he or she has received the following:

(a) The tax sale certificate;

(b) The issuance fee for the tax deed and the fee of the notary public or other officer acknowledging the tax deed, as required under section 77-1823;

(c) For any notice provided pursuant to section 77-1832, the affidavit proving service of notice, the copy of the notice, and the copy of the title search required under section 77-1833; and

(d) For any notice provided by publication pursuant to section 77-1834, the affidavit of the publisher, manager, or other employee of the newspaper, the copy of the notice, the affidavit of the purchaser or assignee, and the copy of the title search required under section 77-1835.

(2) The failure of the county treasurer to issue the deed of conveyance if requested within the timeframe provided in this section shall not impair the validity of such deed if there has otherwise been compliance with sections 77-1801 to 77-1863.

Source: Laws 1903, c. 73, § 217, p. 468; R.S.1913, § 6545; C.S.1922, § 6073; C.S.1929, § 77-2025; R.S.1943, § 77-1837; Laws 1975, LB 78, § 1; Laws 1987, LB 215, § 2; Laws 2001, LB 118, § 1; Laws 2012, LB370, § 9; Laws 2013, LB341, § 16; Laws 2019, LB463, § 7.
Effective date September 1, 2019.

77-1837.01 Real property taxes; tax deed proceedings; changes in law not retroactive; exceptions.

(1) Except as otherwise provided in subsections (2) and (3) of this section, the laws in effect on the date of the issuance of a tax sale certificate govern all matters related to tax deed proceedings, including noticing and application, and foreclosure proceedings. Changes in law shall not apply retroactively with regard to the tax sale certificates previously issued.

(2) Tax sale certificates sold and issued between January 1, 2010, and December 31, 2016, shall be governed by the laws and statutes that were in effect on December 31, 2009, with regard to all matters relating to tax deed proceedings, including noticing and application, and foreclosure proceedings.

(3) Tax sale certificates sold and issued between January 1, 2017, and September 7, 2019, shall be governed by the laws and statutes that are in effect on September 7, 2019, with regard to all matters relating to tax deed proceedings, including noticing and application, and foreclosure proceedings.

Source: Laws 2012, LB370, § 10; Laws 2014, LB851, § 10; Laws 2017, LB217, § 9; Laws 2019, LB463, § 8.
Effective date September 1, 2019.

ARTICLE 20

INHERITANCE TAX

Section

77-2002. Inheritance tax; property taxable; transfer in contemplation of death.

77-2018.02. Inheritance tax; independent proceeding for determination in absence of probate of estate; petition; notice; waiver of notice; notice to Department of Health and Human Services.

77-2002 Inheritance tax; property taxable; transfer in contemplation of death.

(1) Any interest in property whether created or acquired prior or subsequent to August 27, 1951, shall be subject to tax at the rates prescribed by sections 77-2004 to 77-2006, except property exempted by the provisions of Chapter 77, article 20, if it shall be transferred by deed, grant, sale, or gift, in trust or otherwise, and: (a) Made in contemplation of the death of the grantor; (b) intended to take effect in possession or enjoyment, after his or her death; (c) by reason of death, any person shall become beneficially entitled in possession or expectation to any property or income thereof; or (d) held as joint owners or joint tenants by the decedent and any other person in their joint names, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or property, except that when such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or property, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person or, when any property has been acquired by gift, bequest, devise, or inheritance by the decedent and any other person as joint owners or joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint owners or joint tenants.

(2) For the purpose of subsection (1) of this section, if the decedent, within a period of three years ending with the date of his or her death, except in the case of a bona fide sale for an adequate and full consideration for money or money's worth, transferred an interest in property for which a federal gift tax return is required to be filed under the provisions of the Internal Revenue Code, such transfer shall be deemed to have been made in contemplation of death within the meaning of subsection (1) of this section; no such transfer made before such

three-year period shall be treated as having been made in contemplation of death in any event.

(3) Proceeds of life insurance receivable by a trustee, of either an inter vivos trust or a testamentary trust, as insurance under policies upon the life of the decedent shall not be subject to inheritance tax. This subsection shall not apply if the decedent's estate is the beneficiary of the trust.

Source: Laws 1901, c. 54, § 1, p. 414; Laws 1905, c. 117, § 1, p. 523; Laws 1907, c. 103, § 1, p. 356; R.S.1913, § 6622; C.S.1922, § 6153; Laws 1923, c. 187, § 1, p. 430; C.S.1929, § 77-2201; Laws 1931, c. 132, § 1, p. 371; C.S.Supp.,1941, § 77-2201; R.S. 1943, § 77-2002; Laws 1945, c. 198, § 4, p. 604; Laws 1947, c. 263, § 1, p. 853; Laws 1951, c. 267, § 2, p. 899; Laws 1953, c. 282, § 1, p. 913; Laws 1955, c. 299, § 1, p. 935; Laws 1976, LB 585, § 2; Laws 1982, LB 480, § 2; Laws 1995, LB 574, § 66; Laws 2019, LB315, § 1.
Effective date September 1, 2019.

77-2018.02 Inheritance tax; independent proceeding for determination in absence of probate of estate; petition; notice; waiver of notice; notice to Department of Health and Human Services.

(1) In the absence of any proceeding brought under Chapter 30, article 24 or 25, in this state, an independent proceeding for the sole purpose of determining the tax may be instituted in the county court of the county where the property or any part thereof which might be subject to tax is situated.

(2) Upon the filing of a petition to initiate such an independent proceeding, the county court shall order the petition set for hearing, not less than two nor more than four weeks after the date of filing the petition, and shall cause notice thereof to be given to all persons interested in the estate of the deceased and the property described in the petition, except as provided in subsections (4) and (5) of this section, in the manner provided for in subsection (3) of this section.

(3) The notice, provided for by subsection (2) of this section, shall be given by one publication in a legal newspaper of the county or, in the absence of such legal newspaper, then in a legal newspaper of some adjoining county of general circulation in the county. In addition to such publication of notice, personal service of notice of the hearing shall be had upon the county attorney of each county in which the property described in the petition is located, at least one week prior to the hearing.

(4) If it appears to the county court, upon the filing of the petition, by any person other than the county attorney, that no assessment of inheritance tax could result, it shall forthwith enter thereon an order directing the county attorney to show cause, within one week from the service thereof, why determination should not be made that no inheritance tax is due on account of the property described in the petition and the potential lien thereof on such property extinguished. Upon service of such order to show cause and failure of such showing by the county attorney, notice of such hearing by publication shall be dispensed with, and the petitioner shall be entitled without delay to a determination of no tax due on account of the property described in the petition, and any potential lien shall be extinguished.

(5) If it appears to the county court that (a) the county attorney of each county in which the property described in the petition is located has executed a

waiver of notice upon him or her to show cause, or of the time and place of hearing, and has entered a voluntary appearance in such proceeding in behalf of the county and the State of Nebraska, and (b) either (i) all persons against whom an inheritance tax may be assessed are either a petitioner or have executed a waiver of notice upon them to show cause, or of the time and place of hearing, and have entered a voluntary appearance, or (ii) a party to the proceeding has agreed to pay to the proper counties the full inheritance tax so determined, the court may dispense with the notice provided for in subsections (2) and (3) of this section and proceed without delay to make a determination of inheritance tax, if any, due on account of the property described in the petition.

(6) If a petition is filed to initiate an independent proceeding under this section and the decedent was fifty-five years of age or older or resided in a medical institution as defined in subsection (1) of section 68-919, notice of the filing of such petition shall be provided to the Department of Health and Human Services with the decedent’s social security number and, if the decedent was predeceased by a spouse, the name and social security number of such spouse. A certificate of the providing of the notice to the department shall be filed in the independent proceeding by an attorney for the petitioner or, if there is no attorney, by the petitioner, prior to the entry of an order pursuant to this section. The notice shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivering notice on its web site. Any notice that fails to conform with such manner is void.

Source: Laws 1953, c. 282, § 8, p. 917; Laws 1959, c. 375, § 1, p. 1314; Laws 1969, c. 682, § 1, p. 2609; Laws 1975, LB 481, § 33; Laws 1976, LB 585, § 15; Laws 1977, LB 456, § 3; Laws 2015, LB72, § 5; Laws 2017, LB268, § 16; Laws 2019, LB315, § 2; Laws 2019, LB593, § 10.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB315, section 2, with LB593, section 10, to reflect all amendments.

Note: Changes made by LB593 became effective May 31, 2019. Changes made by LB315 became effective September 1, 2019.

ARTICLE 23

DEPOSIT AND INVESTMENT OF PUBLIC FUNDS

(b) PUBLIC FUNDS DEPOSIT SECURITY ACT

Section

- 77-2386. Act, how cited.
- 77-2387. Terms, defined.
- 77-2388. Authorized depositories; security; requirements.
- 77-2392. Substitution or exchange of securities authorized.
- 77-2394. Deposit guaranty bond; statement required.
- 77-2395. Custodial official; duties.
- 77-2396. Custodial official; liability.
- 77-2397. Depositories of public money or public funds; powers.
- 77-2398. Deposits in excess of insured or guaranteed amount; requirements.
- 77-2399. Governmental unit; deposits in excess of insured amount; rights.
- 77-23,100. Deposits in excess of insured or guaranteed amount; qualified trustee; duties.
- 77-23,101. Qualified trustee; requirements.
- 77-23,102. Default; procedure.
- 77-23,107. Liability.
- 77-23,108. Rules and regulations.

(b) PUBLIC FUNDS DEPOSIT SECURITY ACT

77-2386 Act, how cited.

Sections 77-2386 to 77-23,108 shall be known and may be cited as the Public Funds Deposit Security Act.

Source: Laws 1996, LB 1274, § 1; Laws 2000, LB 932, § 38; Laws 2019, LB622, § 1.
Operative date July 1, 2020.

77-2387 Terms, defined.

For purposes of the Public Funds Deposit Security Act, unless the context otherwise requires:

(1) Affiliate means any entity that controls, is controlled by, or is under common control with another entity;

(2) Bank means any state-chartered or federally chartered bank which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a state-chartered or federally chartered bank which maintained a main chartered office in this state prior to becoming a branch of such state-chartered or federally chartered bank;

(3) Capital stock financial institution means a capital stock state building and loan association, a capital stock federal savings and loan association, a capital stock federal savings bank, and a capital stock state savings bank, which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a capital stock financial institution which maintained a main chartered office in this state prior to becoming a branch of such capital stock financial institution;

(4) Control means to own directly or indirectly or to control in any manner twenty-five percent of the voting shares of any bank, capital stock financial institution, or holding company or to control in any manner the election of the majority of directors of any bank, capital stock financial institution, or holding company;

(5) Custodial official means an officer or an employee of the State of Nebraska or any political subdivision who, by law, is made custodian of or has control over public money or public funds subject to the act or the security for the deposit of public money or public funds subject to the act;

(6) Deposit guaranty bond means a bond underwritten by an insurance company authorized to do business in this state which provides coverage for deposits of a governing authority which are in excess of the amounts insured or guaranteed by the Federal Deposit Insurance Corporation;

(7) Director means the Director of Banking and Finance;

(8) Event of default means the issuance of an order by a supervisory authority or a receiver which restrains a bank, capital stock financial institution, or qualifying mutual financial institution from paying its deposit liabilities;

(9) Governing authority means the official, or the governing board, council, or other body or group of officials, authorized to designate a bank, capital stock financial institution, or qualifying mutual financial institution as a depository of public money or public funds subject to the act;

(10) Governmental unit means the State of Nebraska or any political subdivision thereof;

(11) Political subdivision means any county, city, village, township, district, authority, or other public corporation or entity, whether organized and existing under direct provisions of the Constitution of Nebraska or laws of the State of Nebraska or by virtue of a charter, corporate articles, or other legal instruments executed under authority of the constitution or laws, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act;

(12) Qualifying mutual financial institution shall have the same meaning as in section 77-2365.01;

(13) Repurchase agreement means an agreement to purchase securities by the governing authority by which the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will repurchase the securities on or before a specified date and for a specified amount and the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will deliver the underlying securities to the governing authority by book entry, physical delivery, or third-party custodial agreement. The transfer of underlying securities to the counterparty bank's, capital stock financial institution's, or qualifying mutual financial institution's customer book entry account may be used for book entry delivery if the governing authority so chooses; and

(14) Securities means:

(a) Bonds or obligations fully and unconditionally guaranteed both as to principal and interest by the United States Government;

(b) United States Government notes, certificates of indebtedness, or treasury bills of any issue;

(c) United States Government bonds;

(d) United States Government guaranteed bonds or notes;

(e) Bonds or notes of United States Government agencies;

(f) Bonds of any state or political subdivision which are fully defeased as to principal and interest by any combination of bonds or notes authorized in subdivision (c), (d), or (e) of this subdivision;

(g) Bonds or obligations, including mortgage-backed securities and collateralized mortgage obligations, issued by or backed by collateral one hundred percent guaranteed by the Federal Home Loan Mortgage Corporation, the Federal Farm Credit System, a Federal Home Loan Bank, or the Federal National Mortgage Association;

(h) Repurchase agreements the subject securities of which are any of the securities described in subdivisions (a) through (g) of this subdivision;

(i) Securities issued under the authority of the Federal Farm Loan Act;

(j) Loan participations which carry the guarantee of the Commodity Credit Corporation, an instrumentality of the United States Department of Agriculture;

(k) Guaranty agreements of the Small Business Administration of the United States Government;

(l) Bonds or obligations of any county, city, village, metropolitan utilities district, public power and irrigation district, sewer district, fire protection

district, rural water district, or school district in this state which have been issued as required by law;

(m) Bonds of the State of Nebraska or of any other state which are purchased by the Board of Educational Lands and Funds of this state for investment in the permanent school fund or which are purchased by the state investment officer of this state for investment in the permanent school fund;

(n) Bonds or obligations of another state, or a political subdivision of another state, which are rated within the two highest classifications by at least one of the standard rating services;

(o) Warrants of the State of Nebraska;

(p) Warrants of any county, city, village, local hospital district, or school district in this state;

(q) Irrevocable, nontransferable, unconditional standby letters of credit issued by a Federal Home Loan Bank; and

(r) Certificates of deposit fully insured or guaranteed by the Federal Deposit Insurance Corporation that are issued to a bank, capital stock financial institution, or qualifying mutual financial institution furnishing securities pursuant to the Public Funds Deposit Security Act.

Source: Laws 1996, LB 1274, § 2; Laws 1997, LB 275, § 2; Laws 2000, LB 932, § 39; Laws 2001, LB 362, § 82; Laws 2001, LB 420, § 35; Laws 2003, LB 131, § 37; Laws 2003, LB 175, § 14; Laws 2004, LB 999, § 50; Laws 2009, LB259, § 27; Laws 2011, LB78, § 1; Laws 2013, LB155, § 1; Laws 2019, LB622, § 2.
Operative date July 1, 2020.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

77-2388 Authorized depositories; security; requirements.

Any bank, capital stock financial institution, or qualifying mutual financial institution subject to a requirement by law to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation may give security by furnishing securities or providing a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act in satisfaction of the requirement.

Source: Laws 1996, LB 1274, § 3; Laws 2001, LB 362, § 83; Laws 2009, LB259, § 28; Laws 2019, LB622, § 3.
Operative date July 1, 2020.

77-2392 Substitution or exchange of securities authorized.

A bank, capital stock financial institution, or qualifying mutual financial institution which has furnished securities pursuant to the Public Funds Deposit Security Act shall have the right at any time and without prior approval to substitute or exchange other securities of equal value in lieu of securities furnished except that such securities substituted or exchanged shall be those provided for under the act and such substitution or exchange shall not reduce the market value of the securities to an amount that is less than one hundred two percent of the total amount of public money or public funds less the portion of such public money or public funds insured or guaranteed by the

Federal Deposit Insurance Corporation. Following any substitution or exchange of securities pursuant to this section by a bank, capital stock financial institution, or qualifying mutual financial institution utilizing the dedicated method as provided in subdivision (2)(a) of section 77-2398, the custodial official shall report such substitution or exchange to the governing authority.

Source: Laws 1996, LB 1274, § 7; Laws 2001, LB 362, § 87; Laws 2019, LB622, § 4.

Operative date July 1, 2020.

77-2394 Deposit guaranty bond; statement required.

A bank, capital stock financial institution, or qualifying mutual financial institution provides a deposit guaranty bond pursuant to the Public Funds Deposit Security Act if it issues a deposit guaranty bond which runs to the director or custodial official, as applicable, and which is conditioned that the bank, capital stock financial institution, or qualifying mutual financial institution shall, at the end of each and every month, render to the custodial official a statement, in duplicate, showing the daily balances and the amounts of public money or public funds of the governing authority held by it during the month and how credited. The public money or public funds shall be paid promptly on the order of the custodial official depositing the public money or public funds.

Source: Laws 1996, LB 1274, § 9; Laws 2001, LB 362, § 89; Laws 2019, LB622, § 5.

Operative date July 1, 2020.

77-2395 Custodial official; duties.

(1) If a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository provides a deposit guaranty bond or furnishes securities or any combination thereof, pursuant to section 77-2389, the custodial official shall not have on deposit in such depository any public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, unless and until the depository has provided a deposit guaranty bond or furnished securities, or any combination thereof, to the custodial official, and the total value of such deposit guaranty bond and the market value of such securities are in an amount not less than one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed.

(2) If a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository provides a deposit guaranty bond or furnishes securities or any combination thereof, pursuant to subsection (1) of section 77-2398, the custodial official shall not have on deposit in such depository any public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, unless and until the depository has provided a deposit guaranty bond or furnished securities, or any combination thereof, pursuant to the Public Funds Deposit Security Act, and the total value of such deposit guaranty bond and the market value of such securities are in an amount not less than one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed.

Source: Laws 1996, LB 1274, § 10; Laws 2000, LB 932, § 42; Laws 2001, LB 362, § 90; Laws 2009, LB259, § 30; Laws 2019, LB622, § 6.

Operative date July 1, 2020.

77-2396 Custodial official; liability.

No custodial official shall be liable on his or her official bond as such custodial official for public money or public funds on deposit in a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository if the depository has furnished securities or provided a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act.

Source: Laws 1996, LB 1274, § 11; Laws 2001, LB 362, § 91; Laws 2019, LB622, § 7.

Operative date July 1, 2020.

77-2397 Depositories of public money or public funds; powers.

All depositories of public money or public funds belonging to the State of Nebraska or the political subdivisions in this state shall have full authority to deposit, pledge, or grant a security interest in their assets or to provide a deposit guaranty bond, or any combination thereof, for the security and payment for all such deposits and accretions. The State of Nebraska and any political subdivision in this state are given the right and authority to accept such deposit, pledge, or grant of a security interest in assets or the provision of a deposit guaranty bond, or any combination thereof.

Source: Laws 1996, LB 1274, § 12; Laws 2019, LB622, § 8.

Operative date July 1, 2020.

77-2398 Deposits in excess of insured or guaranteed amount; requirements.

(1) As an alternative to the requirements to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation pursuant to sections 77-2389 and 77-2394, a bank, capital stock financial institution, or qualifying mutual financial institution designated as a public depository may secure the deposits of one or more governmental units by providing a deposit guaranty bond or by depositing, pledging, or granting a security interest in a single pool of securities or by a combination thereof to secure the repayment of all public money or public funds deposited in the bank, capital stock financial institution, or qualifying mutual financial institution by such governmental units and not otherwise secured pursuant to law, if at all times the total value of the deposit guaranty bond and the aggregate market value of the pool of securities so deposited, pledged, or in which a security interest is granted is at least equal to one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed. Each such bank, capital stock financial institution, or qualifying mutual financial institution shall carry on its accounting records at all times a general ledger or other appropriate account of the total amount of all public money or public funds to be secured by a deposit guaranty bond or by the pool of securities, or any combination thereof, as determined at the opening of business each day, and the total value of the deposit guaranty bond or the aggregate market value of the pool of securities deposited, pledged, or in which a security interest is granted to secure such public money or public funds. For purposes of this section, a pool of securities shall include shares of investment companies registered under the federal Investment Company Act of 1940 when the investment companies' assets are limited to obligations that are eligible for investment by the bank, capital stock

financial institution, or qualifying mutual financial institution and limited by their prospectuses to owning securities enumerated in section 77-2387.

(2) A bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds using the dedicated method, the single bank pooled method, or both methods as set forth in subsection (1) of this section.

(a) Under the dedicated method, a bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds by each governmental unit separately by furnishing securities or providing a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act.

(b)(i) Under the single bank pooled method, a bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds of one or more governmental units by providing a deposit guaranty bond or through a pool of eligible securities established by such bank, capital stock financial institution, or qualifying mutual financial institution with a qualified trustee, or any combination thereof, to be held subject to the order of the director or the administrator for the benefit of the governmental units having public money or public funds with such bank, capital stock financial institution, or qualifying mutual financial institution as set forth in subsection (1) of this section.

(ii) The director shall designate a bank, savings association, trust company, or other qualified firm, corporation, or association which is authorized to transact business in this state to serve as the administrator with respect to a single bank pooled method. Fees and expenses of such administrator shall be paid by the banks, capital stock financial institutions, or qualifying mutual financial institutions utilizing the single bank pooled method.

(iii) If a bank, capital stock financial institution, or qualifying mutual financial institution elects to secure the deposit of public money or public funds through the use of the single bank pooled method, such bank, capital stock financial institution, or qualifying mutual financial institution shall notify the administrator in writing that it has elected to utilize the single bank pooled method and the proposed effective date thereof.

(iv) The single bank pooled method shall not be utilized by any bank, capital stock financial institution, or qualifying mutual financial institution unless an administrator has been designated by the director pursuant to subdivision (2)(b)(ii) of this section and is acting as the administrator.

(3) Only a deposit guaranty bond and the securities listed in subdivision (14) of section 77-2387 may be provided and accepted as security for the deposit of public money or public funds and shall be eligible as collateral. The qualified trustee shall not accept any securities which are not listed in subdivision (14) of section 77-2387.

Source: Laws 2000, LB 932, § 43; Laws 2001, LB 362, § 92; Laws 2009, LB259, § 31; Laws 2011, LB78, § 2; Laws 2013, LB155, § 2; Laws 2019, LB622, § 9.
Operative date July 1, 2020.

77-2399 Governmental unit; deposits in excess of insured amount; rights.

Each governmental unit depositing public money or public funds in a bank, capital stock financial institution, or qualifying mutual financial institution shall have an undivided beneficial interest under the deposit guaranty bond provided and an undivided security interest in the pool of securities deposited, pledged, or in which a security interest is granted by such bank, capital stock financial institution, or qualifying mutual financial institution pursuant to subsection (1) of section 77-2398 in the proportion that the total amount of the governmental unit's public money or public funds held deposited in such bank, capital stock financial institution, or qualifying mutual financial institution secured by the deposit guaranty bond or by the pool of securities, or any combination thereof, bears to the total amount of public money or public funds so secured. Articles 8 and 9, Uniform Commercial Code, shall not apply to any security interest arising under this section.

Source: Laws 2000, LB 932, § 44; Laws 2001, LB 362, § 93; Laws 2019, LB622, § 10.

Operative date July 1, 2020.

77-23,100 Deposits in excess of insured or guaranteed amount; qualified trustee; duties.

(1) Any bank, capital stock financial institution, or qualifying mutual financial institution in which public money or public funds have been deposited which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, in whole or in part, by the deposit, pledge, or granting of a security interest in a single pool of securities shall designate a qualified trustee and place with the trustee for holding the securities so deposited, pledged, or in which a security interest has been granted pursuant to subsection (1) of section 77-2398, subject to the order of the director or the administrator. The bank, capital stock financial institution, or qualifying mutual financial institution shall give written notice of the designation of the qualified trustee to any custodial official depositing public money or public funds for which such securities are deposited, pledged, or in which a security interest has been granted, and if an affiliate of the bank, capital stock financial institution, or qualifying mutual financial institution is to serve as the qualified trustee, the notice shall disclose the affiliate relationship and shall be given prior to designation of the qualified trustee. The custodial official shall accept the written receipt of the trustee describing the pool of securities so deposited, pledged, or in which a security interest has been granted by the bank, capital stock financial institution, or qualifying mutual financial institution, a copy of which shall also be delivered to the bank, capital stock financial institution, or qualifying mutual financial institution.

(2) Any bank, capital stock financial institution, or qualifying mutual financial institution which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation under the Public Funds Deposit Security Act, in whole or in part, by providing a deposit guaranty bond pursuant to the provisions of subsection (1) of section 77-2398, shall designate the director and cause to be issued a deposit guaranty bond which runs to the director acting for the benefit of the governmental units having public money or public funds on deposit with such bank, capital stock financial institution, or qualifying mutual financial institution and which is conditioned that the bank, capital stock

financial institution, or qualifying mutual financial institution shall render to the administrator the statement required under subsection (3) of this section.

(3) Each bank, capital stock financial institution, or qualifying mutual financial institution which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation by providing a deposit guaranty bond or by depositing, pledging, or granting a security interest in a single pool of securities, or any combination thereof, shall, on or before the tenth day of each month, render to the administrator a statement showing as of the last business day of the previous month (a) the amount of public money or public funds deposited in such bank, capital stock financial institution, or qualifying mutual financial institution that is not insured or guaranteed by the Federal Deposit Insurance Corporation (i) by each custodial official separately and (ii) by all custodial officials in the aggregate and (b) the total value of the deposit guaranty bond and the aggregate market value of the pool of securities deposited, pledged, or in which a security interest has been granted pursuant to subsection (1) of section 77-2398. The director shall be authorized, acting for the benefit of the governmental units having public money or public funds on deposit with such bank, capital stock financial institution, or qualifying mutual financial institution, to take any and all actions necessary to take title to or to effect a first perfected security interest in the securities deposited, pledged, or in which a security interest is granted.

(4) Within twenty days after receiving the statement required under subsection (3) of this section from a bank, capital stock financial institution, or qualifying mutual financial institution, the administrator shall provide a report to each custodial official listed in such statement reflecting (a) the amount of public money or public funds deposited in such bank, capital stock financial institution, or qualifying mutual financial institution by each custodial official as of the last business day of the previous month that is not insured or guaranteed by the Federal Deposit Insurance Corporation and that is secured pursuant to subsection (1) of section 77-2398 and (b) the total value of the deposit guaranty bond and the aggregate market value of the pool of securities deposited, pledged, or in which a security interest is granted pursuant to subsection (1) of section 77-2398 as of the last business day of the previous month. The report shall clearly notify the custodial official if the value of the securities deposited does not meet the statutory requirement.

Source: Laws 2000, LB 932, § 45; Laws 2001, LB 362, § 94; Laws 2009, LB259, § 32; Laws 2019, LB622, § 11.
Operative date July 1, 2020.

77-23,101 Qualified trustee; requirements.

Any Federal Reserve Bank, branch of a Federal Reserve Bank, a federal home loan bank, or another responsible bank which is authorized to exercise trust powers, capital stock financial institution which is authorized to exercise trust powers, qualifying mutual financial institution which is authorized to exercise trust powers, or trust company, other than the pledgor or the bank, capital stock financial institution, or qualifying mutual financial institution providing the deposit guaranty bond or granting the security interest, is qualified to act as a qualified trustee for the receipt of a deposit guaranty bond or the holding of securities under section 77-23,100. The bank, capital stock

financial institution, or qualifying mutual financial institution in which public money or public funds are deposited may at any time substitute, exchange, or release securities deposited with a qualified trustee if such substitution, exchange, or release does not reduce the aggregate market value of the pool of securities to an amount that is less than one hundred two percent of the total amount of public money or public funds less the portion of such public money or public funds insured or guaranteed by the Federal Deposit Insurance Corporation. The bank, capital stock financial institution, or qualifying mutual financial institution in which public money or public funds are deposited may at any time reduce the amount of the deposit guaranty bond if the reduction does not reduce the total combined value of the deposit guaranty bond and the aggregate market value of the pool of securities to an amount less than one hundred two percent of the total amount of public money or public funds less the portion of such public money or public funds insured or guaranteed by the Federal Deposit Insurance Corporation.

Source: Laws 2000, LB 932, § 46; Laws 2001, LB 362, § 95; Laws 2009, LB259, § 33; Laws 2019, LB622, § 12.
Operative date July 1, 2020.

77-23,102 Default; procedure.

(1) When the director determines that a bank, capital stock financial institution, or qualifying mutual financial institution has experienced an event of default the director shall proceed in the following manner: (a) The director shall ascertain the aggregate amounts of public money or public funds secured pursuant to subsection (1) of section 77-2398 and deposited in the bank, capital stock financial institution, or qualifying mutual financial institution which has defaulted, as disclosed by the records of such bank, capital stock financial institution, or qualifying mutual financial institution. The director shall determine for each custodial official for whom public money or public funds are deposited in the defaulting bank, capital stock financial institution, or qualifying mutual financial institution the accounts and amount of federal deposit insurance or guarantee that is available for each account. The director shall then determine for each such custodial official the amount of public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation and the amount of the deposit guaranty bond or pool of securities pledged, deposited, or in which a security interest has been granted, or any combination thereof, to secure such public money or public funds. Upon completion of this analysis, the director shall provide each such custodial official with a statement that reports the amount of public money or public funds deposited by the custodial official in the defaulting bank, capital stock financial institution, or qualifying mutual financial institution, the amount of public money or public funds that may be insured or guaranteed by the Federal Deposit Insurance Corporation, and the amount of public money or public funds secured by a deposit guaranty bond or secured by a pool of securities, or any combination thereof, pursuant to subsection (1) of section 77-2398. Each such custodial official shall verify this information from his or her records within ten business days after receiving the report and information from the director; and (b) upon receipt of a verified report from such custodial official and if the defaulting bank, capital stock financial institution, or qualifying mutual financial institution is to be liquidated or if for any other reason the director determines that public money or public funds are not likely to be

promptly paid upon demand, the director shall proceed to enforce the deposit guaranty bond and liquidate the pool of securities held to secure the deposit of public money or public funds and shall repay each custodial official for the public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation deposited in the bank, capital stock financial institution, or qualifying mutual financial institution by the custodial official. In the event that the amount of the deposit guaranty bond or the proceeds of the securities held by the director after liquidation is insufficient to cover all public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation for all custodial officials for whom the director serves, the director shall pay out to each custodial official available amounts pro rata in accordance with the respective public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation for each such custodial official.

(2) In the event that a federal deposit insurance agency is appointed and acts as a liquidator or receiver of any bank, capital stock financial institution, or qualifying mutual financial institution under state or federal law, those duties under this section that are specified to be performed by the director in the event of default may be delegated to and performed by such federal deposit insurance agency.

Source: Laws 2000, LB 932, § 47; Laws 2001, LB 362, § 96; Laws 2009, LB259, § 34; Laws 2019, LB622, § 13.
Operative date July 1, 2020.

77-23,107 Liability.

The director and the administrator under the Public Funds Deposit Security Act shall, except for actions or inactions that constitute gross negligence or intentional wrongful acts, be immune from liability for any act required of or authorized for the director and the administrator under the act.

Source: Laws 2019, LB622, § 14.
Operative date July 1, 2020.

77-23,108 Rules and regulations.

The director may adopt and promulgate rules and regulations, establish policies and procedures, prescribe forms, or issue orders as may be necessary to accomplish the purposes of the Public Funds Deposit Security Act.

Source: Laws 2019, LB622, § 15.
Operative date July 1, 2020.

ARTICLE 26 CIGARETTE TAX

Section

- 77-2601. Terms, defined.
77-2602. Cigarette tax; rate; disposition of proceeds; priority.
77-2603. Tax; stamps; tax meter impressions; requirements; stamping agent; license; application; form; service of process; corporate surety bond; Tax Commissioner; duties; directory license; application; term.

77-2601 Terms, defined.

For purposes of sections 77-2601 to 77-2615:

(1) Person means and includes every individual, firm, association, joint-stock company, partnership, limited liability company, syndicate, corporation, trustee, or other legal entity, including any Indian tribe or instrumentality thereof;

(2) Wholesale dealer means a person who sells cigarettes to licensed retail dealers other than branch stores operated by or connected with such wholesale dealer for purposes of resale and is licensed under section 28-1423;

(3) Retail dealer includes every person other than a wholesale dealer engaged in the business of selling cigarettes in this state irrespective of quantity, amount, or number of sales thereof;

(4) Tax Commissioner means the Tax Commissioner of the State of Nebraska;

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

(6) Consumer means any person, firm, association, partnership, limited liability company, joint-stock company, syndicate, or corporation not having a license to sell cigarettes;

(7) Sales entity affiliate means an entity that (a) sells cigarettes that it acquires directly from a manufacturer or importer and (b) is affiliated with that manufacturer or importer. Entities are affiliated with each other if one directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other. Unless provided otherwise, manufacturer or importer includes any sales entity affiliate of that manufacturer or importer;

(8) Stamping agent has the same meaning as in section 69-2705; and

(9) Indian country means (a) all land in this state within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of this state, and (c) all Indian allotments in this state, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

Source: Laws 1947, c. 267, § 1, p. 861; Laws 1978, LB 748, § 41; Laws 1993, LB 121, § 499; Laws 2002, LB 989, § 9; Laws 2003, LB 572, § 9; Laws 2011, LB590, § 19; Laws 2019, LB397, § 21. Effective date September 1, 2019.

77-2602 Cigarette tax; rate; disposition of proceeds; priority.

(1) Every stamping agent engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On each package of cigarettes containing not more than twenty cigarettes, sixty-four cents per package; and on packages containing more than twenty cigarettes, the same tax as provided on packages containing not more than twenty cigarettes for the first twenty cigarettes in each package

and a tax of one-twentieth of the tax on the first twenty cigarettes on each cigarette in excess of twenty cigarettes in each package.

(2) Beginning October 1, 2004, the State Treasurer shall place the equivalent of forty-nine cents of such tax in the General Fund. The State Treasurer shall reduce the amount placed in the General Fund under this subsection by the amount prescribed in subdivision (3)(d) of this section. For purposes of this section, the equivalent of a specified number of cents of the tax shall mean that portion of the proceeds of the tax equal to the specified number divided by the tax rate per package of cigarettes containing not more than twenty cigarettes.

(3) The State Treasurer shall distribute the remaining proceeds of such tax in the following order:

(a) First, beginning July 1, 1980, the State Treasurer shall place the equivalent of one cent of such tax in the Nebraska Outdoor Recreation Development Cash Fund. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(b) Second, beginning July 1, 1993, the State Treasurer shall place the equivalent of three cents of such tax in the Health and Human Services Cash Fund to carry out sections 81-637 to 81-640. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(c) Third, beginning October 1, 2002, and continuing until all the purposes of the Deferred Building Renewal Act have been fulfilled, the State Treasurer shall place the equivalent of seven cents of such tax in the Building Renewal Allocation Fund. The distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(d) Fourth, until July 1, 2009, the State Treasurer shall place in the Municipal Infrastructure Redevelopment Fund the sum of five hundred twenty thousand dollars each fiscal year to carry out the Municipal Infrastructure Redevelopment Fund Act. The Legislature shall appropriate the sum of five hundred twenty thousand dollars each year for fiscal year 2003-04 through fiscal year 2008-09;

(e) Fifth, beginning July 1, 2001, and continuing until June 30, 2008, the State Treasurer shall place the equivalent of two cents of such tax in the Information Technology Infrastructure Fund. The distribution under this subdivision shall not be less than two million fifty thousand dollars. Any money needed to increase the amount distributed under this subdivision to two million fifty thousand dollars shall reduce the distribution to the General Fund;

(f) Sixth, beginning July 1, 2008, and continuing until June 30, 2009, the State Treasurer shall place the equivalent of two million fifty thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. Beginning July 1, 2009, and continuing until June 30, 2016, the State Treasurer shall place the equivalent of two million five hundred seventy thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund.

Beginning July 1, 2016, and every fiscal year thereafter, the State Treasurer shall place the equivalent of three million eight hundred twenty thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the distribution pursuant to this subdivision; and

(g) Seventh, beginning July 1, 2016, and every fiscal year thereafter, the State Treasurer shall place the equivalent of one million two hundred fifty thousand dollars of such tax in the Nebraska Health Care Cash Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the distribution pursuant to this subdivision.

(4) If, after distributing the proceeds of such tax pursuant to subsections (2) and (3) of this section, any proceeds of such tax remain, the State Treasurer shall place such remainder in the Nebraska Capital Construction Fund.

(5) The Legislature hereby finds and determines that the projects funded from the Municipal Infrastructure Redevelopment Fund and the Building Renewal Allocation Fund are of critical importance to the State of Nebraska. It is the intent of the Legislature that the allocations and appropriations made by the Legislature to such funds or, in the case of allocations for the Municipal Infrastructure Redevelopment Fund, to the particular municipality's account not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid or, in the case of the Municipal Infrastructure Redevelopment Fund, the earlier of such date or July 1, 2009, and that until such time any reductions in the cigarette tax rate made by the Legislature shall be simultaneously accompanied by equivalent reductions in the amount dedicated to the General Fund from cigarette tax revenue. Any provision made by the Legislature for distribution of the proceeds of the cigarette tax for projects or programs other than those to (a) the General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the Health and Human Services Cash Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the Building Renewal Allocation Fund, (f) the Information Technology Infrastructure Fund, (g) the Nebraska Public Safety Communication System Cash Fund, and (h) the Nebraska Health Care Cash Fund shall not be made a higher priority than or an equal priority to any of the programs or projects specified in subdivisions (a) through (h) of this subsection.

Source: Laws 1947, c. 267, § 2, p. 861; Laws 1957, c. 341, § 1, p. 1179; Laws 1963, c. 457, § 1, p. 1483; Laws 1965, c. 501, § 2, p. 1595; Laws 1965, c. 500, § 1, p. 1590; Laws 1969, c. 645, § 10, p. 2562; Laws 1971, LB 87, § 1; Laws 1972, LB 1433, § 1; Laws 1973, LB 447, § 5; Laws 1974, LB 945, § 9; Laws 1975, Spec. Sess., LB 6, § 67; Laws 1976, LB 1004, § 24; Laws 1976, LB 1006, § 6; Laws 1978, LB 109, § 3; Laws 1981, LB 506, § 5; Laws 1982, LB 753, § 1; Laws 1983, LB 192, § 1; Laws 1983, LB 410, § 1; Laws 1983, LB 469, § 4; Laws 1984, LB 862, § 1; Laws 1985, LB 728, § 1; Laws 1985, LB 653A, § 1; Laws 1985, Second Spec. Sess., LB 3, § 1; Laws 1986, LB 258, § 16; Laws 1986, LB 842, § 1; Laws 1987, LB 730, § 27; Laws 1987, LB 218, § 1; Laws 1989, LB 683, § 1; Laws 1990, LB 1220, § 1; Laws 1991, LB 703, § 65; Laws 1992, Third Spec. Sess., LB 9, § 1; Laws 1992, Third Spec.

Sess., LB 11, § 1; Laws 1993, LB 22, § 1; Laws 1993, LB 595, § 2; Laws 1994, LB 961, § 8; Laws 1996, LB 1044, § 795; Laws 1996, LB 1190, § 15; Laws 1998, LB 1107, § 2; Laws 1999, LB 683, § 1; Laws 2000, LB 1349, § 1; Laws 2001, LB 657, § 5; Laws 2002, LB 1085, § 1; Laws 2003, LB 440, § 2; Laws 2003, LB 759, § 3; Laws 2005, LB 426, § 15; Laws 2007, LB296, § 703; Laws 2007, LB322, § 20; Laws 2011, LB590, § 20; Laws 2015, LB661, § 33; Laws 2019, LB193, § 242.

Effective date September 1, 2019.

Cross References

Deferred Building Renewal Act, see section 81-190.

Municipal Infrastructure Redevelopment Fund Act, see section 18-2601.

77-2603 Tax; stamps; tax meter impressions; requirements; stamping agent; license; application; form; service of process; corporate surety bond; Tax Commissioner; duties; directory license; application; term.

(1) The tax, as levied in section 77-2602, shall be paid and stamps or cigarette tax meter impressions shall be affixed or printed with a cigarette tax meter by the person having possession and ownership of such cigarettes after the same shall have come to rest in this state and intended to be sold or given away in this state. Nothing in sections 77-2601 to 77-2615 shall be construed to require a stamping agent to fix the retail price or to require any retail dealer to sell at any particular price. Subject to such rules and regulations as the Tax Commissioner shall prescribe, tax meter machines may be used when approved by the Tax Commissioner to affix a suitable stamp or impression on each package of cigarettes and cigarettes with a tax meter impression shall be treated as stamped cigarettes for purposes of sections 69-2701 to 69-2711 and 77-2601 to 77-2615. Before any person is issued a license to affix stamps or cigarette tax meter impressions, the person shall make application to become licensed as a stamping agent to the Tax Commissioner on a form provided by the Tax Commissioner to engage in such activity.

(2) Any manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer that engages in the business of selling cigarettes may apply to be licensed as a stamping agent in accordance with this section. A license shall be issued by the Tax Commissioner to an applicant upon the applicant's:

(a) Meeting all requirements of sections 69-2701 to 69-2711 and 77-2601 to 77-2615 and rules and regulations pursuant to such sections;

(b) Certifying on a form prescribed by the Tax Commissioner that it will comply with the requirements of section 69-2708; and

(c) In the case of an applicant located outside of the state, designating an agent for service of process in Nebraska, and providing notice thereof as required by section 69-2707, in connection with enforcement of sections 69-2701 to 69-2711 and 77-2601 to 77-2615, and, if approval is given by the Tax Commissioner, the manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer shall furnish a corporate surety bond, conditioned to faithfully comply with all the requirements of sections 77-2601 to 77-2615, in a sum not less than ten thousand dollars. Such bond shall be subject to forfeiture if the stamping agent fails to pay the shortfall amount under subsection (1) of section 69-2708.01 unless the stamping agent is excused from liability under subsection (3) of section 69-2708.01.

(3) Nothing in sections 77-2601 to 77-2615 shall prevent the Tax Commissioner from affixing the stamps or meter impressions in lieu of the provisions for affixing stamps and meter impressions by stamping agents as determined by such rules and regulations adopted by the Tax Commissioner.

(4) The Tax Commissioner shall list on its web site the names of all persons licensed as stamping agents under this section. Manufacturers, importers, and sales entity affiliates shall be entitled to rely upon the list in selling cigarettes as provided in section 69-2706.

(5) A manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer that engages in the business of selling cigarettes and that holds a valid stamping agent license under subsection (1) of this section may apply for a directory license allowing it to purchase or possess in the state cigarettes of a manufacturer or brand family not at the time of purchase listed in the directory for sale into another state if permitted under section 69-2706. A directory license shall be issued by the Tax Commissioner to an applicant upon the applicant's (a) demonstrating that it holds a valid license under subsection (1) of this section and (b) providing a certification by an officer thereof on a form prescribed by the Tax Commissioner that any cigarettes of a manufacturer or brand family not listed in the directory will be purchased or possessed solely for sale or transfer into another state as permitted by section 69-2706. The directory license shall remain in effect for a period of one year.

(6) No directory license may be issued to a person that acted inconsistently with a certification it previously made under subsection (2) of this section.

(7) The Tax Commissioner shall list on its web site the names of all persons holding a directory license. Manufacturers, importers, sales entity affiliates, and stamping agents shall be entitled to rely upon the list in selling cigarettes as provided in section 69-2706.

Source: Laws 1947, c. 267, § 3, p. 862; Laws 1949, c. 245, § 1, p. 665; Laws 1951, c. 271, § 1, p. 905; Laws 1963, c. 458, § 1, p. 1484; Laws 2002, LB 989, § 11; Laws 2003, LB 572, § 10; Laws 2011, LB590, § 24; Laws 2019, LB397, § 22.
Effective date September 1, 2019.

ARTICLE 27

SALES AND INCOME TAX

(a) ACT, RATES, AND DEFINITIONS

Section

- 77-2701. Act, how cited.
- 77-2701.04. Definitions, where found.
- 77-2701.13. Engaged in business in this state, defined.
- 77-2701.16. Gross receipts, defined.
- 77-2701.32. Retailer, defined.

(b) SALES AND USE TAX

- 77-2703. Sales and use tax; rate; collection; collection fee; understatement; prohibited acts; violation; penalty; interest.
- 77-2703.01. General sourcing rules.
- 77-2703.04. Telecommunications sourcing rule.
- 77-2704.31. Sales or use tax paid in another state; credit given.
- 77-2705. Sales and use tax; retailer; registration; permit; form; revocation; restoration; appeal; exempt sale certificate; violations; penalty; wrongful disclosure; online registration system.

Section

- 77-2708. Sales and use tax; returns; date due; failure to file; penalty; deduction; amount; claim for refund; allowance; disallowance; proceedings; Tax Commissioner; duties regarding refund.
- 77-2711. Sales and use tax; Tax Commissioner; enforcement; records; retain; reports; wrongful disclosures; exceptions; information provided to municipality; penalty; waiver; streamlined sales and use tax agreement; confidentiality rights.
- 77-2712.05. Streamlined sales and use tax agreement; requirements.

(c) INCOME TAX

- 77-2715.07. Income tax credits.
- 77-2716. Income tax; adjustments.
- 77-2716.01. Personal exemptions; standard deduction; computation.
- 77-2734.01. Small business corporation shareholders; limited liability company members; determination of income; credit; Tax Commissioner; powers; return; when required.
- 77-2761. Income tax; return; required by whom.
- 77-2773. Income tax; partnership; taxable year; return.
- 77-2776. Income tax; Tax Commissioner; return; examination; failure to file; notice; deficiency; notice.

(h) AIR AND WATER POLLUTION CONTROL TAX REFUND ACT

- 77-27,150. Refund; application; when; contents; hearing; approval.
- 77-27,151. Refund; notice to Tax Commissioner; Department of Environment and Energy; duties.
- 77-27,152. Refund; notice; modify or revoke; when; effect.
- 77-27,153. Appeal; procedure.
- 77-27,154. Rules and regulations.

(m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

- 77-27,187.01. Terms, defined.

(t) BIODIESEL FACILITY INVESTMENT CREDIT

- 77-27,236. Biodiesel facility tax credit; conditions; facility; requirements; information not public record.

(w) ONLINE HOSTING PLATFORM

- 77-27,239. Online hosting platform; Tax Commissioner; agreement authorized; powers.

(a) ACT, RATES, AND DEFINITIONS

77-2701 Act, how cited.

Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235, 77-27,236, 77-27,238, and 77-27,239 shall be known and may be cited as the Nebraska Revenue Act of 1967.

Source: Laws 1967, c. 487, § 1, p. 1533; Laws 1984, LB 1124, § 2; Laws 1985, LB 715, § 1; Laws 1985, LB 273, § 40; Laws 1987, LB 773, § 1; Laws 1987, LB 772, § 1; Laws 1987, LB 775, § 14; Laws 1987, LB 523, § 12; Laws 1989, LB 714, § 1; Laws 1989, LB 762, § 9; Laws 1991, LB 444, § 1; Laws 1991, LB 773, § 6; Laws 1991, LB 829, § 19; Laws 1992, LB 871, § 3; Laws 1992, LB 1063, § 180; Laws 1992, Second Spec. Sess., LB 1, § 153; Laws 1992, Fourth Spec. Sess., LB 1, § 22; Laws 1993, LB 138, § 69; Laws 1993, LB 240, § 1; Laws 1993, LB 345, § 14; Laws 1993, LB 587, § 20; Laws 1993, LB 815, § 22; Laws 1994, LB 901, § 1; Laws 1994, LB 938, § 1; Laws 1995, LB 430, § 2; Laws 1996, LB 106, § 2; Laws 1997, LB 182A, § 1; Laws 1998, LB 924, § 27;

Laws 2001, LB 172, § 10; Laws 2001, LB 433, § 2; Laws 2002, LB 57, § 2; Laws 2002, LB 947, § 3; Laws 2003, LB 72, § 1; Laws 2003, LB 168, § 1; Laws 2003, LB 282, § 6; Laws 2003, LB 759, § 4; Laws 2004, LB 1017, § 2; Laws 2005, LB 28, § 1; Laws 2005, LB 312, § 6; Laws 2006, LB 872, § 1; Laws 2006, LB 968, § 3; Laws 2006, LB 1189, § 1; Laws 2007, LB223, § 3; Laws 2007, LB343, § 1; Laws 2007, LB367, § 9; Laws 2008, LB916, § 5; Laws 2009, LB9, § 2; Laws 2012, LB727, § 34; Laws 2012, LB830, § 1; Laws 2012, LB970, § 1; Laws 2012, LB1080, § 2; Laws 2014, LB96, § 1; Laws 2014, LB867, § 8; Laws 2015, LB3, § 1; Laws 2015, LB419, § 1; Laws 2016, LB774, § 2; Laws 2017, LB217, § 14; Laws 2019, LB57, § 2.

Effective date September 1, 2019.

77-2701.04 Definitions, where found.

For purposes of sections 77-2701.04 to 77-2713 and 77-27,239, unless the context otherwise requires, the definitions found in sections 77-2701.05 to 77-2701.55 shall be used.

Source: Laws 1992, LB 871, § 4; Laws 1992, Fourth Spec. Sess., LB 1, § 23; Laws 1993, LB 345, § 15; Laws 1998, LB 924, § 28; R.S.Supp.,2002, § 77-2702.03; Laws 2003, LB 282, § 8; Laws 2003, LB 759, § 6; Laws 2004, LB 1017, § 3; Laws 2005, LB 312, § 7; Laws 2006, LB 968, § 4; Laws 2006, LB 1189, § 2; Laws 2007, LB223, § 4; Laws 2007, LB367, § 10; Laws 2008, LB916, § 6; Laws 2009, LB9, § 3; Laws 2012, LB727, § 35; Laws 2012, LB830, § 2; Laws 2012, LB1080, § 3; Laws 2014, LB96, § 2; Laws 2014, LB867, § 9; Laws 2015, LB419, § 2; Laws 2019, LB57, § 3.

Effective date September 1, 2019.

77-2701.13 Engaged in business in this state, defined.

(1) Engaged in business in this state means conducting operations in this state that exceed the limitations of the commerce clause and due process clause of the United States Constitution and includes, but is not limited to, any of the following:

(a) Maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse, storage place, or other place of business in this state;

(b) Having any representative, agent, salesperson, canvasser, facilitator, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking orders for any property;

(c) Deriving rentals from a lease of property in this state by any retailer;

(d) Soliciting retail sales of property from residents of this state on a continuous, regular, or systematic basis by means of advertising which is broadcast into this state or installed onto an electronic device located in this state;

(e) Soliciting or facilitating orders from or sales to residents of this state if the activities are continuous, regular, seasonal, or systematic or if the retailer benefits from any activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities;

(f) Being owned or controlled by the same interests which own or control any retailer engaged in business in this state; or

(g) Maintaining or having a franchisee or licensee operating under the retailer's trade name in this state if the franchisee or licensee is required to collect the tax under the Nebraska Revenue Act of 1967.

(2) A retailer who lacks a physical presence in this state and who operates a web site or other digital medium or media to execute sales to purchasers of property subject to sales or use taxes in this state, or who uses a multivendor marketplace platform that acts as an intermediary by facilitating sales between a seller and the purchaser of property subject to sales or use taxes in this state, shall be deemed to be engaged in business in this state if:

(a) Such retailer made total retail sales of property in this state that exceeded one hundred thousand dollars in the previous or current calendar year; or

(b) Such retailer made retail sales in this state in two hundred or more separate transactions in the previous or current calendar year.

(3) A multivendor marketplace platform that acts as an intermediary by facilitating sales between a seller and the purchaser of property subject to sales or use taxes in this state shall be deemed to be engaged in business in this state if:

(a) The multivendor marketplace platform made or facilitated total retail sales of property in this state that exceeded one hundred thousand dollars in the previous or current calendar year; or

(b) The multivendor marketplace platform made or facilitated retail sales in this state in two hundred or more separate transactions in the previous or current calendar year.

Source: Laws 1992, LB 871, § 7; Laws 1993, LB 345, § 17; R.S.1943, (1996), § 77-2702.06; Laws 2003, LB 282, § 17; Laws 2019, LB284, § 1.

Operative date April 1, 2019.

77-2701.16 Gross receipts, defined.

(1) Gross receipts means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers.

(2) Gross receipts of every person engaged as a public utility specified in this subsection, as a community antenna television service operator, or as a satellite service operator or any person involved in connecting and installing services defined in subdivision (2)(a), (b), or (d) of this section means:

(a)(i) In the furnishing of telephone communication service, other than mobile telecommunications service as described in section 77-2703.04, the gross income received from furnishing ancillary services, except for conference bridging services, and intrastate telecommunications services, except for value-added, nonvoice data service.

(ii) In the furnishing of mobile telecommunications service as described in section 77-2703.04, the gross income received from furnishing mobile telecom-

munications service that originates and terminates in the same state to a customer with a place of primary use in Nebraska;

(b) In the furnishing of telegraph service, the gross income received from the furnishing of intrastate telegraph services;

(c)(i) In the furnishing of gas, sewer, water, and electricity service, other than electricity service to a customer-generator as defined in section 70-2002, the gross income received from the furnishing of such services upon billings or statements rendered to consumers for such utility services.

(ii) In the furnishing of electricity service to a customer-generator as defined in section 70-2002, the net energy use upon billings or statements rendered to customer-generators for such electricity service;

(d) In the furnishing of community antenna television service or satellite service, the gross income received from the furnishing of such community antenna television service as regulated under sections 18-2201 to 18-2205 or 23-383 to 23-388 or satellite service; and

(e) The gross income received from the provision, installation, construction, servicing, or removal of property used in conjunction with the furnishing, installing, or connecting of any public utility services specified in subdivision (2)(a) or (b) of this section or community antenna television service or satellite service specified in subdivision (2)(d) of this section, except when acting as a subcontractor for a public utility, this subdivision does not apply to the gross income received by a contractor electing to be treated as a consumer of building materials under subdivision (2) or (3) of section 77-2701.10 for any such services performed on the customer's side of the utility demarcation point. This subdivision also does not apply to the gross income received by a political subdivision of the state for the lease or use of electric generation, transmission, distribution, or street lighting structures or facilities owned by a political subdivision of the state.

(3) Gross receipts of every person engaged in selling, leasing, or otherwise providing intellectual or entertainment property means:

(a) In the furnishing of computer software, the gross income received, including the charges for coding, punching, or otherwise producing any computer software and the charges for the tapes, disks, punched cards, or other properties furnished by the seller; and

(b) In the furnishing of videotapes, movie film, satellite programming, satellite programming service, and satellite television signal descrambling or decoding devices, the gross income received from the license, franchise, or other method establishing the charge.

(4) Gross receipts for providing a service means:

(a) The gross income received for building cleaning and maintenance, pest control, and security;

(b) The gross income received for motor vehicle washing, waxing, towing, and painting;

(c) The gross income received for computer software training;

(d) The gross income received for installing and applying tangible personal property if the sale of the property is subject to tax. If any or all of the charge for installation is free to the customer and is paid by a third-party service provider to the installer, any tax due on that part of the activation commission,

finder's fee, installation charge, or similar payment made by the third-party service provider shall be paid and remitted by the third-party service provider;

(e) The gross income received for services of recreational vehicle parks;

(f) The gross income received for labor for repair or maintenance services performed with regard to tangible personal property the sale of which would be subject to sales and use taxes, excluding motor vehicles, except as otherwise provided in section 77-2704.26 or 77-2704.50;

(g) The gross income received for animal specialty services except (i) veterinary services, (ii) specialty services performed on livestock as defined in section 54-183, and (iii) animal grooming performed by a licensed veterinarian or a licensed veterinary technician in conjunction with medical treatment; and

(h) The gross income received for detective services.

(5) Gross receipts includes the sale of admissions. When an admission to an activity or a membership constituting an admission is combined with the solicitation of a contribution, the portion or the amount charged representing the fair market price of the admission shall be considered a retail sale subject to the tax imposed by section 77-2703. The organization conducting the activity shall determine the amount properly attributable to the purchase of the privilege, benefit, or other consideration in advance, and such amount shall be clearly indicated on any ticket, receipt, or other evidence issued in connection with the payment.

(6) Gross receipts includes the sale of live plants incorporated into real estate except when such incorporation is incidental to the transfer of an improvement upon real estate or the real estate.

(7) Gross receipts includes the sale of any building materials annexed to real estate by a person electing to be taxed as a retailer pursuant to subdivision (1) of section 77-2701.10.

(8) Gross receipts includes the sale of and recharge of prepaid calling service and prepaid wireless calling service.

(9) Gross receipts includes the retail sale of digital audio works, digital audiovisual works, digital codes, and digital books delivered electronically if the products are taxable when delivered on tangible storage media. A sale includes the transfer of a permanent right of use, the transfer of a right of use that terminates on some condition, and the transfer of a right of use conditioned upon the receipt of continued payments.

(10) Gross receipts includes any receipts from sales of tangible personal property made over a multivendor marketplace platform that acts as the intermediary by facilitating sales between a seller and the purchaser and that, either directly or indirectly through agreements or arrangements with third parties, collects payment from the purchaser and transmits payment to the seller.

(11) Gross receipts does not include:

(a) The amount of any rebate granted by a motor vehicle or motorboat manufacturer or dealer at the time of sale of the motor vehicle or motorboat, which rebate functions as a discount from the sales price of the motor vehicle or motorboat; or

(b) The price of property or services returned or rejected by customers when the full sales price is refunded either in cash or credit.

Source: Laws 1992, LB 871, § 8; Laws 1993, LB 345, § 18; Laws 1994, LB 123, § 21; Laws 1994, LB 901, § 2; Laws 1994, LB 977, § 1; Laws 1994, LB 1087, § 1; Laws 1996, LB 106, § 3; Laws 1999, LB 214, § 1; Laws 2002, LB 947, § 4; Laws 2002, LB 1085, § 3; R.S.Supp.,2002, § 77-2702.07; Laws 2003, LB 282, § 20; Laws 2003, LB 759, § 8; Laws 2004, LB 1017, § 7; Laws 2005, LB 216, § 4; Laws 2005, LB 753, § 1; Laws 2007, LB367, § 13; Laws 2008, LB916, § 7; Laws 2009, LB165, § 5; Laws 2009, LB 587, § 1; Laws 2012, LB727, § 38; Laws 2013, LB90, § 1; Laws 2019, LB218, § 3; Laws 2019, LB284, § 2.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB218, section 3, with LB284, section 2, to reflect all amendments.

Note: Changes made by LB284 became operative April 1, 2019. Changes made by LB218 became operative July 1, 2019.

77-2701.32 Retailer, defined.

(1) Retailer means any seller.

(2) To facilitate the proper administration of the Nebraska Revenue Act of 1967, the following persons have the duties and responsibilities of sellers for the purposes of sales and use taxes:

(a) Any person in the business of making sales subject to tax under section 77-2703 at auction of property owned by the person or others;

(b) Any person collecting the proceeds of the auction, other than the owner of the property, together with his or her principal, if any, when the person collecting the proceeds of the auction is not the auctioneer or an agent or employee of the auctioneer. The seller does not include the auctioneer in such case;

(c) Every person who has elected to be considered a retailer pursuant to subdivision (1) of section 77-2701.10;

(d) Every person operating, organizing, or promoting a flea market, craft show, fair, or similar event;

(e) Every person engaged in the business of providing any service defined in subsection (4) of section 77-2701.16; and

(f) Every person operating a multivendor marketplace platform that (i) acts as the intermediary by facilitating sales between a seller and the purchaser or that engages directly or indirectly through one or more affiliated persons in transmitting or otherwise communicating the offer or acceptance between the seller and purchaser and (ii) either directly or indirectly through agreements or arrangements with third parties, collects payment from the purchaser and transmits payment to the seller.

(3) For the proper administration of the Nebraska Revenue Act of 1967, the following persons do not have the duties and responsibilities of a seller for purposes of sales and use taxes:

(a) Any person who leases or rents films when an admission tax is charged under the Nebraska Revenue Act of 1967;

(b) Any person who leases or rents railroad rolling stock interchanged pursuant to the provisions of the federal Interstate Commerce Act;

(c) Any person engaged in the business of furnishing rooms in a facility licensed under the Health Care Facility Licensure Act in which rooms, lodgings, or accommodations are regularly furnished for a consideration or a facility operated by an educational institution established under Chapter 79 or Chapter 85 in which rooms are regularly used to house students for a consideration for periods in excess of thirty days;

(d) Any person making sales at a flea market, craft show, fair, or similar event when such person does not have a sales tax permit and has arranged to pay sales taxes collected to the person operating, organizing, or promoting such event; or

(e) Any payment processor appointed by a retailer whose sole activity with regard to a sale or lease transaction is to process the payment made from the customer to the retailer.

Source: Laws 1992, LB 871, § 15; Laws 1993, LB 345, § 23; Laws 2000, LB 819, § 149; Laws 2002, LB 1085, § 7; R.S.Supp., 2002, § 77-2702.14; Laws 2003, LB 282, § 36; Laws 2003, LB 759, § 10; Laws 2008, LB916, § 8; Laws 2019, LB284, § 3.
Operative date April 1, 2019.

Cross References

Health Care Facility Licensure Act, see section 71-401.

(b) SALES AND USE TAX

77-2703 Sales and use tax; rate; collection; collection fee; understatement; prohibited acts; violation; penalty; interest.

(1) There is hereby imposed a tax at the rate provided in section 77-2701.02 upon the gross receipts from all sales of tangible personal property sold at retail in this state; the gross receipts of every person engaged as a public utility, as a community antenna television service operator, or as a satellite service operator, any person involved in the connecting and installing of the services defined in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every person engaged as a retailer of intellectual or entertainment properties referred to in subsection (3) of section 77-2701.16; the gross receipts from the sale of admissions in this state; the gross receipts from the sale of warranties, guarantees, service agreements, or maintenance agreements when the items covered are subject to tax under this section; beginning January 1, 2008, the gross receipts from the sale of bundled transactions when one or more of the products included in the bundle are taxable; the gross receipts from the provision of services defined in subsection (4) of section 77-2701.16; and the gross receipts from the sale of products delivered electronically as described in subsection (9) of section 77-2701.16. Except as provided in section 77-2701.03, when there is a sale, the tax shall be imposed at the rate in effect at the time the gross receipts are realized under the accounting basis used by the retailer to maintain his or her books and records.

(a) The tax imposed by this section shall be collected by the retailer from the consumer. It shall constitute a part of the purchase price and until collected shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts. The tax required to be collected by the retailer from the consumer constitutes a debt owed by the retailer to this state.

(b) It is unlawful for any retailer to advertise, hold out, or state to the public or to any customer, directly or indirectly, that the tax or part thereof will be assumed or absorbed by the retailer, that it will not be added to the selling, renting, or leasing price of the property sold, rented, or leased, or that, if added, it or any part thereof will be refunded. The provisions of this subdivision shall not apply to a public utility.

(c) The tax required to be collected by the retailer from the purchaser, unless otherwise provided by statute or by rule and regulation of the Tax Commissioner, shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales, rentals, or leases.

(d) For the purpose of more efficiently securing the payment, collection, and accounting for the sales tax and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to provide a schedule or schedules of the amounts to be collected from the consumer or user to effectuate the computation and collection of the tax imposed by the Nebraska Revenue Act of 1967. Such schedule or schedules shall provide that the tax shall be collected from the consumer or user uniformly on sales according to brackets based on sales prices of the item or items. Retailers may compute the tax due on any transaction on an item or an invoice basis. The rounding rule provided in section 77-3,117 applies.

(e) The use of tokens or stamps for the purpose of collecting or enforcing the collection of the taxes imposed in the Nebraska Revenue Act of 1967 or for any other purpose in connection with such taxes is prohibited.

(f) For the purpose of the proper administration of the provisions of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail sales tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of property is not a sale at retail is upon the person who makes the sale unless he or she takes from the purchaser (i) a resale certificate to the effect that the property is purchased for the purpose of reselling, leasing, or renting it, (ii) an exemption certificate pursuant to subsection (7) of section 77-2705, or (iii) a direct payment permit pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale certificate, exemption certificate, or direct payment permit shall be conclusive proof for the seller that the sale was made for resale or was exempt or that the tax will be paid directly to the state.

(g) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in the Motor Vehicle Registration Act, the tax shall be collected by the lessor on the rental or lease price, except as otherwise provided within this section.

(h) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in the act, for periods of one year or more, the lessor may elect not to collect and remit the sales tax on the gross receipts and instead pay a sales tax on the cost of such vehicle. If such election is made, it shall be made pursuant to the following conditions:

(i) Notice of the desire to make such election shall be filed with the Tax Commissioner and shall not become effective until the Tax Commissioner is satisfied that the taxpayer has complied with all conditions of this subsection and all rules and regulations of the Tax Commissioner;

(ii) Such election when made shall continue in force and effect for a period of not less than two years and thereafter until such time as the lessor elects to terminate the election;

(iii) When such election is made, it shall apply to all vehicles of the lessor rented or leased for periods of one year or more except vehicles to be leased to common or contract carriers who provide to the lessor a valid common or contract carrier exemption certificate. If the lessor rents or leases other vehicles for periods of less than one year, such lessor shall maintain his or her books and records and his or her accounting procedure as the Tax Commissioner prescribes; and

(iv) The Tax Commissioner by rule and regulation shall prescribe the contents and form of the notice of election, a procedure for the determination of the tax base of vehicles which are under an existing lease at the time such election becomes effective, the method and manner for terminating such election, and such other rules and regulations as may be necessary for the proper administration of this subdivision.

(i) The tax imposed by this section on the sales of motor vehicles, semitrailers, and trailers as defined in sections 60-339, 60-348, and 60-354 shall be the liability of the purchaser and, with the exception of motor vehicles, semitrailers, and trailers registered pursuant to section 60-3,198, the tax shall be collected by the county treasurer as provided in the Motor Vehicle Registration Act or by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 at the time the purchaser makes application for the registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state. The tax imposed by this section on motor vehicles, semitrailers, and trailers registered pursuant to section 60-3,198 shall be collected by the Department of Motor Vehicles at the time the purchaser makes application for the registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state. At the time of the sale of any motor vehicle, semitrailer, or trailer, the seller shall (i) state on the sales invoice the dollar amount of the tax imposed under this section and (ii) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not register such motor vehicle, semitrailer, or trailer for operation on the highways of this state within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer or the Department of Motor Vehicles. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer or Department of Motor Vehicles shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer or Department of Motor Vehicles shall report and remit the tax so collected to the

Tax Commissioner by the fifteenth day of the following month. The county treasurer, for his or her collection fee, shall deduct and withhold, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax, all of which shall be deposited in the county general fund, plus an additional amount equal to one-half of one percent of all amounts in excess of six thousand dollars remitted each month. Prior to January 1, 2023, fifty percent of such additional amount shall be deposited in the county general fund and fifty percent of such additional amount shall be deposited in the county road fund. On and after January 1, 2023, seventy-five percent of such additional amount shall be deposited in the county general fund and twenty-five percent of such additional amount shall be deposited in the county road fund. In any county with a population of one hundred fifty thousand inhabitants or more, the county treasurer shall remit one dollar of his or her collection fee for each of the first five thousand motor vehicles, semitrailers, or trailers registered with such county treasurer on or after January 1, 2020, to the State Treasurer for credit to the Department of Revenue Enforcement Fund. The Department of Motor Vehicles, for its collection fee, shall deduct, withhold, and deposit in the Motor Carrier Division Cash Fund the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee for the county treasurer or the Department of Motor Vehicles shall be forfeited if the county treasurer or department violates any rule or regulation pertaining to the collection of the use tax.

(j)(i) The tax imposed by this section on the sale of a motorboat as defined in section 37-1204 shall be the liability of the purchaser. The tax shall be collected by the county treasurer at the time the purchaser makes application for the registration of the motorboat. At the time of the sale of a motorboat, the seller shall (A) state on the sales invoice the dollar amount of the tax imposed under this section and (B) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not register such motorboat within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer, for his or her collection fee, shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales

tax. The collection fee shall be forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(ii) In the rental or lease of motorboats, the tax shall be collected by the lessor on the rental or lease price.

(k)(i) The tax imposed by this section on the sale of an all-terrain vehicle as defined in section 60-103 or a utility-type vehicle as defined in section 60-135.01 shall be the liability of the purchaser. The tax shall be collected by the county treasurer or by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 at the time the purchaser makes application for the certificate of title for the all-terrain vehicle or utility-type vehicle. At the time of the sale of an all-terrain vehicle or a utility-type vehicle, the seller shall (A) state on the sales invoice the dollar amount of the tax imposed under this section and (B) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not obtain a certificate of title for such all-terrain vehicle or utility-type vehicle within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer, for his or her collection fee, shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(ii) In the rental or lease of an all-terrain vehicle or a utility-type vehicle, the tax shall be collected by the lessor on the rental or lease price.

(iii) County treasurers are appointed as sales and use tax collectors for all sales of all-terrain vehicles or utility-type vehicles made outside of this state to purchasers or users of all-terrain vehicles or utility-type vehicles which are required to have a certificate of title in this state. The county treasurer shall collect the applicable use tax from the purchaser of an all-terrain vehicle or a utility-type vehicle purchased outside of this state at the time application for a certificate of title is made. The full use tax on the purchase price shall be collected by the county treasurer if a sales or occupation tax was not paid by the purchaser in the state of purchase. If a sales or occupation tax was lawfully paid in the state of purchase at a rate less than the tax imposed in this state, use tax must be collected on the difference as a condition for obtaining a certificate of title in this state.

(1) The Tax Commissioner shall adopt and promulgate necessary rules and regulations for determining the amount subject to the taxes imposed by this section so as to insure that the full amount of any applicable tax is paid in cases in which a sale is made of which a part is subject to the taxes imposed by this section and a part of which is not so subject and a separate accounting is not practical or economical.

(2) A use tax is hereby imposed on the storage, use, or other consumption in this state of property purchased, leased, or rented from any retailer and on any transaction the gross receipts of which are subject to tax under subsection (1) of this section on or after June 1, 1967, for storage, use, or other consumption in this state at the rate set as provided in subsection (1) of this section on the sales price of the property or, in the case of leases or rentals, of the lease or rental prices.

(a) Every person storing, using, or otherwise consuming in this state property purchased from a retailer or leased or rented from another person for such purpose shall be liable for the use tax at the rate in effect when his or her liability for the use tax becomes certain under the accounting basis used to maintain his or her books and records. His or her liability shall not be extinguished until the use tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the Tax Commissioner, under such rules and regulations as he or she may prescribe, to collect the sales tax and who is, for the purposes of the Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a retailer engaged in business in this state, which receipt is given to the purchaser pursuant to subdivision (b) of this subsection, shall be sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state and selling, leasing, or renting property for storage, use, or other consumption in this state shall, at the time of making any sale, collect any tax which may be due from the purchaser and shall give to the purchaser, upon request, a receipt therefor in the manner and form prescribed by the Tax Commissioner.

(c) The Tax Commissioner, in order to facilitate the proper administration of the use tax, may designate such person or persons as he or she may deem necessary to be use tax collectors and delegate to such persons such authority as is necessary to collect any use tax which is due and payable to the State of Nebraska. The Tax Commissioner may require of all persons so designated a surety bond in favor of the State of Nebraska to insure against any misappropriation of state funds so collected. The Tax Commissioner may require any tax official, city, county, or state, to collect the use tax on behalf of the state. All persons designated to or required to collect the use tax shall account for such collections in the manner prescribed by the Tax Commissioner. Nothing in this subdivision shall be so construed as to prevent the Tax Commissioner or his or her employees from collecting any use taxes due and payable to the State of Nebraska.

(d) All persons designated to collect the use tax and all persons required to collect the use tax shall forward the total of such collections to the Tax Commissioner at such time and in such manner as the Tax Commissioner may prescribe. For all use taxes collected prior to October 1, 2002, such collectors of the use tax shall deduct and withhold from the amount of taxes collected two and one-half percent of the first three thousand dollars remitted each month

and one-half of one percent of all amounts in excess of three thousand dollars remitted each month as reimbursement for the cost of collecting the tax. For use taxes collected on and after October 1, 2002, such collectors of the use tax shall deduct and withhold from the amount of taxes collected two and one-half percent of the first three thousand dollars remitted each month as reimbursement for the cost of collecting the tax. Any such deduction shall be forfeited to the State of Nebraska if such collector violates any rule, regulation, or directive of the Tax Commissioner.

(e) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, it shall be presumed that property sold, leased, or rented by any person for delivery in this state is sold, leased, or rented for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who purchases, leases, or rents the property.

(f) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, for the sale of property to an advertising agency which purchases the property as an agent for a disclosed or undisclosed principal, the advertising agency is and remains liable for the sales and use tax on the purchase the same as if the principal had made the purchase directly.

Source: Laws 1967, c. 487, § 3, p. 1543; Laws 1967, c. 490, § 2, p. 1652; Laws 1969, c. 684, § 1, p. 2646; Laws 1969, c. 683, § 2, p. 2621; Laws 1974, LB 820, § 2; Laws 1981, LB 179, § 14; Laws 1983, LB 17, § 2; Laws 1983, LB 169, § 1; Laws 1983, LB 571, § 1; Laws 1985, LB 715, § 3; Laws 1985, LB 273, § 42; Laws 1986, LB 1027, § 204; Laws 1987, LB 224, § 28; Laws 1987, LB 523, § 14; Laws 1991, LB 239, § 1; Laws 1991, LB 47, § 7; Laws 1991, LB 829, § 21; Laws 1992, LB 871, § 25; Laws 1992, LB 1063, § 182; Laws 1992, Second Spec. Sess., LB 1, § 155; Laws 1992, Fourth Spec. Sess., LB 1, § 26; Laws 1993, LB 112, § 45; Laws 1993, LB 345, § 33; Laws 1993, LB 767, § 1; Laws 1994, LB 123, § 24; Laws 1994, LB 994, § 1; Laws 1994, LB 1207, § 15; Laws 1995, LB 17, § 1; Laws 1996, LB 1041, § 6; Laws 1996, LB 1218, § 65; Laws 1997, LB 62, § 1; Laws 1997, LB 182A, § 3; Laws 2002, LB 1085, § 11; Laws 2002, Second Spec. Sess., LB 32, § 1; Laws 2003, LB 282, § 48; Laws 2003, LB 381, § 3; Laws 2003, LB 563, § 43; Laws 2003, LB 759, § 12; Laws 2004, LB 1017, § 10; Laws 2005, LB 274, § 274; Laws 2007, LB223, § 7; Laws 2007, LB367, § 15; Laws 2008, LB916, § 15; Laws 2011, LB211, § 3; Laws 2012, LB801, § 98; Laws 2014, LB814, § 9; Laws 2017, LB263, § 98; Laws 2019, LB237, § 1. Operative date January 1, 2020.

Cross References

Motor Vehicle Registration Act, see section 60-301.

77-2703.01 General sourcing rules.

(1) The determination of whether a sale or use of property or the provision of services is in this state, in a municipality that has adopted a tax under the Local Option Revenue Act, or in a county that has adopted a tax under section 13-319

or 77-6403 shall be governed by the sourcing rules in sections 77-2703.01 to 77-2703.04.

(2) When the property or service is received by the purchaser at a business location of the retailer, the sale is sourced to that business location.

(3) When the property or service is not received by the purchaser at a business location of the retailer, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the retailer.

(4) When subsection (2) or (3) of this section does not apply, the sale is sourced to the location indicated by an address or other information for the purchaser that is available from the business records of the retailer that are maintained in the ordinary course of the retailer's business when use of this address does not constitute bad faith.

(5) When subsection (2), (3), or (4) of this section does not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(6) When subsection (2), (3), (4), or (5) of this section does not apply, including the circumstance in which the retailer is without sufficient information to apply the rules in any such subsection, then the location will be determined by the address from which property was shipped, from which the digital good was first available for transmission by the retailer, or from which the service was provided disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(7) The lease or rental of tangible personal property, other than property identified in subsection (8) or (9) of this section, shall be sourced as follows:

(a) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsections (2) through (6) of this section. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls; and

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsections (2) through (6) of this section.

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump-sum or accelerated basis or on the acquisition of property for lease.

(8) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment under subsection (9) of this section shall be sourced as follows:

(a) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations; and

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsections (2) through (6) of this section.

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump-sum or accelerated basis or on the acquisition of property for lease.

(9) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with subsections (2) through (6) of this section. Transportation equipment means any of the following:

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

(b) Trucks and truck-tractors with a gross vehicle weight rating of ten thousand one pounds or greater, trailers, semitrailers, or passenger buses that are (i) registered through the International Registration Plan and (ii) operated under authority of a carrier authorized and certificated by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(c) Aircraft operated by air carriers authorized and certificated by the United States Department of Transportation or another federal authority or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; and

(d) Containers designed for use on and component parts attached or secured on the items set forth in subdivisions (9)(a) through (c) of this section.

(10) For purposes of this section, receive and receipt mean taking possession of tangible personal property, making first use of services, or taking possession or making first use of digital goods, whichever comes first. The terms receive and receipt do not include possession by a shipping company on behalf of the purchaser. For purposes of sourcing detective services subject to tax under subdivision (4)(h) of section 77-2701.16, making first use of a service shall be deemed to be at the individual's residence, in the case of a customer who is an individual, or at the principal place of business, in the case of a business customer.

(11) The sale, not including lease or rental, of a motor vehicle, semitrailer, or trailer as defined in the Motor Vehicle Registration Act shall be sourced to the place of registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state or, if no such registration has occurred, the place where such motor vehicle, semitrailer, or trailer is required to be registered, except that beginning January 1, 2021, the sale of any motor vehicle or trailer operated by a public power district and registered under section 60-3,228 shall be sourced to the place where the motor vehicle or trailer has situs as defined in section 60-349.

(12) The sale or lease for one year or more of motorboats shall be sourced to the place of registration of the motorboat. The lease of motorboats for less than one year shall be sourced to the point of delivery.

Source: Laws 2003, LB 282, § 49; Laws 2003, LB 759, § 13; Laws 2004, LB 1017, § 11; Laws 2005, LB 274, § 275; Laws 2007, LB367, § 16; Laws 2008, LB916, § 16; Laws 2014, LB851, § 11; Laws 2018, LB1030, § 2; Laws 2019, LB472, § 10.
Effective date September 1, 2019.

Cross References

Local Option Revenue Act, see section 77-27,148.

Motor Vehicle Registration Act, see section 60-301.

77-2703.04 Telecommunications sourcing rule.

(1) Except for the telecommunications service defined in subsection (3) of this section, the sale of telecommunications service sold on a call-by-call basis shall be sourced to (a) each level of taxing jurisdiction where the call originates and terminates in that jurisdiction or (b) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

(2) Except for the telecommunications service defined in subsection (3) of this section, a sale of telecommunications service sold on a basis other than a call-by-call basis and ancillary services are sourced to the customer's place of primary use.

(3)(a) For mobile telecommunications service and ancillary services provided and billed to a customer by a home service provider:

(i) Notwithstanding any other provision of law or any local ordinance or resolution, such mobile telecommunications service is deemed to be provided by the customer's home service provider;

(ii) All taxable charges for such mobile telecommunications service and ancillary services shall be subject to tax by the state or other taxing jurisdiction in this state whose territorial limits encompass the customer's place of primary use regardless of where the mobile telecommunications service originates, terminates, or passes through; and

(iii) No taxes, charges, or fees may be imposed on a customer with a place of primary use outside this state.

(b) In accordance with the federal Mobile Telecommunications Sourcing Act, as such act existed on July 20, 2002, the Tax Commissioner may, but is not required to:

(i) Provide or contract for a tax assignment data base based upon standards identified in 4 U.S.C. 119, as such section existed on July 20, 2002, with the following conditions:

(A) If such data base is provided, a home service provider shall be held harmless for any tax that otherwise would result from any errors or omissions attributable to reliance on such data base; or

(B) If such data base is not provided, a home service provider may rely on an enhanced zip code for identifying the proper taxing jurisdictions and shall be held harmless for any tax that otherwise would result from any errors or omissions attributable to reliance on such enhanced zip code if the home service provider identified the taxing jurisdiction through the exercise of due

diligence and complied with any procedures that may be adopted by the Tax Commissioner. Any such procedure shall be in accordance with 4 U.S.C. 120, as such section existed on July 20, 2002; and

(ii) Adopt procedures for correcting errors in the assignment of primary use that are consistent with 4 U.S.C. 121, as such section existed on July 20, 2002.

(c) If charges for mobile telecommunications service that are not subject to tax are aggregated with and not separately stated on the bill from charges that are subject to tax, the total charge to the customer shall be subject to tax unless the home service provider can reasonably separate charges not subject to tax using the records of the home service provider that are kept in the regular course of business.

(d) For purposes of this subsection:

(i) Customer means an individual, business, organization, or other person contracting to receive mobile telecommunications service from a home service provider. Customer does not include a reseller of mobile telecommunications service or a serving carrier under an arrangement to serve the customer outside the home service provider's service area;

(ii) Home service provider means a telecommunications company as defined in section 86-322 that has contracted with a customer to provide mobile telecommunications service;

(iii) Mobile telecommunications service means a wireless communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way wireless communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations, whether on an individual, cooperative, or multiple basis for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any personal communication service;

(iv) Place of primary use means the street address representative of where the customer's use of mobile telecommunications service primarily occurs. The place of primary use shall be the residential street address or the primary business street address of the customer and shall be within the service area of the home service provider; and

(v) Tax means the sales taxes levied under sections 13-319, 77-2703, 77-27,142, and 77-6403, the surcharges levied under the Enhanced Wireless 911 Services Act, the Nebraska Telecommunications Universal Service Fund Act, and the Telecommunications Relay System Act, and any other tax levied against the customer based on the amount charged to the customer. Tax does not mean an income tax, property tax, franchise tax, or any other tax levied on the home service provider that is not based on the amount charged to the customer.

(4) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either (a) the seller's telecommunications system, or (b) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(5) A sale of prepaid calling service or a sale of a prepaid wireless calling service is sourced in accordance with section 77-2703.01, except that in the

case of a sale of a prepaid wireless calling service, the rule provided in section 77-2703.01 shall include as an option the location associated with the mobile telephone number.

(6) A sale of a private communication service is sourced as follows:

(a) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located;

(b) Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located;

(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of channel are separately charged is sourced fifty percent in each level of jurisdiction in which the customer channel termination points are located; and

(d) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

(7) For purposes of this section:

(a) 800 service means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name 800, 855, 866, 877, and 888 toll-free calling, and any subsequent numbers designated by the Federal Communications Commission;

(b) 900 service means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. 900 service does not include the charge for collection services provided by the seller of the telecommunications services to the subscriber or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name 900 service, and any subsequent numbers designated by the Federal Communications Commission;

(c) Air-to-ground radiotelephone service means a radio telecommunication service, as that term is defined in 47 C.F.R. 22.99, as such regulation existed on January 1, 2007, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;

(d) Ancillary services means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billings, directory assistance, vertical service, and voice mail services;

(e) Call-by-call basis means any method of charging for telecommunications service where the price is measured by individual calls;

(f) Coin-operated telephone service means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate;

(g) Communications channel means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;

(h) Conference bridging service means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge;

(i) Customer means the person or entity that contracts with the seller of telecommunications service. If the end user of telecommunications service is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service, but this sentence only applies for the purpose of sourcing sales of telecommunications service under this section. Customer does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area;

(j) Customer channel termination point means the location where the customer either inputs or receives the communications;

(k) Detailed telecommunications billing service means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement;

(l) Directory assistance means an ancillary service of providing telephone number information and address information;

(m) End user means the person who utilizes the telecommunications service. In the case of an entity, end user means the individual who utilizes the service on behalf of the entity;

(n) Fixed wireless service means a telecommunications service that provides radio communication between fixed points;

(o) International means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. United States includes the District of Columbia or a United States territory or possession;

(p) Interstate means a telecommunications service that originates in one state of the United States, or a territory or possession of the United States, and terminates in a different state, territory, or possession of the United States;

(q) Intrastate means a telecommunications service that originates in one state of the United States, or a territory or possession of the United States, and terminates in the same state, territory, or possession of the United States;

(r) Mobile wireless service means a telecommunications service that is transmitted, conveyed, or routed regardless of the technology used, whereby the origination and termination points of the transmission, conveyance, or routing are not fixed, including, by way of example only, telecommunications services that are provided by a commercial mobile radio service provider;

(s) Paging service means a telecommunications service that provides transmission of coded radio signals for the purpose of activating specific pagers. Such transmission may include messages and sounds;

(t) Pay telephone services means a telecommunications service provided through pay telephones;

(u) Post-paid calling service means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism, such as a bank card, travel card, credit card, or debit card, or by a charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service;

(v) Prepaid calling service means the right to access exclusively telecommunications service, which is paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;

(w) Prepaid wireless calling service means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services, which must be paid for in advance, that is sold in predetermined units of dollars or which the number declines with use in a known amount;

(x) Private communication service means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels;

(y) Residential telecommunications service means a telecommunications service or ancillary services provided to an individual for personal use at a residential address, including an individual dwelling unit such as an apartment. In the case of institutions where individuals reside, such as schools or nursing homes, telecommunications service is considered residential if it is provided to and paid for by an individual resident rather than the institution;

(z) Service address means the location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid. If this location is not known, service address means the origination point of the signal of the telecommunications service first identified either by the seller's telecommunications system, or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller. If both locations are not known, the service address means the location of the customer's place of primary use;

(aa) Telecommunications service means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. Telecommunications service includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value-added. Telecommunications service does not include:

(i) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser when such purchaser's primary purpose for the underlying transaction is the processed data or information;

(ii) Installation or maintenance of wiring or equipment on a customer's premises;

(iii) Tangible personal property;

(iv) Advertising, including, but not limited to, directory advertising;

(v) Billing and collection services provided to third parties;

(vi) Internet access service;

(vii) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. 522, as such section existed on January 1, 2007, and audio and video programming services delivered by providers of commercial mobile radio service as defined in 47 C.F.R. 20.3, as such regulation existed on January 1, 2007;

(viii) Ancillary services; or

(ix) Digital products delivered electronically, including, but not limited to, software, music, video, reading materials, or ringtones;

(bb) Value-added, nonvoice data service means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing;

(cc) Vertical service means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services; and

(dd) Voice mail service means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

Source: Laws 2003, LB 282, § 52; Laws 2007, LB223, § 8; Laws 2009, LB165, § 7; Laws 2019, LB472, § 11.
Effective date September 1, 2019.

Cross References

Enhanced Wireless 911 Services Act, see section 86-442.

Nebraska Telecommunications Universal Service Fund Act, see section 86-316.

Telecommunications Relay System Act, see section 86-301.

77-2704.31 Sales or use tax paid in another state; credit given.

If any person who causes property or service to be brought into this state has already paid a tax in another state with respect to the sale or use of such property or service in an amount less than the tax imposed by sections 13-319, 13-2813, 77-2703, 77-27,142, and 77-6403, the provisions of subsection (2) of section 77-2703 shall apply, but at a rate measured by the difference only

between the rate imposed by such sections and the rate by which the previous tax on the sale or use was computed. If such tax imposed and paid in such other state is equal to or more than the tax imposed by such sections, then no use tax shall be due in this state on such property if such other state, territory, or possession grants a reciprocal exclusion or exemption to similar transactions in this state.

Source: Laws 1992, LB 871, § 54; Laws 1993, LB 345, § 50; Laws 1999, LB 34, § 2; Laws 2001, LB 142, § 55; Laws 2002, LB 1085, § 16; Laws 2019, LB472, § 12.
Effective date September 1, 2019.

77-2705 Sales and use tax; retailer; registration; permit; form; revocation; restoration; appeal; exempt sale certificate; violations; penalty; wrongful disclosure; online registration system.

(1) Except as provided in subsection (10) of this section, every retailer shall register with the Tax Commissioner and give:

(a) The name and address of all agents operating in this state;

(b) The location of all distribution or sales houses or offices or other places of business in this state;

(c) The name and address of any officer, director, partner, limited liability company member, or employee, other than an employee whose duties are purely ministerial in nature, or any person with a substantial interest in the applicant, who is or who will be responsible for the collection or remittance of the sales tax;

(d) Such other information as the Tax Commissioner may require; and

(e) If the retailer is an individual, his or her social security number.

(2) Every person furnishing public utility service as defined in subsection (2) of section 77-2701.16 shall register with the Tax Commissioner and give:

(a) The address of each office open to the public in which such public utility service business is transacted with consumers; and

(b) Such other information as the Tax Commissioner may require.

(3)(a) It shall be unlawful for any person to engage in or transact business as a seller within this state after June 1, 1967, unless a permit or permits shall have been issued to him or her as prescribed in this section.

(b) Every person desiring to engage in or to conduct business as a seller within this state shall file with the Tax Commissioner an application for a permit for each place of business. There shall be no charge to the retailer for the application for or issuance of a permit except as otherwise provided in this section.

(c) If a retailer becomes engaged in business in this state during a calendar year by exceeding one of the thresholds in subsection (2) or (3) of section 77-2701.13 for the first time, the retailer must obtain a permit and begin collecting the sales tax on or before the first day of the second calendar month after the threshold was exceeded. Such retailer shall also be subject to the Local Option Revenue Act and sections 13-319 and 13-2813 and shall collect and remit the sales tax due under such act and sections.

(4) Every application for a permit shall:

(a) Be made upon a form prescribed by the Tax Commissioner;

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his or her place or places of business;

(c) Set forth such other information as the Tax Commissioner may require; and

(d) Be signed by the owner and include his or her social security number if he or she is a natural person; in the case of an association or partnership, by a member or partner; in the case of a limited liability company, by a member or some person authorized by the limited liability company to sign such kinds of applications; and in the case of a corporation, by an executive officer or some person authorized by the corporation to sign such kinds of applications.

(5) After compliance with subsections (1) through (4) of this section by the applicant, the Tax Commissioner shall grant and issue to each applicant a separate permit for each place of business within the state. A permit shall not be assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued and shall be valid and effective until revoked by the Tax Commissioner.

(6)(a) Whenever the holder of a permit issued under subsection (5) of this section or any person required to be identified in subdivision (1)(c) of this section (i) fails to comply with any provision of the Nebraska Revenue Act of 1967 relating to the retail sales tax or with any rule or regulation of the Tax Commissioner relating to such tax prescribed and adopted under such act, (ii) fails to provide for inspection or audit any book, record, document, or item required by law, rule, or regulation, or (iii) makes a misrepresentation of or fails to disclose a material fact to the Department of Revenue, the Tax Commissioner upon hearing, after giving the person twenty days' notice in writing specifying the time and place of hearing and requiring him or her to show cause why his or her permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The Tax Commissioner shall give to the person written notice of the suspension or revocation of any of his or her permits. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(b) The Tax Commissioner shall have the power to restore permits which have been revoked but shall not issue a new permit after the revocation of a permit unless he or she is satisfied that the former holder of the permit will comply with the provisions of such act relating to the retail sales tax and the regulations of the Tax Commissioner. A seller whose permit has been previously suspended or revoked under this subsection shall pay the Tax Commissioner a fee of twenty-five dollars for the renewal or issuance of a permit in the event of a first revocation and fifty dollars for renewal after each successive revocation.

(c) The action of the Tax Commissioner may be appealed by the taxpayer in the same manner as a final deficiency determination.

(7) For the purpose of more efficiently securing the payment, collection, and accounting for the sales and use taxes and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to formulate and promulgate appropriate rules and regulations providing a form and method for the registration of exempt purchases and the documentation of exempt sales.

(8) If any person, firm, corporation, association, or agent thereof presents an exempt sale certificate to the seller for property which is purchased by a

taxpayer or for a use other than those enumerated in the Nebraska Revenue Act of 1967 as exempted from the computation of sales and use taxes, the Tax Commissioner may, in addition to other penalties provided by law, impose, assess, and collect from the purchaser or the agent thereof a penalty of one hundred dollars or ten times the tax, whichever amount is larger, for each instance of such presentation and misuse of an exempt sale certificate. Such amount shall be in addition to any tax, interest, or penalty otherwise imposed.

(9) Any report, name, or information which is supplied to the Tax Commissioner regarding a violation specified in this section, including the identity of the informer, shall be subject to the pertinent provisions regarding wrongful disclosure in section 77-2711.

(10) Pursuant to the streamlined sales and use tax agreement, the state shall participate in an online registration system that will allow retailers to register in all the member states. The state hereby agrees to honor and abide by the retailer registration decisions made by the governing board pursuant to the agreement.

Source: Laws 1967, c. 487, § 5, p. 1553; Laws 1967, c. 490, § 4, p. 1663; Laws 1982, LB 928, § 65; Laws 1984, LB 962, § 9; Laws 1992, LB 871, § 60; Laws 1993, LB 121, § 502; Laws 1993, LB 345, § 54; Laws 1997, LB 752, § 212; Laws 2002, Second Spec. Sess., LB 32, § 2; Laws 2003, LB 282, § 70; Laws 2003, LB 759, § 20; Laws 2008, LB916, § 24; Laws 2019, LB284, § 4.
Operative date April 1, 2019.

Cross References

Local Option Revenue Act, see section 77-27,148.

77-2708 Sales and use tax; returns; date due; failure to file; penalty; deduction; amount; claim for refund; allowance; disallowance; proceedings; Tax Commissioner; duties regarding refund.

(1)(a) The sales and use taxes imposed by the Nebraska Revenue Act of 1967 shall be due and payable to the Tax Commissioner monthly on or before the twentieth day of the month next succeeding each monthly period unless otherwise provided pursuant to the Nebraska Revenue Act of 1967.

(b)(i) On or before the twentieth day of the month following each monthly period or such other period as the Tax Commissioner may require, a return for such period, along with all taxes due, shall be filed with the Tax Commissioner in such form and content as the Tax Commissioner may prescribe and containing such information as the Tax Commissioner deems necessary for the proper administration of the Nebraska Revenue Act of 1967. The Tax Commissioner, if he or she deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of sales or use taxes due, may require returns and payment of the amount of such taxes for periods other than monthly periods in the case of a particular seller, retailer, or purchaser, as the case may be. The Tax Commissioner shall by rule and regulation require reports and tax payments from sellers, retailers, or purchasers depending on their yearly tax liability. Except as required by the streamlined sales and use tax agreement, annual returns shall be required if such sellers', retailers', or purchasers' yearly tax liability is less than nine hundred dollars, quarterly returns shall be required if their yearly tax liability is nine hundred dollars or more and less than three thousand dollars, and monthly returns shall be

required if their yearly tax liability is three thousand dollars or more. The Tax Commissioner shall have the discretion to allow an annual return for seasonal retailers, even when their yearly tax liability exceeds the amounts listed in this subdivision.

The Tax Commissioner may adopt and promulgate rules and regulations to allow annual, semiannual, or quarterly returns for any retailer making monthly remittances or payments of sales and use taxes by electronic funds transfer or for any retailer remitting tax to the state pursuant to the streamlined sales and use tax agreement. Such rules and regulations may establish a method of determining the amount of the payment that will result in substantially all of the tax liability being paid each quarter. At least once each year, the difference between the amount paid and the amount due shall be reconciled. If the difference is more than ten percent of the amount paid, a penalty of fifty percent of the unpaid amount shall be imposed.

(ii) For purposes of the sales tax, a return shall be filed by every retailer liable for collection from a purchaser and payment to the state of the tax, except that a combined sales tax return may be filed for all licensed locations which are subject to common ownership. For purposes of this subdivision, common ownership means the same person or persons own eighty percent or more of each licensed location. For purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person who has purchased property, the storage, use, or other consumption of which is subject to the use tax, but who has not paid the use tax due to a retailer required to collect the tax.

(iii) The Tax Commissioner may require that returns be signed by the person required to file the return or by his or her duly authorized agent but need not be verified by oath.

(iv) A taxpayer who keeps his or her regular books and records on a cash basis, an accrual basis, or any generally recognized accounting basis which correctly reflects the operation of the business may file the sales and use tax returns required by the Nebraska Revenue Act of 1967 on the same accounting basis that is used for the regular books and records, except that on credit, conditional, and installment sales, the retailer who keeps his or her books on an accrual basis may report such sales on the cash basis and pay the tax upon the collections made during each month. If a taxpayer transfers, sells, assigns, or otherwise disposes of an account receivable, he or she shall be deemed to have received the full balance of the consideration for the original sale and shall be liable for the remittance of the sales tax on the balance of the total sale price not previously reported, except that such transfer, sale, assignment, or other disposition of an account receivable by a retailer to a subsidiary shall not be deemed to require the retailer to pay the sales tax on the credit sale represented by the account transferred prior to the time the customer makes payment on such account. If the subsidiary does not obtain a Nebraska sales tax permit, the taxpayer shall obtain a surety bond in favor of the State of Nebraska to insure payment of the tax and any interest and penalty imposed thereon under this section in an amount not less than two times the amount of tax payable on outstanding accounts receivable held by the subsidiary as of the end of the prior calendar year. Failure to obtain either a sales tax permit or a surety bond in accordance with this section shall result in the payment on the next required filing date of all sales taxes not previously remitted. When the retailer has adopted one basis or the other of reporting credit, conditional, or installment

sales and paying the tax thereon, he or she will not be permitted to change from that basis without first having notified the Tax Commissioner.

(c) Except as provided in the streamlined sales and use tax agreement, the taxpayer required to file the return shall deliver or mail any required return together with a remittance of the net amount of the tax due to the office of the Tax Commissioner on or before the required filing date. Failure to file the return, filing after the required filing date, failure to remit the net amount of the tax due, or remitting the net amount of the tax due after the required filing date shall be cause for a penalty, in addition to interest, of ten percent of the amount of tax not paid by the required filing date or twenty-five dollars, whichever is greater, unless the penalty is being collected under subdivision (1)(i), (1)(j)(i), or (1)(k)(i) of section 77-2703 by a county treasurer or the Department of Motor Vehicles, in which case the penalty shall be five dollars.

(d) The taxpayer shall deduct and withhold, from the taxes otherwise due from him or her on his or her tax return, two and one-half percent of the first three thousand dollars remitted each month to reimburse himself or herself for the cost of collecting the tax. Taxpayers filing a combined return as allowed by subdivision (1)(b)(ii) of this subsection shall compute such collection fees on the basis of the receipts and liability of each licensed location.

(e) A retailer that makes sales into Nebraska using a multivendor marketplace platform is relieved of its obligation to collect and remit sales taxes to Nebraska with regard to any sales taxes collected and remitted by the multivendor marketplace platform. Such a retailer must include all sales into Nebraska in its gross receipts in its return, but may claim credit for any sales taxes collected and remitted by the multivendor marketplace platform with respect to such retailer's sales. Such retailer is liable for the sales tax due on sales into Nebraska as provided in section 77-2704.35.

(f) A multivendor marketplace platform is relieved of its obligation to collect and remit the correct amount of state and local sales taxes to Nebraska to the extent that the multivendor marketplace platform can establish that the error was due to insufficient or incorrect information given to the multivendor marketplace platform by the seller and relied on by the multivendor marketplace platform. This subdivision shall not apply if the multivendor marketplace platform and the seller are related persons under either section 267(b) or (c) or section 707(b) of the Internal Revenue Code of 1986 or if the seller is also the multivendor marketplace platform operator.

(2)(a) If the Tax Commissioner determines that any sales or use tax amount, penalty, or interest has been paid more than once, has been erroneously or illegally collected or computed, or has been paid and the purchaser qualifies for a refund under section 77-2708.01, the Tax Commissioner shall set forth that fact in his or her records and the excess amount collected or paid may be credited on any sales, use, or income tax amounts then due and payable from the person under the Nebraska Revenue Act of 1967. Any balance may be refunded to the person by whom it was paid or his or her successors, administrators, or executors.

(b) No refund shall be allowed unless a claim therefor is filed with the Tax Commissioner by the person who made the overpayment or his or her attorney, executor, or administrator within three years from the required filing date following the close of the period for which the overpayment was made, within six months after any determination becomes final under section 77-2709, or

within six months from the date of overpayment with respect to such determinations, whichever of these three periods expires later, unless the credit relates to a period for which a waiver has been given. Failure to file a claim within the time prescribed in this subsection shall constitute a waiver of any demand against the state on account of overpayment.

(c) Every claim shall be in writing on forms prescribed by the Tax Commissioner and shall state the specific amount and grounds upon which the claim is founded. No refund shall be made in any amount less than two dollars.

(d) The Tax Commissioner shall allow or disallow a claim within one hundred eighty days after it has been filed. A request for a hearing shall constitute a waiver of the one-hundred-eighty-day period. The claimant and the Tax Commissioner may also agree to extend the one-hundred-eighty-day period. If a hearing has not been requested and the Tax Commissioner has neither allowed nor disallowed a claim within either the one hundred eighty days or the period agreed to by the claimant and the Tax Commissioner, the claim shall be deemed to have been allowed.

(e) Within thirty days after disallowing any claim in whole or in part, the Tax Commissioner shall serve notice of his or her action on the claimant in the manner prescribed for service of notice of a deficiency determination.

(f) Within thirty days after the mailing of the notice of the Tax Commissioner's action upon a claim filed pursuant to the Nebraska Revenue Act of 1967, the action of the Tax Commissioner shall be final unless the taxpayer seeks review of the Tax Commissioner's determination as provided in section 77-27,127.

(g) Upon the allowance of a credit or refund of any sum erroneously or illegally assessed or collected, of any penalty collected without authority, or of any sum which was excessive or in any manner wrongfully collected, interest shall be allowed and paid on the amount of such credit or refund at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date such sum was paid or from the date the return was required to be filed, whichever date is later, to the date of the allowance of the refund or, in the case of a credit, to the due date of the amount against which the credit is allowed, but in the case of a voluntary and unrequested payment in excess of actual tax liability or a refund under section 77-2708.01, no interest shall be allowed when such excess is refunded or credited.

(h) No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed.

(i) The Tax Commissioner may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed by issuing a deficiency determination within one year from the date of refund or credit or within the period otherwise allowed for issuing a deficiency determination, whichever expires later.

(j)(i) Credit shall be allowed to the retailer, contractor, or repairperson for sales or use taxes paid pursuant to the Nebraska Revenue Act of 1967 on any deduction taken that is attributed to bad debts not including interest. Bad debt has the same meaning as in 26 U.S.C. 166, as such section existed on January 1, 2003. However, the amount calculated pursuant to 26 U.S.C. 166 shall be adjusted to exclude: Financing charges or interest; sales or use taxes charged on the purchase price; uncollectible amounts on property that remains in the

possession of the seller until the full purchase price is paid; and expenses incurred in attempting to collect any debt and repossessed property.

(ii) Bad debts may be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. A claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.

(iii) If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so collected must be paid and reported on the return filed for the period in which the collection is made.

(iv) When the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, a refund claim may be filed within the otherwise applicable statute of limitations for refund claims. The statute of limitations shall be measured from the due date of the return on which the bad debt could first be claimed.

(v) If filing responsibilities have been assumed by a certified service provider, the service provider may claim, on behalf of the retailer, any bad debt allowance provided by this section. The certified service provider shall credit or refund the full amount of any bad debt allowance or refund received to the retailer.

(vi) For purposes of reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first proportionally to the taxable price of the property or service and the sales tax thereon, and secondly to interest, service charges, and any other charges.

(vii) In situations in which the books and records of the party claiming the bad debt allowance support an allocation of the bad debts among the member states in the streamlined sales and use tax agreement, the state shall permit the allocation.

(3) Beginning July 1, 2020, if a refund claim under this section involves a refund of a tax imposed under the Local Option Revenue Act or section 13-319, 13-2813, or 77-6403 and the amount of such tax to be refunded is at least five thousand dollars, the Tax Commissioner shall notify the affected city, village, county, or municipal county of such claim within twenty days after receiving the claim. If the Tax Commissioner allows the claim and the refund of such tax is at least five thousand dollars, the Tax Commissioner shall notify the affected city, village, county, or municipal county of such refund and shall give the city, village, county, or municipal county the option of having such refund deducted from its tax proceeds in one lump sum or in twelve equal monthly installments. The city, village, county, or municipal county shall make its selection and shall certify the selection to the Tax Commissioner within twenty days after receiving notice of the refund. The Tax Commissioner shall then deduct such refund from the applicable tax proceeds in accordance with the selection when he or she deducts refunds pursuant to section 13-324, 13-2814, 77-27,144, or 77-6403, whichever is applicable.

Source: Laws 1967, c. 487, § 8, p. 1558; Laws 1967, c. 490, § 5, p. 1665; Laws 1969, c. 683, § 5, p. 2635; Laws 1976, LB 996, § 1; Laws 1981, LB 179, § 15; Laws 1981, LB 167, § 51; Laws 1982, Spec.

Sess., LB 2, § 1; Laws 1983, LB 101, § 1; Laws 1983, LB 571, § 2; Laws 1984, LB 758, § 1; Laws 1985, LB 715, § 7; Laws 1985, LB 273, § 46; Laws 1987, LB 775, § 15; Laws 1987, LB 523, § 16; Laws 1988, LB 1234, § 1; Laws 1991, LB 829, § 23; Laws 1992, LB 1063, § 183; Laws 1992, Second Spec. Sess., LB 1, § 156; Laws 1992, Fourth Spec. Sess., LB 1, § 28; Laws 1993, LB 128, § 1; Laws 1993, LB 345, § 56; Laws 1995, LB 9, § 1; Laws 1995, LB 118, § 1; Laws 1996, LB 1041, § 7; Laws 2002, Second Spec. Sess., LB 32, § 3; Laws 2003, LB 282, § 71; Laws 2005, LB 216, § 8; Laws 2008, LB916, § 25; Laws 2011, LB210, § 9; Laws 2012, LB801, § 99; Laws 2014, LB814, § 10; Laws 2018, LB745, § 1; Laws 2019, LB284, § 5; Laws 2019, LB472, § 13.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB284, section 5, with LB472, section 13, to reflect all amendments.

Note: Changes made by LB284 became operative April 1, 2019. Changes made by LB472 became effective September 1, 2019.

Cross References

Local Option Revenue Act, see section 77-27,148.

77-2711 Sales and use tax; Tax Commissioner; enforcement; records; retain; reports; wrongful disclosures; exceptions; information provided to municipality; penalty; waiver; streamlined sales and use tax agreement; confidentiality rights.

(1)(a) The Tax Commissioner shall enforce sections 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of such sections.

(b) The Tax Commissioner may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(2) The Tax Commissioner may employ accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of the Nebraska Revenue Act of 1967 and may delegate authority to his or her representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by such act.

(3)(a) Every seller, every retailer, and every person storing, using, or otherwise consuming in this state property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the Tax Commissioner may reasonably require.

(b) Every such seller, retailer, or person shall keep such records for not less than three years from the making of such records unless the Tax Commissioner in writing sooner authorized their destruction.

(4) The Tax Commissioner or any person authorized in writing by him or her may examine the books, papers, records, and equipment of any person selling property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made or, if no return is made by the person, to ascertain and determine the amount required to be paid. In the examination of any person selling property or of any person liable for the use tax, an inquiry shall be made as to the accuracy of the reporting of city and county sales and use taxes for which the person is liable under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 and the accuracy of the allocation made between the various counties, cities, villages, and municipal counties of the tax due. The Tax Commissioner

may make or cause to be made copies of resale or exemption certificates and may pay a reasonable amount to the person having custody of the records for providing such copies.

(5) The taxpayer shall have the right to keep or store his or her records at a point outside this state and shall make his or her records available to the Tax Commissioner at all times.

(6) In administration of the use tax, the Tax Commissioner may require the filing of reports by any person or class of persons having in his, her, or their possession or custody information relating to sales of property, the storage, use, or other consumption of which is subject to the tax. The report shall be filed when the Tax Commissioner requires and shall set forth the names and addresses of purchasers of the property, the sales price of the property, the date of sale, and such other information as the Tax Commissioner may require.

(7) It shall be a Class I misdemeanor for the Tax Commissioner or any official or employee of the Tax Commissioner, the State Treasurer, or the Department of Administrative Services to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and activities of any retailer or any other person visited or examined in the discharge of official duty or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Tax Commissioner. Nothing in this section shall be construed to prohibit (a) the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) the inspection by the Attorney General, other legal representative of the state, or county attorney of the reports or returns of any taxpayer when either (i) information on the reports or returns is considered by the Attorney General to be relevant to any action or proceeding instituted by the taxpayer or against whom an action or proceeding is being considered or has been commenced by any state agency or the county or (ii) the taxpayer has instituted an action to review the tax based thereon or an action or proceeding against the taxpayer for collection of tax or failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a transaction of information and records concerning the transaction between the taxpayer and the other party, (g) the disclosure of information pursuant to section 77-27,195 or 77-5731, or (h) the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act.

(8) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect the reports or returns of any person filed pursuant to the Nebraska Revenue Act of 1967 when information on the reports or returns is relevant to any action or proceeding instituted or being

considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(9) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may permit other tax officials of this state to inspect the tax returns, reports, and applications filed under sections 77-2701.04 to 77-2713, but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

(10) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may, upon request, provide the county board of any county which has exercised the authority granted by section 81-3716 with a list of the names and addresses of the hotels located within the county for which lodging sales tax returns have been filed or for which lodging sales taxes have been remitted for the county's County Visitors Promotion Fund under the Nebraska Visitors Development Act.

The information provided by the Tax Commissioner shall indicate only the names and addresses of the hotels located within the requesting county for which lodging sales tax returns have been filed for a specified period and the fact that lodging sales taxes remitted by or on behalf of the hotel have constituted a portion of the total sum remitted by the state to the county for a specified period under the provisions of the Nebraska Visitors Development Act. No additional information shall be revealed.

(11)(a) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon written request by the Auditor of Public Accounts or the office of Legislative Audit, make tax returns and tax return information open to inspection by or disclosure to the Auditor of Public Accounts or employees of the office of Legislative Audit for the purpose of and to the extent necessary in making an audit of the Department of Revenue pursuant to section 50-1205 or 84-304. Confidential tax returns and tax return information shall be audited only upon the premises of the Department of Revenue. All audit workpapers pertaining to the audit of the Department of Revenue shall be stored in a secure place in the Department of Revenue.

(b) No employee of the Auditor of Public Accounts or the office of Legislative Audit shall disclose to any person, other than another Auditor of Public Accounts or office employee whose official duties require such disclosure, any return or return information described in the Nebraska Revenue Act of 1967 in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(c) Any person who violates the provisions of this subsection shall be guilty of a Class I misdemeanor. For purposes of this subsection, employee includes a former Auditor of Public Accounts or office of Legislative Audit employee.

(12) For purposes of this subsection and subsections (11) and (14) of this section:

(a) Disclosure means the making known to any person in any manner a tax return or return information;

(b) Return information means:

(i) A taxpayer's identification number and (A) the nature, source, or amount of his or her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing or (B) any other data received by, recorded by, prepared by, furnished to, or collected by the Tax Commissioner with respect to a return or the determination of the existence or possible existence of liability or the amount of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense; and

(ii) Any part of any written determination or any background file document relating to such written determination; and

(c) Tax return or return means any tax or information return or claim for refund required by, provided for, or permitted under sections 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf of, or with respect to any person and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return.

(13) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon request, provide any municipality which has adopted the local option sales tax under the Local Option Revenue Act with a list of the names and addresses of the retailers which have collected the local option sales tax for the municipality. The request may be made annually and shall be submitted to the Tax Commissioner on or before June 30 of each year. The information provided by the Tax Commissioner shall indicate only the names and addresses of the retailers. The Tax Commissioner may provide additional information to a municipality so long as the information does not include any data detailing the specific revenue, expenses, or operations of any particular business.

(14)(a) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon written request, provide an individual certified under subdivision (b) of this subsection representing a municipality which has adopted the local option sales and use tax under the Local Option Revenue Act with confidential sales and use tax returns and sales and use tax return information regarding taxpayers that possess a sales tax permit and the amounts remitted by such permit holders at locations within the boundaries of the requesting municipality or with confidential business use tax returns and business use tax return information regarding taxpayers that file a Nebraska and Local Business Use Tax Return and the amounts remitted by such taxpayers at locations within the boundaries of the requesting municipality. Any written request pursuant to this subsection shall provide the Department of Revenue with no less than ten business days to prepare the sales and use tax returns and sales and use tax return information requested. Such returns and return information shall be viewed only upon the premises of the department.

(b) Each municipality that seeks to request information under subdivision (a) of this subsection shall certify to the Department of Revenue one individual who is authorized by such municipality to make such request and review the documents described in subdivision (a) of this subsection. The individual may be a municipal employee or an individual who contracts with the requesting municipality to provide financial, accounting, or other administrative services.

(c) No individual certified by a municipality pursuant to subdivision (b) of this subsection shall disclose to any person any information obtained pursuant to a review under this subsection. An individual certified by a municipality pursuant to subdivision (b) of this subsection shall remain subject to this subsection after he or she (i) is no longer certified or (ii) is no longer in the employment of or under contract with the certifying municipality.

(d) Any person who violates the provisions of this subsection shall be guilty of a Class I misdemeanor.

(e) The Department of Revenue shall not be held liable by any person for an impermissible disclosure by a municipality or any agent or employee thereof of any information obtained pursuant to a review under this subsection.

(15) In all proceedings under the Nebraska Revenue Act of 1967, the Tax Commissioner may act for and on behalf of the people of the State of Nebraska. The Tax Commissioner in his or her discretion may waive all or part of any penalties provided by the provisions of such act or interest on delinquent taxes specified in section 45-104.02, as such rate may from time to time be adjusted.

(16)(a) The purpose of this subsection is to set forth the state's policy for the protection of the confidentiality rights of all participants in the system operated pursuant to the streamlined sales and use tax agreement and of the privacy interests of consumers who deal with model 1 sellers.

(b) For purposes of this subsection:

(i) Anonymous data means information that does not identify a person;

(ii) Confidential taxpayer information means all information that is protected under a member state's laws, regulations, and privileges; and

(iii) Personally identifiable information means information that identifies a person.

(c) The state agrees that a fundamental precept for model 1 sellers is to preserve the privacy of consumers by protecting their anonymity. With very limited exceptions, a certified service provider shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers.

(d) The governing board of the member states in the streamlined sales and use tax agreement may certify a certified service provider only if that certified service provider certifies that:

(i) Its system has been designed and tested to ensure that the fundamental precept of anonymity is respected;

(ii) Personally identifiable information is only used and retained to the extent necessary for the administration of model 1 with respect to exempt purchasers;

(iii) It provides consumers clear and conspicuous notice of its information practices, including what information it collects, how it collects the information, how it uses the information, how long, if at all, it retains the information, and whether it discloses the information to member states. Such notice shall be satisfied by a written privacy policy statement accessible by the public on the web site of the certified service provider;

(iv) Its collection, use, and retention of personally identifiable information is limited to that required by the member states to ensure the validity of exemptions from taxation that are claimed by reason of a consumer's status or the intended use of the goods or services purchased; and

(v) It provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.

(e) The state shall provide public notification to consumers, including exempt purchasers, of the state's practices relating to the collection, use, and retention of personally identifiable information.

(f) When any personally identifiable information that has been collected and retained is no longer required for the purposes set forth in subdivision (16)(d)(iv) of this section, such information shall no longer be retained by the member states.

(g) When personally identifiable information regarding an individual is retained by or on behalf of the state, it shall provide reasonable access by such individual to his or her own information in the state's possession and a right to correct any inaccurately recorded information.

(h) If anyone other than a member state, or a person authorized by that state's law or the agreement, seeks to discover personally identifiable information, the state from whom the information is sought should make a reasonable and timely effort to notify the individual of such request.

(i) This privacy policy is subject to enforcement by the Attorney General.

(j) All other laws and regulations regarding the collection, use, and maintenance of confidential taxpayer information remain fully applicable and binding. Without limitation, this subsection does not enlarge or limit the state's authority to:

(i) Conduct audits or other reviews as provided under the agreement and state law;

(ii) Provide records pursuant to the federal Freedom of Information Act, disclosure laws with governmental agencies, or other regulations;

(iii) Prevent, consistent with state law, disclosure of confidential taxpayer information;

(iv) Prevent, consistent with federal law, disclosure or misuse of federal return information obtained under a disclosure agreement with the Internal Revenue Service; and

(v) Collect, disclose, disseminate, or otherwise use anonymous data for governmental purposes.

Source: Laws 1967, c. 487, § 11, p. 1566; Laws 1969, c. 683, § 7, p. 2641; Laws 1977, LB 39, § 239; Laws 1981, LB 170, § 6; Laws 1982, LB 705, § 2; Laws 1984, LB 962, § 12; Laws 1985, LB 344, § 4; Laws 1987, LB 523, § 17; Laws 1991, LB 773, § 10; Laws 1992, LB 871, § 61; Laws 1992, Fourth Spec. Sess., LB 1, § 31; Laws 1993, LB 345, § 60; Laws 1994, LB 1175, § 1; Laws 1995, LB 134, § 3; Laws 1996, LB 1177, § 18; Laws 2001, LB 142, § 56; Laws 2003, LB 282, § 73; Laws 2005, LB 216, § 9; Laws 2005, LB 312, § 11; Laws 2006, LB 588, § 8; Laws 2007, LB94, § 1; Laws 2007, LB223, § 9; Laws 2008, LB914, § 8; Laws 2009, LB165, § 10; Laws 2010, LB563, § 14; Laws 2010, LB879, § 9; Laws 2012, LB209, § 1; Laws 2012, LB1053, § 25; Laws 2013, LB39, § 12; Laws 2014, LB867, § 15; Laws 2015, LB539, § 6; Laws 2016, LB1022, § 4; Laws 2019, LB472, § 14.
Effective date September 1, 2019.

Cross References

Contractor Registration Act, see section 48-2101.

Employee Classification Act, see section 48-2901.

Employment Security Law, see section 48-601.

Local Option Revenue Act, see section 77-27,148.

Nebraska Visitors Development Act, see section 81-3701.

77-2712.05 Streamlined sales and use tax agreement; requirements.

By agreeing to the terms of the streamlined sales and use tax agreement, this state agrees to abide by the following requirements:

(1) Uniform state rate. The state shall comply with restrictions to achieve over time more uniform state rates through the following:

(a) Limiting the number of state rates;

(b) Limiting the application of maximums on the amount of state tax that is due on a transaction; and

(c) Limiting the application of thresholds on the application of state tax;

(2) Uniform standards. The state hereby establishes uniform standards for the following:

(a) Sourcing of transactions to taxing jurisdictions as provided in sections 77-2703.01 to 77-2703.04;

(b) Administration of exempt sales as set out by the agreement and using procedures as determined by the governing board;

(c) Allowances a seller can take for bad debts as provided in section 77-2708; and

(d) Sales and use tax returns and remittances. To comply with the agreement, the Tax Commissioner shall:

(i) Require only one remittance for each return except as provided in this subdivision. If any additional remittance is required, it may only be required from retailers that collect more than thirty thousand dollars in sales and use taxes in the state during the preceding calendar year as provided in this subdivision. The amount of any additional remittance may be determined through a calculation method rather than actual collections. Any additional remittance shall not require the filing of an additional return;

(ii) Require, at his or her discretion, all remittances from sellers under models 1, 2, and 3 to be remitted electronically;

(iii) Allow for electronic payments by both automated clearinghouse credit and debit;

(iv) Provide an alternative method for making same day payments if an electronic funds transfer fails;

(v) Provide that if a due date falls on a legal banking holiday, the taxes are due to that state on the next succeeding business day; and

(vi) Require that any data that accompanies a remittance be formatted using uniform tax type and payment type codes approved by the governing board of the member states to the streamlined sales and use tax agreement;

(3) Uniform definitions. (a) The state shall utilize the uniform definitions of sales and use tax terms as provided in the agreement. The definitions enable Nebraska to preserve its ability to make taxability and exemption choices not inconsistent with the uniform definitions.

(b) The state may enact a product-based exemption without restriction if the agreement does not have a definition for the product or for a term that includes the product. If the agreement has a definition for the product or for a term that includes the product, the state may exempt all items included within the definition but shall not exempt only part of the items included within the definition unless the agreement sets out the exemption for part of the items as an acceptable variation.

(c) The state may enact an entity-based or a use-based exemption without restriction if the agreement does not have a definition for the product whose use or purchase by a specific entity is exempt or for a term that includes the product. If the agreement has a definition for the product whose use or specific purchase is exempt, states may enact an entity-based or a use-based exemption that applies to that product as long as the exemption utilizes the agreement definition of the product. If the agreement does not have a definition for the product whose use or specific purchase is exempt but has a definition for a term that includes the product, states may enact an entity-based or a use-based exemption for the product without restriction.

(d) For purposes of complying with the requirements in this section, the inclusion of a product within the definition of tangible personal property is disregarded;

(4) Central registration. The state shall participate in an electronic central registration system that allows a seller to register to collect and remit sales and use taxes for all member states. Under the system:

(a) A retailer registering under the agreement is registered in this state;

(b) The state agrees not to require the payment of any registration fees or other charges for a retailer to register in the state if the retailer has no legal requirement to register;

(c) A written signature from the retailer is not required;

(d) An agent may register a retailer under uniform procedures adopted by the member states pursuant to the agreement;

(e) A retailer may cancel its registration under the system at any time under uniform procedures adopted by the governing board. Cancellation does not relieve the retailer of its liability for remitting to the proper states any taxes collected;

(f) When registering, the retailer that is registered under the agreement may select one of the following methods of remittances or other method allowed by state law to remit the taxes collected:

(i) Model 1, wherein a seller selects a certified service provider as an agent to perform all the seller's sales or use tax functions, other than the seller's obligation to remit tax on its own purchases;

(ii) Model 2, wherein a seller selects a certified automated system to use which calculates the amount of tax due on a transaction; and

(iii) Model 3, wherein a seller utilizes its own proprietary automated sales tax system that has been certified as a certified automated system; and

(g) Sellers who register within twelve months after this state's first approval of a certified service provider are relieved from liability, including the local option tax, for tax not collected or paid if the seller was not registered between

October 1, 2004, and September 30, 2005. Such relief from liability shall be in accordance with the terms of the agreement;

(5) No nexus attribution. The state agrees that registration with the central registration system and the collection of sales and use taxes in the state will not be used as a factor in determining whether the seller has nexus with the state for any tax at any time;

(6) Local sales and use taxes. The agreement requires the reduction of the burdens of complying with local sales and use taxes as provided in sections 13-319, 13-324, 13-326, 77-2701.03, 77-27,142, 77-27,143, 77-27,144, and 77-6403 that require the following:

(a) No variation between the state and local tax bases;

(b) Statewide administration of all sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(c) Limitations on the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(d) Uniform notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions;

(7) Complete a taxability matrix approved by the governing board. (a) Notice of changes in the taxability of the products or services listed will be provided as required by the governing board.

(b) The entries in the matrix shall be provided and maintained in a data base that is in a downloadable format approved by the governing board.

(c) Sellers, model 2 sellers, and certified service providers are relieved from liability, including the local option tax, for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by the member state in the taxability matrix or for relying on product-based classifications that have been reviewed and approved by the state. The state shall notify the certified service provider or model 2 seller if an item or transaction is incorrectly classified as to its taxability.

(d) Purchasers are relieved from liability for penalty for having failed to pay the correct amount of tax resulting from the purchaser's reliance on erroneous data provided by the member state in the taxability matrix or rates and boundaries data bases or for relying on product-based classifications that have been reviewed and approved by the state;

(8) Monetary allowances. The state agrees to allow any monetary allowances that are to be provided by the states to sellers or certified service providers in exchange for collecting sales and use taxes as provided in Article VI of the agreement;

(9) State compliance. The agreement requires the state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member;

(10) Consumer privacy. The state hereby adopts a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information as provided in section 77-2711; and

(11) Advisory councils. The state agrees to the recognition of an advisory council of private-sector representatives and an advisory council of member and nonmember state representatives to consult with in the administration of the agreement.

Source: Laws 2001, LB 172, § 6; Laws 2003, LB 282, § 77; Laws 2004, LB 1017, § 20; Laws 2005, LB 16, § 1; Laws 2006, LB 887, § 4; Laws 2007, LB223, § 11; Laws 2009, LB165, § 11; Laws 2019, LB472, § 15.

Effective date September 1, 2019.

(c) INCOME TAX

77-2715.07 Income tax credits.

(1) There shall be allowed to qualified resident individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit equal to the federal credit allowed under section 22 of the Internal Revenue Code; and

(b) A credit for taxes paid to another state as provided in section 77-2730.

(2) There shall be allowed to qualified resident individuals against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) For returns filed reporting federal adjusted gross incomes of greater than twenty-nine thousand dollars, a nonrefundable credit equal to twenty-five percent of the federal credit allowed under section 21 of the Internal Revenue Code of 1986, as amended, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such nonrefundable credit shall be allowed only if the individual would have received the federal credit allowed under section 21 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit;

(b) For returns filed reporting federal adjusted gross income of twenty-nine thousand dollars or less, a refundable credit equal to a percentage of the federal credit allowable under section 21 of the Internal Revenue Code of 1986, as amended, whether or not the federal credit was limited by the federal tax liability. The percentage of the federal credit shall be one hundred percent for incomes not greater than twenty-two thousand dollars, and the percentage shall be reduced by ten percent for each one thousand dollars, or fraction thereof, by which the reported federal adjusted gross income exceeds twenty-two thousand dollars, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such refundable credit shall be allowed only if the individual would have received the federal credit allowed under section 21 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit;

(c) A refundable credit as provided in section 77-5209.01 for individuals who qualify for an income tax credit as a qualified beginning farmer or livestock producer under the Beginning Farmer Tax Credit Act for all taxable years

beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended;

(d) A refundable credit for individuals who qualify for an income tax credit under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, or the Volunteer Emergency Responders Incentive Act; and

(e) A refundable credit equal to ten percent of the federal credit allowed under section 32 of the Internal Revenue Code of 1986, as amended, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such refundable credit shall be allowed only if the individual would have received the federal credit allowed under section 32 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit.

(3) There shall be allowed to all individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit for personal exemptions allowed under section 77-2716.01;

(b) A credit for contributions to certified community betterment programs as provided in the Community Development Assistance Act. Each partner, each shareholder of an electing subchapter S corporation, each beneficiary of an estate or trust, or each member of a limited liability company shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, estate, trust, or limited liability company income;

(c) A credit for investment in a biodiesel facility as provided in section 77-27,236;

(d) A credit as provided in the New Markets Job Growth Investment Act;

(e) A credit as provided in the Nebraska Job Creation and Mainstreet Revitalization Act;

(f) A credit to employers as provided in section 77-27,238; and

(g) A credit as provided in the Affordable Housing Tax Credit Act.

(4) There shall be allowed as a credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit to all resident estates and trusts for taxes paid to another state as provided in section 77-2730;

(b) A credit to all estates and trusts for contributions to certified community betterment programs as provided in the Community Development Assistance Act; and

(c) A refundable credit for individuals who qualify for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2009, under the Internal Revenue Code of 1986, as amended. The credit allowed for each partner, shareholder, member, or beneficiary of a partnership, corporation, limited liability company, or estate or trust qualifying for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act shall be equal to the partner's, shareholder's, member's, or beneficiary's portion of the amount of tax credit distributed pursuant to subsection (6) of section 77-5211.

(5)(a) For all taxable years beginning on or after January 1, 2007, and before January 1, 2009, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each partner, shareholder, member, or beneficiary of a partnership, subchapter S corporation, limited liability company, or estate or trust a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the partner's, shareholder's, member's, or beneficiary's portion of the amount of franchise tax paid to the state under sections 77-3801 to 77-3807 by a financial institution.

(b) For all taxable years beginning on or after January 1, 2009, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each partner, shareholder, member, or beneficiary of a partnership, subchapter S corporation, limited liability company, or estate or trust a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's, member's, or beneficiary's portion of the amount of franchise tax paid to the state under sections 77-3801 to 77-3807 by a financial institution.

(c) Each partner, shareholder, member, or beneficiary shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, limited liability company, or estate or trust income. If any partner, shareholder, member, or beneficiary cannot fully utilize the credit for that year, the credit may not be carried forward or back.

(6) There shall be allowed to all individuals nonrefundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-3604 and refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-3605.

(7)(a) For taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2026, under the Internal Revenue Code of 1986, as amended, a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 in the amount of five thousand dollars shall be allowed to any individual who purchases a residence during the taxable year if such residence:

(i) Is located within an area that has been declared an extremely blighted area under section 18-2101.02;

(ii) Is the individual's primary residence; and

(iii) Was not purchased from a family member of the individual or a family member of the individual's spouse.

(b) The credit provided in this subsection shall be claimed for the taxable year in which the residence is purchased. If the individual cannot fully utilize the credit for such year, the credit may be carried forward to subsequent taxable years until fully utilized.

(c) No more than one credit may be claimed under this subsection with respect to a single residence.

(d) The credit provided in this subsection shall be subject to recapture by the Department of Revenue if the individual claiming the credit sells or otherwise transfers the residence or quits using the residence as his or her primary residence within five years after the end of the taxable year in which the credit was claimed.

(e) For purposes of this subsection, family member means an individual's spouse, child, parent, brother, sister, grandchild, or grandparent, whether by blood, marriage, or adoption.

Source: Laws 1987, LB 773, § 6; Laws 1989, LB 739, § 2; Laws 1993, LB 5, § 3; Laws 1993, LB 121, § 503; Laws 1993, LB 240, § 4; Laws 1993, LB 815, § 23; Laws 1994, LB 977, § 12; Laws 1996, LB 898, § 5; Laws 1998, LB 1028, § 2; Laws 1999, LB 630, § 1; Laws 2001, LB 433, § 4; Laws 2005, LB 312, § 12; Laws 2006, LB 968, § 8; Laws 2006, LB 990, § 1; Laws 2007, LB343, § 3; Laws 2007, LB367, § 20; Laws 2007, LB456, § 1; Laws 2009, LB165, § 12; Laws 2011, LB389, § 12; Laws 2012, LB1128, § 22; Laws 2014, LB191, § 17; Laws 2015, LB591, § 12; Laws 2016, LB774, § 7; Laws 2016, LB884, § 19; Laws 2016, LB886, § 6; Laws 2016, LB889, § 10; Laws 2019, LB86, § 10; Laws 2019, LB560, § 1.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB86, section 10, with LB560, section 1, to reflect all amendments.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.

Angel Investment Tax Credit Act, see section 77-6301.

Beginning Farmer Tax Credit Act, see section 77-5201.

Community Development Assistance Act, see section 13-201.

Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.

Nebraska Advantage Research and Development Act, see section 77-5801.

Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.

New Markets Job Growth Investment Act, see section 77-1101.

Volunteer Emergency Responders Incentive Act, see section 77-3101.

77-2716 Income tax; adjustments.

(1) The following adjustments to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be made for interest or dividends received:

(a)(i) There shall be subtracted interest or dividends received by the owner of obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States; and

(ii) There shall be subtracted interest received by the owner of obligations of the State of Nebraska or its political subdivisions or authorities which are Build America Bonds to the extent includable in gross income for federal income tax purposes;

(b) There shall be subtracted that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (a) of this subsection as reported to the recipient by the regulated investment company;

(c) There shall be added interest or dividends received by the owner of obligations of the District of Columbia, other states of the United States, or their political subdivisions, authorities, commissions, or instrumentalities to the extent excluded in the computation of gross income for federal income tax purposes except that such interest or dividends shall not be added if received by a corporation which is a regulated investment company;

(d) There shall be added that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (c) of this subsection and excluded for federal income tax purposes as reported to the recipient by the regulated investment company; and

(e)(i) Any amount subtracted under this subsection shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this subsection or the investment in the regulated investment company and by any expenses incurred in the production of interest or dividend income described in this subsection to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(ii) Any amount added under this subsection shall be reduced by any expenses incurred in the production of such income to the extent disallowed in the computation of federal taxable income.

(2) There shall be allowed a net operating loss derived from or connected with Nebraska sources computed under rules and regulations adopted and promulgated by the Tax Commissioner consistent, to the extent possible under the Nebraska Revenue Act of 1967, with the laws of the United States. For a resident individual, estate, or trust, the net operating loss computed on the federal income tax return shall be adjusted by the modifications contained in this section. For a nonresident individual, estate, or trust or for a partial-year resident individual, the net operating loss computed on the federal return shall be adjusted by the modifications contained in this section and any carryovers or carrybacks shall be limited to the portion of the loss derived from or connected with Nebraska sources.

(3) There shall be subtracted from federal adjusted gross income for all taxable years beginning on or after January 1, 1987, the amount of any state income tax refund to the extent such refund was deducted under the Internal Revenue Code, was not allowed in the computation of the tax due under the Nebraska Revenue Act of 1967, and is included in federal adjusted gross income.

(4) Federal adjusted gross income, or, for a fiduciary, federal taxable income shall be modified to exclude the portion of the income or loss received from a small business corporation with an election in effect under subchapter S of the Internal Revenue Code or from a limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act that is not derived from or connected with Nebraska sources as determined in section 77-2734.01.

(5) There shall be subtracted from federal adjusted gross income or, for corporations and fiduciaries, federal taxable income dividends received or deemed to be received from corporations which are not subject to the Internal Revenue Code.

(6) There shall be subtracted from federal taxable income a portion of the income earned by a corporation subject to the Internal Revenue Code of 1986 that is actually taxed by a foreign country or one of its political subdivisions at a rate in excess of the maximum federal tax rate for corporations. The taxpayer may make the computation for each foreign country or for groups of foreign countries. The portion of the taxes that may be deducted shall be computed in the following manner:

(a) The amount of federal taxable income from operations within a foreign taxing jurisdiction shall be reduced by the amount of taxes actually paid to the foreign jurisdiction that are not deductible solely because the foreign tax credit was elected on the federal income tax return;

(b) The amount of after-tax income shall be divided by one minus the maximum tax rate for corporations in the Internal Revenue Code; and

(c) The result of the calculation in subdivision (b) of this subsection shall be subtracted from the amount of federal taxable income used in subdivision (a) of this subsection. The result of such calculation, if greater than zero, shall be subtracted from federal taxable income.

(7) Federal adjusted gross income shall be modified to exclude any amount repaid by the taxpayer for which a reduction in federal tax is allowed under section 1341(a)(5) of the Internal Revenue Code.

(8)(a) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced, to the extent included, by income from interest, earnings, and state contributions received from the Nebraska educational savings plan trust created in sections 85-1801 to 85-1817 and any account established under the achieving a better life experience program as provided in sections 77-1401 to 77-1409.

(b) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced by any contributions as a participant in the Nebraska educational savings plan trust or contributions to an account established under the achieving a better life experience program made for the benefit of a beneficiary as provided in sections 77-1401 to 77-1409, to the extent not deducted for federal income tax purposes, but not to exceed five thousand dollars per married filing separate return or ten thousand dollars for any other return. With respect to a qualified rollover within the meaning of section 529 of the Internal Revenue Code from another state's plan, any interest, earnings, and state contributions received from the other state's educational savings plan which is qualified under section 529 of the code shall qualify for the reduction provided in this subdivision. For contributions by a custodian of a custodial account including rollovers from another custodial account, the reduction shall only apply to funds added to the custodial account after January 1, 2014.

(c) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by:

(i) The amount resulting from the cancellation of a participation agreement refunded to the taxpayer as a participant in the Nebraska educational savings plan trust to the extent previously deducted under subdivision (8)(b) of this section; and

(ii) The amount of any withdrawals by the owner of an account established under the achieving a better life experience program as provided in sections 77-1401 to 77-1409 for nonqualified expenses to the extent previously deducted under subdivision (8)(b) of this section.

(9)(a) For income tax returns filed after September 10, 2001, for taxable years beginning or deemed to begin before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by eighty-five percent of any amount of any federal bonus depreciation received under the federal Job Creation and Worker Assistance Act of 2002 or the

federal Jobs and Growth Tax Act of 2003, under section 168(k) or section 1400L of the Internal Revenue Code of 1986, as amended, for assets placed in service after September 10, 2001, and before December 31, 2005.

(b) For a partnership, limited liability company, cooperative, including any cooperative exempt from income taxes under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, subchapter S corporation, or joint venture, the increase shall be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities.

(c) For a corporation with a unitary business having activity both inside and outside the state, the increase shall be apportioned to Nebraska in the same manner as income is apportioned to the state by section 77-2734.05.

(d) The amount of bonus depreciation added to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income by this subsection shall be subtracted in a later taxable year. Twenty percent of the total amount of bonus depreciation added back by this subsection for tax years beginning or deemed to begin before January 1, 2003, under the Internal Revenue Code of 1986, as amended, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years. Twenty percent of the total amount of bonus depreciation added back by this subsection for tax years beginning or deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years.

(10) For taxable years beginning or deemed to begin on or after January 1, 2003, and before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by the amount of any capital investment that is expensed under section 179 of the Internal Revenue Code of 1986, as amended, that is in excess of twenty-five thousand dollars that is allowed under the federal Jobs and Growth Tax Act of 2003. Twenty percent of the total amount of expensing added back by this subsection for tax years beginning or deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following tax years.

(11)(a) For taxable years beginning or deemed to begin before January 1, 2018, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by contributions, up to two thousand dollars per married filing jointly return or one thousand dollars for any other return, and any investment earnings made as a participant in the Nebraska long-term care savings plan under the Long-Term Care Savings Plan Act, to the extent not deducted for federal income tax purposes.

(b) For taxable years beginning or deemed to begin before January 1, 2018, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be increased by the withdrawals made as a participant in the Nebraska long-term care savings plan under the act by a person who is not a qualified individual or for any reason other than transfer of funds to a spouse,

long-term care expenses, long-term care insurance premiums, or death of the participant, including withdrawals made by reason of cancellation of the participation agreement, to the extent previously deducted as a contribution or as investment earnings.

(12) There shall be added to federal adjusted gross income for individuals, estates, and trusts any amount taken as a credit for franchise tax paid by a financial institution under sections 77-3801 to 77-3807 as allowed by subsection (5) of section 77-2715.07.

(13)(a) For taxable years beginning or deemed to begin on or after January 1, 2015, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received as benefits under the federal Social Security Act which are included in the federal adjusted gross income if:

(i) For taxpayers filing a married filing joint return, federal adjusted gross income is fifty-eight thousand dollars or less; or

(ii) For taxpayers filing any other return, federal adjusted gross income is forty-three thousand dollars or less.

(b) For taxable years beginning or deemed to begin on or after January 1, 2020, under the Internal Revenue Code of 1986, as amended, the Tax Commissioner shall adjust the dollar amounts provided in subdivisions (13)(a)(i) and (ii) of this section by the same percentage used to adjust individual income tax brackets under subsection (3) of section 77-2715.03.

(14) For taxable years beginning or deemed to begin on or after January 1, 2015, under the Internal Revenue Code of 1986, as amended, an individual may make a one-time election within two calendar years after the date of his or her retirement from the military to exclude income received as a military retirement benefit by the individual to the extent included in federal adjusted gross income and as provided in this subsection. The individual may elect to exclude forty percent of his or her military retirement benefit income for seven consecutive taxable years beginning with the year in which the election is made or may elect to exclude fifteen percent of his or her military retirement benefit income for all taxable years beginning with the year in which he or she turns sixty-seven years of age. For purposes of this subsection, military retirement benefit means retirement benefits that are periodic payments attributable to service in the uniformed services of the United States for personal services performed by an individual prior to his or her retirement.

Source: Laws 1967, c. 487, § 16, p. 1579; Laws 1983, LB 619, § 1; Laws 1984, LB 962, § 15; Laws 1984, LB 1124, § 3; Laws 1985, LB 273, § 50; Laws 1986, LB 774, § 9; Laws 1987, LB 523, § 20; Laws 1987, LB 773, § 9; Laws 1989, LB 458, § 2; Laws 1989, LB 459, § 3; Laws 1991, LB 773, § 13; Laws 1993, LB 121, § 504; Laws 1994, LB 977, § 13; Laws 1997, LB 401, § 2; Laws 1998, LB 1028, § 3; Laws 2000, LB 1003, § 15; Laws 2002, LB 1085, § 18; Laws 2003, LB 596, § 1; Laws 2005, LB 216, § 10; Laws 2006, LB 965, § 6; Laws 2006, LB 968, § 9; Laws 2007, LB338, § 1; Laws 2007, LB368, § 135; Laws 2007, LB456, § 2; Laws 2010, LB197, § 1; Laws 2010, LB888, § 104; Laws 2013, LB283, § 6; Laws 2013, LB296, § 1; Laws 2014, LB987, § 2; Laws 2015,

LB591, § 13; Laws 2016, LB756, § 1; Laws 2016, LB776, § 3; Laws 2018, LB738, § 1; Laws 2019, LB610, § 7.
Effective date September 1, 2019.

Cross References

Long-Term Care Savings Plan Act, see section 77-6101.

Nebraska Uniform Limited Liability Company Act, see section 21-101.

77-2716.01 Personal exemptions; standard deduction; computation.

(1)(a) Through tax year 2017, every individual shall be allowed to subtract from his or her income tax liability an amount for personal exemptions. The amount allowed to be subtracted shall be the credit amount for the year as provided in this subdivision multiplied by the number of exemptions allowed on the federal return. For tax year 1993, the credit amount shall be sixty-five dollars; for tax year 1994, the credit amount shall be sixty-nine dollars; for tax year 1995, the credit amount shall be sixty-nine dollars; for tax year 1996, the credit amount shall be seventy-two dollars; for tax year 1997, the credit amount shall be eighty-six dollars; for tax year 1998, the credit amount shall be eighty-eight dollars; for tax year 1999, and each year thereafter through tax year 2017, the credit amount shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017. The eighty-eight-dollar credit amount shall be adjusted for cumulative inflation since 1998. If any credit amount is not an even dollar amount, the amount shall be rounded to the nearest dollar. For nonresident individuals and partial-year resident individuals, the personal exemption credit shall be subtracted as specified in subsection (3) of section 77-2715.

(b) Beginning with tax year 2018, every individual, except an individual that can be claimed for a child credit or dependent credit on the federal return of another taxpayer, shall be allowed to subtract from his or her income tax liability an amount for personal exemptions. The amount allowed to be subtracted shall be the credit amount for the year as provided in this subdivision multiplied by the sum of the number of child credits and dependent credits taken on the federal return, plus two for a married filing jointly return or plus one for any other return. For tax year 2018, the credit amount shall be one hundred thirty-four dollars. For tax year 2019 and each tax year thereafter, the credit amount shall be adjusted for inflation based on the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2017, to the twelve months ending on August 31 of the year preceding the taxable year. If any credit amount is not an even dollar amount, the amount shall be rounded to the nearest dollar. For nonresident individuals and partial-year resident individuals, the personal exemption credit shall be subtracted as specified in subsection (3) of section 77-2715.

(2)(a) For tax years beginning or deemed to begin on or after January 1, 2003, and before January 1, 2004, under the Internal Revenue Code of 1986, as amended, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return except as the amount is adjusted under section 77-2716.03. The standard deduction shall be the smaller of the federal standard deduction actually allowed or (i) for single taxpayers four thousand seven hundred fifty dollars, (ii) for head of household taxpayers seven thousand dollars, (iii) for married filing jointly

taxpayers seven thousand nine hundred fifty dollars, and (iv) for married filing separately taxpayers three thousand nine hundred seventy-five dollars. Taxpayers who are allowed additional federal standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts shall be for married taxpayers, nine hundred fifty dollars, and for single or head of household taxpayers, one thousand one hundred fifty dollars.

(b) For tax years beginning or deemed to begin on or after January 1, 2007, and before January 1, 2018, under the Internal Revenue Code of 1986, as amended, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return. The standard deduction shall be the smaller of the federal standard deduction actually allowed or (i) for single taxpayers three thousand dollars and (ii) for head of household taxpayers four thousand four hundred dollars. The standard deduction for married filing jointly taxpayers shall be double the standard deduction for single taxpayers, and for married filing separately taxpayers, the standard deduction shall be the same as single taxpayers. Taxpayers who are allowed additional federal standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts shall be for married taxpayers six hundred dollars and for single or head of household taxpayers seven hundred fifty dollars. The amounts in this subdivision will be indexed using 1987 as the base year.

(c) For tax years beginning or deemed to begin on or after January 1, 2007, and before January 1, 2018, the standard deduction amounts, including the additional standard deduction amounts, in this subsection shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017. If any amount is not a multiple of fifty dollars, the amount shall be rounded to the next lowest multiple of fifty dollars.

(3)(a) For tax years beginning or deemed to begin on or after January 1, 2018, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return. The standard deduction shall be the smaller of the federal standard deduction actually allowed or (i) six thousand seven hundred fifty dollars for single taxpayers and (ii) nine thousand nine hundred dollars for head of household taxpayers. The standard deduction for married filing jointly taxpayers or qualifying widows or widowers shall be double the standard deduction for single taxpayers, and the standard deduction for married filing separately taxpayers shall be the same as the standard deduction for single taxpayers. Taxpayers who are allowed additional federal standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts shall be one thousand three hundred dollars for married taxpayers and one thousand six hundred dollars for single or head of household taxpayers.

(b) For tax years beginning or deemed to begin on or after January 1, 2019, the standard deduction amounts, including the additional standard deduction

amounts, in this subsection shall be adjusted for inflation based on the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2017, to the twelve months ending on August 31 of the year preceding the taxable year. If any amount is not a multiple of fifty dollars, the amount shall be rounded to the next lowest multiple of fifty dollars.

(4) Every individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either the standard deduction allowed in this section or his or her federal itemized deductions as defined in section 63(d) of the Internal Revenue Code of 1986, as amended, except for the amount for state or local income taxes included in federal itemized deductions before any federal disallowance.

Source: Laws 1987, LB 773, § 10; Laws 1988, LB 1234, § 2; Laws 1989, LB 739, § 3; Laws 1991, LB 300, § 3; Laws 1993, LB 240, § 5; Laws 1997, LB 401, § 3; Laws 1998, LB 1028, § 4; Laws 2003, LB 596, § 2; Laws 2004, LB 355, § 1; Laws 2006, LB 968, § 10; Laws 2007, LB367, § 21; Laws 2018, LB1090, § 2; Laws 2019, LB512, § 20.

Operative date January 1, 2018.

77-2734.01 Small business corporation shareholders; limited liability company members; determination of income; credit; Tax Commissioner; powers; return; when required.

(1) Residents of Nebraska who are shareholders of a small business corporation having an election in effect under subchapter S of the Internal Revenue Code or who are members of a limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act shall include in their Nebraska taxable income, to the extent includable in federal gross income, their proportionate share of such corporation's or limited liability company's federal income adjusted pursuant to this section. Income or loss from such corporation or limited liability company conducting a business, trade, profession, or occupation shall be included in the Nebraska taxable income of a shareholder or member who is a resident of this state to the extent of such shareholder's or member's proportionate share of the net income or loss from the conduct of such business, trade, profession, or occupation within this state, determined under subsection (2) of this section. A resident of Nebraska shall include in Nebraska taxable income fair compensation for services rendered to such corporation or limited liability company. Compensation actually paid shall be presumed to be fair unless it is apparent to the Tax Commissioner that such compensation is materially different from fair value for the services rendered or has been manipulated for tax avoidance purposes.

(2) The income of any small business corporation having an election in effect under subchapter S of the Internal Revenue Code or limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act that is derived from or connected with Nebraska sources shall be determined in the following manner:

(a) If the small business corporation is a member of a unitary group, the small business corporation shall be deemed to be doing business within this state if any part of its income is derived from transactions with other members of the unitary group doing business within this state, and such corporation shall

apportion its income by using the apportionment factor determined for the entire unitary group, including the small business corporation, under sections 77-2734.05 to 77-2734.15;

(b) If the small business corporation or limited liability company is not a member of a unitary group and is subject to tax in another state, it shall apportion its income under sections 77-2734.05 to 77-2734.15; and

(c) If the small business corporation or limited liability company is not subject to tax in another state, all of its income is derived from or connected with Nebraska sources.

(3) Nonresidents of Nebraska who are shareholders of such corporations or members of such limited liability companies shall file a Nebraska income tax return and shall include in Nebraska adjusted gross income their proportionate share of the corporation's or limited liability company's Nebraska income as determined under subsection (2) of this section.

(4) The nonresident shareholder or member shall execute and forward to the corporation or limited liability company before the filing of the corporation's or limited liability company's return an agreement which states he or she will file a Nebraska income tax return and pay the tax on the income derived from or connected with sources in this state, and such agreement shall be attached to the corporation's or limited liability company's Nebraska return for such taxable year.

(5) For taxable years beginning or deemed to begin before January 1, 2013, in the absence of the nonresident shareholder's or member's executed agreement being attached to the Nebraska return, the corporation or limited liability company shall remit with the return an amount equal to the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident shareholder's or member's share of the corporation's or limited liability company's income which was derived from or attributable to this state. For taxable years beginning or deemed to begin on or after January 1, 2013, in the absence of the nonresident shareholder's or member's executed agreement being attached to the Nebraska return, the corporation or limited liability company shall remit with the return an amount equal to the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident shareholder's or member's share of the corporation's or limited liability company's income which was derived from or attributable to this state. The amount remitted shall be allowed as a credit against the Nebraska income tax liability of the shareholder or member.

(6) The Tax Commissioner may allow a nonresident individual shareholder or member to not file a Nebraska income tax return if the nonresident individual shareholder's or member's only source of Nebraska income was his or her share of the small business corporation's or limited liability company's income which was derived from or attributable to sources within this state, the nonresident did not file an agreement to file a Nebraska income tax return, and the small business corporation or limited liability company has remitted the amount required by subsection (5) of this section on behalf of such nonresident individual shareholder or member. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident individual shareholder or member.

(7) A small business corporation or limited liability company return shall be filed if the small business corporation or limited liability company has income derived from Nebraska sources.

(8) For purposes of this section, any shareholder or member of the corporation or limited liability company that is a grantor trust of a nonresident shall be disregarded and this section shall apply as though the nonresident grantor was the shareholder or member.

Source: Laws 1984, LB 1124, § 4; Laws 1985, LB 273, § 54; Laws 1987, LB 523, § 23; Laws 1987, LB 773, § 18; Laws 1991, LB 773, § 16; Laws 1993, LB 121, § 508; Laws 2005, LB 216, § 12; Laws 2008, LB915, § 3; Laws 2010, LB888, § 105; Laws 2012, LB970, § 8; Laws 2013, LB283, § 7; Laws 2019, LB512, § 21.
Operative date January 1, 2019.

Cross References

Nebraska Uniform Limited Liability Company Act, see section 21-101.

77-2761 Income tax; return; required by whom.

An income tax return with respect to the income tax imposed by the provisions of the Nebraska Revenue Act of 1967 shall be made by the following:

(1) Every resident individual who is required to file a federal income tax return for the taxable year;

(2) Every nonresident individual who has income from Nebraska sources;

(3) Every resident estate or trust which is required to file a federal income tax return except a simple trust not required to file under subsection (2) of section 77-2717;

(4) Every nonresident estate or trust which has taxable income from Nebraska sources;

(5) Every corporation or any other entity taxed as a corporation under the Internal Revenue Code which is required to file a federal income tax return except the small business corporations not required to file under subsection (7) of section 77-2734.01;

(6) Every limited liability company having income derived from Nebraska sources; and

(7) Every partnership having income derived from Nebraska sources.

Source: Laws 1967, c. 487, § 61, p. 1598; Laws 1987, LB 523, § 25; Laws 1993, LB 121, § 510; Laws 2009, LB165, § 13; Laws 2019, LB512, § 22.

Operative date January 1, 2019.

77-2773 Income tax; partnership; taxable year; return.

Every partnership having part of its income derived from Nebraska sources, determined in accordance with the applicable rules of section 77-2733 as in the case of a nonresident individual, shall make a return for the taxable year setting forth such pertinent information as the Tax Commissioner by rule and regulation may prescribe. Such information may include, but shall not be limited to, all items of income, gain, loss, and deduction, the names and addresses of the individuals whether residents or nonresidents who would be entitled to share in the net income if distributed, and the amount of the distributive share of each

individual. Such return shall be filed on or before the date prescribed for filing a federal partnership return. For purposes of this section, taxable year shall mean a year or period which would be a taxable year of the partnership if it were subject to tax under the provisions of the Nebraska Revenue Act of 1967.

Source: Laws 1967, c. 487, § 73, p. 1603; Laws 1987, LB 523, § 28; Laws 2019, LB512, § 23.

Operative date January 1, 2019.

77-2776 Income tax; Tax Commissioner; return; examination; failure to file; notice; deficiency; notice.

(1) As soon as practical after an income tax return is filed, the Tax Commissioner shall examine it to determine the correct amount of tax. If the Tax Commissioner finds that the amount of tax shown on the return is less than the correct amount, he or she shall notify the taxpayer of the amount of the deficiency proposed to be assessed. If the Tax Commissioner finds that the tax paid is more than the correct amount, he or she shall credit the overpayment against any taxes due by the taxpayer and refund the difference. The Tax Commissioner shall, upon request, make prompt assessment of taxes due as provided by the laws of the United States for federal income tax purposes.

(2) If the taxpayer fails to file an income tax return, the Tax Commissioner shall estimate the taxpayer's tax liability from any available information and notify the taxpayer of the amount proposed to be assessed as in the case of a deficiency.

(3) A notice of deficiency shall set forth the reason for the proposed assessment or for the change in the amount of credit or loss to be carried over to another year. The notice may be mailed to the taxpayer at his or her last-known address. In the case of a joint return, the notice of deficiency may be a single joint notice, except that if the Tax Commissioner is notified by either spouse that separate residences have been established, the Tax Commissioner shall mail joint notices to each spouse. If the taxpayer is deceased or under a legal disability, a notice of deficiency may be mailed to his or her last-known address unless the Tax Commissioner has received notice of the existence of a fiduciary relationship with respect to such taxpayer.

(4) A notice of deficiency regarding an item of entity income may be mailed to the entity at its last-known address or to the address of the entity's tax matters person for federal income tax purposes. Such notice shall be deemed to have been received by each partner, shareholder, or member of such entity, but only for items of entity income reported by the partner, shareholder, or member. The actions taken thereon on behalf of the partnership, limited liability company, small business corporation, estate, or trust are binding on the partners, members, shareholders, or beneficiaries.

Source: Laws 1967, c. 487, § 76, p. 1604; Laws 2005, LB 216, § 16; Laws 2012, LB727, § 41; Laws 2019, LB512, § 24.

Operative date May 31, 2019.

(h) AIR AND WATER POLLUTION CONTROL TAX REFUND ACT

77-27,150 Refund; application; when; contents; hearing; approval.

(1) An application for a refund of Nebraska sales and use taxes paid for any air or water pollution control facility may be filed with the Tax Commissioner

by the owner of such facility in such manner and in such form as may be prescribed by the commissioner. The application for a refund shall contain: (a) Plans and specifications of such facility including all materials incorporated therein; (b) a descriptive list of all equipment acquired by the applicant for the purpose of industrial or agricultural waste pollution control; (c) the proposed operating procedure for the facility; (d) the acquisition cost of the facility for which a refund is claimed; and (e) a copy of the final findings of the Department of Environment and Energy issued pursuant to section 77-27,151.

(2) The Tax Commissioner shall offer an applicant a hearing upon request of such applicant. The hearing shall not affect the authority of the Department of Environment and Energy to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the Air and Water Pollution Control Tax Refund Act.

(3) A claim for refund received without a copy of the final findings of the Department of Environment and Energy issued pursuant to section 77-27,151 shall not be considered a valid claim and shall be returned to the applicant.

(4) Notice of the Tax Commissioner's refusal to issue a refund shall be mailed to the applicant.

Source: Laws 1972, LB 716, § 2; Laws 1974, LB 820, § 4; Laws 1977, LB 308, § 1; Laws 1978, LB 244, § 1; Laws 1993, LB 3, § 43; Laws 2002, LB 989, § 20; Laws 2012, LB727, § 45; Laws 2019, LB302, § 96.

Operative date July 1, 2019.

77-27,151 Refund; notice to Tax Commissioner; Department of Environment and Energy; duties.

If the Department of Environment and Energy finds that a facility or multiple facilities at a single location are designed and operated primarily for control, capture, abatement, or removal of industrial or agricultural waste from air or water and are suitable, are reasonably adequate, and meet the intent and purposes of the Environmental Protection Act, the Department of Environment and Energy shall so notify the owner of the facility in writing of its findings that the facility, multiple facilities, or the specified portions of any facility are approved. The Department of Environment and Energy shall also notify the Tax Commissioner of its findings and the extent of commercial or productive value derived from any materials captured or recovered by the facility.

Source: Laws 1972, LB 716, § 3; Laws 1974, LB 820, § 5; Laws 1977, LB 308, § 2; Laws 1993, LB 3, § 44; Laws 2002, LB 989, § 21; Laws 2019, LB302, § 97.

Operative date July 1, 2019.

Cross References

Environmental Protection Act, see section 81-1532.

77-27,152 Refund; notice; modify or revoke; when; effect.

(1) The Tax Commissioner, after giving notice by mail to the applicant and giving an opportunity for a hearing, shall modify or revoke the refund whenever the following appears: (a) The refund was obtained by fraud or misrepresentation regarding the payment of tax on materials incorporated into the facility or

facilities; or (b) the Department of Environment and Energy has modified its findings regarding the facility covered by the refund.

(2) The Department of Environment and Energy may modify its findings when it determines any of the following: (a) The refund was obtained by fraud or misrepresentation regarding the facility or planned operation of the facility; (b) the applicant has failed substantially to operate the facility for the purpose and degree of control specified in the application or an amended application; or (c) the facility covered by the refund is no longer used for the primary purpose of pollution control.

(3) On the mailing to the refund applicant of notice of the action of the Tax Commissioner modifying or revoking the refund, the refund shall cease to be in force or shall remain in force only as modified. When a refund is revoked because a refund was obtained by fraud or misrepresentation, all taxes which would have been payable if no certificate had been issued shall be immediately due and payable with the maximum interest and penalties prescribed by the Nebraska Revenue Act of 1967. No statute of limitations shall operate in the event of fraud or misrepresentation.

Source: Laws 1972, LB 716, § 4; Laws 1977, LB 308, § 3; Laws 1993, LB 3, § 45; Laws 2002, LB 989, § 22; Laws 2012, LB727, § 46; Laws 2019, LB302, § 98.

Operative date July 1, 2019.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-27,153 Appeal; procedure.

(1) A party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax refund may appeal from the finding and order of the Tax Commissioner. The finding and order shall not affect the authority of the Department of Environment and Energy to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the Air and Water Pollution Control Tax Refund Act. The appeal shall be in accordance with the Administrative Procedure Act.

(2) The Department of Environment and Energy shall make its findings for the Air and Water Pollution Control Tax Refund Act in accordance with its normal administrative procedures. Nothing in the act is intended to affect the department's authority to make findings and to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the act.

Source: Laws 1972, LB 716, § 5; Laws 1988, LB 352, § 160; Laws 2002, LB 989, § 23; Laws 2019, LB302, § 99.

Operative date July 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

77-27,154 Rules and regulations.

The Tax Commissioner may adopt and promulgate rules and regulations that are necessary for the administration of the Air and Water Pollution Control Tax Refund Act. Such rules and regulations shall not abridge the authority of the

Department of Environment and Energy to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the act.

Source: Laws 1972, LB 716, § 6; Laws 1977, LB 308, § 4; Laws 1993, LB 3, § 46; Laws 2002, LB 989, § 24; Laws 2019, LB302, § 100. Operative date July 1, 2019.

(m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

77-27,187.01 Terms, defined.

For purposes of the Nebraska Advantage Rural Development Act, unless the context otherwise requires:

(1) Any term has the same meaning as used in the Nebraska Revenue Act of 1967;

(2) Equivalent employees means the number of employees computed by dividing the total hours paid in a year to employees by the product of forty times the number of weeks in a year;

(3) Livestock means all animals, including cattle, horses, sheep, goats, hogs, dairy animals, chickens, turkeys, and other species of game birds and animals raised and produced subject to permit and regulation by the Game and Parks Commission or the Department of Agriculture;

(4) Livestock modernization or expansion means the construction, improvement, or acquisition of buildings, facilities, or equipment for livestock housing, confinement, feeding, production, and waste management. Livestock modernization or expansion does not include any improvements made to correct a violation of the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act, a rule or regulation adopted and promulgated pursuant to such acts, or any order of the Department of Environment and Energy undertaken within five years after a complaint issued from the Director of Environment and Energy under section 81-1507;

(5) Livestock production means the active use, management, and operation of real and personal property (a) for the commercial production of livestock, (b) for the commercial breeding, training, showing, or racing of horses or for the use of horses in a recreational or tourism enterprise, and (c) for the commercial production of dairy and eggs. The activity will be considered commercial if the gross income derived from an activity for two or more of the taxable years in the period of seven consecutive taxable years which ends with the taxable year exceeds the deductions attributable to such activity or, if the operation has been in existence for less than seven years, if the activity is engaged in for the purpose of generating a profit;

(6) Qualified employee leasing company means a company which places all employees of a client-lessee on its payroll and leases such employees to the client-lessee on an ongoing basis for a fee and, by written agreement between the employee leasing company and a client-lessee, grants to the client-lessee input into the hiring and firing of the employees leased to the client-lessee;

(7) Related taxpayers includes any corporations that are part of a unitary business under the Nebraska Revenue Act of 1967 but are not part of the same corporate taxpayer, any business entities that are not corporations but which would be a part of the unitary business if they were corporations, and any

business entities if at least fifty percent of such entities are owned by the same persons or related taxpayers and family members as defined in the ownership attribution rules of the Internal Revenue Code of 1986, as amended;

(8) Taxpayer means a corporate taxpayer or other person subject to either an income tax imposed by the Nebraska Revenue Act of 1967 or a franchise tax under Chapter 77, article 38, or a partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture that is or would otherwise be a member of the same unitary group if incorporated, which is, or whose partners, members, or owners representing an ownership interest of at least ninety percent of the control of such entity are, subject to or exempt from such taxes, and any other partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture when the partners, members, or owners representing an ownership interest of at least ninety percent of the control of such entity are subject to or exempt from such taxes; and

(9) Year means the taxable year of the taxpayer.

Source: Laws 1997, LB 886, § 2; Laws 1998, LB 1104, § 15; Laws 1999, LB 539, § 1; Laws 2003, LB 608, § 2; Laws 2005, LB 312, § 17; Laws 2006, LB 990, § 2; Laws 2006, LB 1003, § 8; Laws 2007, LB223, § 16; Laws 2007, LB368, § 136; Laws 2008, LB895, § 2; Laws 2015, LB175, § 6; Laws 2019, LB302, § 101.
Operative date July 1, 2019.

Cross References

Environmental Protection Act, see section 81-1532.

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

Nebraska Revenue Act of 1967, see section 77-2701.

(t) BIODIESEL FACILITY INVESTMENT CREDIT

77-27,236 Biodiesel facility tax credit; conditions; facility; requirements; information not public record.

(1) A taxpayer who makes an investment after January 1, 2008, and prior to January 1, 2015, in a biodiesel facility shall receive a nonrefundable income tax credit as provided in this section.

(2) The credit provided in subsection (1) of this section shall be equal to thirty percent of the amount invested by the taxpayer in a biodiesel facility. The credit shall be taken over at least four taxable years subject to the following conditions:

(a) No more than ten percent of the credit provided for in subsection (1) of this section shall be taken in each of the first two taxable years the biodiesel facility produces B100 and no more than fifty percent of the credit provided for in subsection (1) of this section shall be taken in the third taxable year the biodiesel facility produces B100. The credit allowed under subsection (1) of this section shall not exceed fifty percent of the taxpayer's liability in any tax year;

(b) Any amount of credit not allowed because of the limitations in this section may be carried forward for up to fifteen taxable years after the taxable year in

which the investment was made. The aggregate maximum income tax credit a taxpayer may obtain is two hundred fifty thousand dollars;

(c) The investment shall be at risk in the biodiesel facility. The investment shall be in the form of a purchase of an ownership interest or the right to receive payment of dividends from the biodiesel facility and shall remain in the business for at least three years. The Tax Commissioner may recapture any credits used if the investment does not remain invested for the three-year period. An investment placed in escrow does not qualify under this subdivision;

(d) The entire amount of the investment shall be expended by the biodiesel facility for plant, equipment, research and development, marketing and sales activity, or working capital;

(e) A partnership, a subchapter S corporation, a limited liability company that for tax purposes is treated like a partnership, a cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, or any other pass-through entity that invests in a biodiesel facility shall be considered to be the taxpayer for purposes of the credit limitations. Except for the limitation under subdivision (2)(a) of this section, the amount of the credit allowed to a pass-through entity shall be determined at the partnership, corporate, cooperative, or other organizational level. The amount of the credit determined at the partnership, corporate, cooperative, or other organizational level shall be allowed to the partners, members, or other owners in proportion to their respective ownership interests in the pass-through entity;

(f) The credit shall be taken only if (i) the biodiesel facility produces B100, (ii) the biodiesel facility in which the investment was made produces at a rate of at least seventy percent of its rated capacity continuously for at least one week during the first taxable year the credit is taken and produces at a rate of at least seventy percent of its rated capacity over a six-month period during each of the next two taxable years the credit is taken, (iii) all processing takes place at the biodiesel facility in which the investment was made and which is located in Nebraska, and (iv) at least fifty-one percent of the ownership interest of the biodiesel facility is held by Nebraska resident individuals or Nebraska entities; and

(g) The biodiesel facility shall provide the Department of Revenue written evidence substantiating that the biodiesel facility has received the requisite authority from the Department of Environment and Energy and from the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The biodiesel facility shall annually provide an analysis to the Department of Revenue of samples of the product collected according to procedures specified by the department. The analysis shall be prepared by an independent laboratory meeting standards of the International Organization for Standardization. Prior to collecting the samples, the biodiesel facility shall notify the department which may observe the sampling procedures utilized by the biodiesel facility to obtain the samples to be submitted for independent analysis.

(3) Any biodiesel facility for which credits are granted shall, whenever possible, employ workers who are residents of the State of Nebraska.

(4) Trade secrets, academic and scientific research work, and other proprietary or commercial information which may be filed with the Tax Commissioner shall not be considered to be public records as defined in section 84-712.01 if the release of such trade secrets, work, or information would give advantage to

business competitors and serve no public purpose. Any person seeking release of the trade secrets, work, or information as a public record shall demonstrate to the satisfaction of the department that the release would not violate this section.

(5) For purposes of this section:

(a) Biodiesel facility means a plant or facility related to the processing, marketing, or distribution of biodiesel; and

(b) B100 means pure biodiesel containing mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated as B100, and meeting the American Society for Testing and Materials standard, ASTM D6751.

Source: Laws 2007, LB343, § 2; Laws 2019, LB302, § 102.
Operative date July 1, 2019.

(w) ONLINE HOSTING PLATFORM

77-27,239 Online hosting platform; Tax Commissioner; agreement authorized; powers.

(1) For purposes of this section, online hosting platform means a marketplace connected by computer to one or more other computers or networks, as through a commercial electronic information service or the Internet, through which (a) a seller or hotel operator may rent or furnish any room or rooms, lodgings, or accommodations in a hotel, a motel, an inn, a tourist camp, a tourist cabin, or any other place, (b) such room or rooms, lodgings, or accommodations may be advertised or listed, and (c) a purchaser or occupant may arrange for the occupancy of such room or rooms, lodgings, or accommodations.

(2) The Tax Commissioner may enter into an agreement with an online hosting platform to permit the online hosting platform to collect and pay the applicable sales taxes imposed under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Nebraska Visitors Development Act, and sections 13-318 to 13-326 and 13-2813 to 13-2816 on behalf of the seller or hotel operator otherwise required to collect such taxes for transactions consummated through the online hosting platform. Upon entering into such agreement with the online hosting platform, the Tax Commissioner shall waive the tax collection responsibility of a seller or hotel operator for transactions consummated through the online hosting platform for which the online hosting platform has assumed this responsibility. The online hosting platform shall give written notice to each seller or hotel operator which is covered by the agreement between the online hosting platform and the Tax Commissioner.

(3) Upon entering into an agreement with the Tax Commissioner under this section, the online hosting platform shall report aggregate information on the tax return prescribed by the Tax Commissioner, including an aggregate of gross receipts, exemptions, adjustments, and taxable receipts of all transactions subject to the agreement.

Source: Laws 2019, LB57, § 4.
Effective date September 1, 2019.

Cross References

Local Option Revenue Act, see section 77-27,148.
Nebraska Visitors Development Act, see section 81-3701.

ARTICLE 30

MECHANICAL AMUSEMENT DEVICE TAX ACT

Section

- 77-3001. Terms, defined.
- 77-3003.01. Seizure of mechanical amusement device; penalty; determination cash device complies with act; procedure; Tax Commissioner; powers and duties; mechanical amusement device decal; final decision; appeal; retail establishment; limits on devices; annual decal fee.
- 77-3003.02. Operation of cash device; restrictions.
- 77-3006. Tax Commissioner; administration of act.
- 77-3007. Tax; payment; decal; form; display.
- 77-3008. Municipalities; political subdivisions; power to tax.
- 77-3010. Violations; prosecution; limitation.
- 77-3011. Act, how cited.

77-3001 Terms, defined.

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

(1) Cash device means any mechanical amusement device capable of awarding (a) cash, (b) anything redeemable for cash, (c) gift cards, credit, or other instruments which have a value denominated by reference to an amount of currency, or (d) anything redeemable for anything described in subdivision (c) of this subdivision;

(2) Department means the Department of Revenue;

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

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

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

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

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

(8) Whenever in the act, the words electronic video games of skill, games of skill, or skill-based devices are used, they refer to mechanical amusement devices which produce an outcome predominantly caused by skill and not chance; and

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

Source: Laws 1969, c. 635, § 1, p. 2541; Laws 1977, LB 353, § 1; Laws 1993, LB 121, § 514; Laws 1997, LB 317, § 1; Laws 2019, LB538, § 2.

Operative date January 1, 2020.

77-3003.01 Seizure of mechanical amusement device; penalty; determination cash device complies with act; procedure; Tax Commissioner; powers and duties; mechanical amusement device decal; final decision; appeal; retail establishment; limits on devices; annual decal fee.

(1)(a) The Tax Commissioner or his or her agents or employees, at the direction of the Tax Commissioner, or any peace officer of this state may seize, without a warrant, any mechanical amusement device if there is cause to believe such device is not in compliance with the Mechanical Amusement Device Tax Act or any rules and regulations adopted and promulgated under the act or if the department determines the response to a request for information is materially deficient without good cause. In addition to seizure, any person placing in service or operating a cash device constituting a game of chance within this state shall be subject to a penalty of one thousand dollars for each day of such operation.

(b) For purposes of this subsection, a mechanical amusement device is subject to seizure and penalties as if it were a game of chance if:

(i) The mechanical amusement device is a cash device; and

(ii) The mechanical amusement device does not bear an unexpired decal as required under the Mechanical Amusement Device Tax Act.

(c) This section does not apply to any device (i) used in any bingo, lottery by the sale of pickle cards, or other lottery, raffle, or gift enterprise conducted in accordance with the Nebraska Bingo Act, Nebraska County and City Lottery Act, Nebraska Lottery and Raffle Act, Nebraska Pickle Card Lottery Act, Nebraska Small Lottery and Raffle Act, State Lottery Act, or section 9-701, (ii) used for a prize contest as defined in section 28-1101, or (iii) specifically authorized by the laws of this state.

(2) To receive a determination from the department that a cash device is in compliance with the Mechanical Amusement Device Tax Act and any rules and regulations adopted and promulgated under the act, a manufacturer or distributor of the device shall:

(a) Submit an application to the Tax Commissioner containing information regarding the device's location, software, Internet connectivity, and configuration as may be required by the Tax Commissioner;

(b) Submit an application fee of five hundred dollars;

(c) Provide a specimen of the proposed device;

(d) Provide all supporting evidence, including a report by an independent testing authority preapproved by the Tax Commissioner, to the Tax Commissioner indicating that, under all configurations, settings, and modes of operation, operation of the device constitutes a game of skill and not a game of chance and the use, operation, sale, or manufacture of the device would not constitute a violation of section 28-1107; and

(e) Provide an affidavit from the distributor affirming that no functional changes in hardware or software will be made to the approved device without further approval from the Tax Commissioner.

(3) The Tax Commissioner shall issue a response in writing to the applicant within forty-five days after the applicant has completed and submitted all application requirements. The Tax Commissioner's response shall state the reason for any denial or the reasons a determination cannot be made.

(4)(a) A device shall not be considered a game of skill if one or more of the following apply:

(i) The ability of any player to succeed at the game played on the device is impacted by the number or ratio of prior wins to prior losses of players playing such device;

(ii) The ability of the player to succeed at the game played on the device is impacted by the ability of any person to set a specified win-loss ratio for the device or by the device having a predetermined win-loss percentage;

(iii) The outcome of the game played on the device can be controlled by a source other than any player playing the device;

(iv) The success of any player is or may be determined by a chance event which cannot be altered by player action;

(v) There is no possibility for the player to win every game played on the device or there are unwinnable games or game modes on the device;

(vi) The ability of any player to succeed at the game played on the device requires the exercise of skill that no reasonable player could exercise; or

(vii) The primary determination of the prize amount is determined by the presentation or generation of a particular puzzle or group of symbols dealt to the player and the player does not have control over the puzzle or group of symbols presented.

(b) For purposes of this subsection, reasonable player means a player with an average level of intelligence, physical and mental skills, reaction time, and dexterity.

(5) The department or any court considering whether a gambling device is a game of skill may consider:

(a) The results of an analysis by any independent testing authority preapproved by the Tax Commissioner to evaluate the reaction time required for a player of a particular game on such device to perform the tasks required by the game to win; or

(b) The results of an analysis by any independent testing authority preapproved by the Tax Commissioner to evaluate factors set forth by the Tax Commissioner, other than reaction time, required for the player of a particular game on such device to perform the tasks required by the game to win.

(6) Factors which are not sufficient indications of a skill-based game include, but are not limited to:

(a) Whether a comprehensive list of prizes or outcomes is offered to the player or whether all outcomes are drawn from a finite pool of predetermined outcomes or starting positions;

(b) Whether a player can increase his or her chance of winning based on knowledge of probabilities in general or the probabilities of any particular prize or outcome in a game or on a device;

(c) Whether a player can simply choose not to play before committing money or credits; or

(d) A game task consisting solely of moving a symbol up or down, replacing one symbol with another, or any similar action, with or without a timer.

(7) Upon approval of an application based on a determination that the mechanical amusement device is a game of skill and not a game of chance, the Tax Commissioner shall issue a mechanical amusement device decal for the device as configured and as provided in subsection (8) of this section. No mechanical amusement device decal shall be issued for any cash device unless the department has determined that such device is a game of skill and not a game of chance and that the manufacture, sale, transport, placement, possession, or operation of such device does not constitute a violation of section 28-1107. If the Tax Commissioner does not approve the application for the device, the application shall be denied and the operator shall have the opportunity for an administrative hearing before the Tax Commissioner at which evidence may be presented on the issue of whether the device is specifically authorized by law and is not a gambling device as defined in section 28-1101. After such hearing, the Tax Commissioner shall enter a final decision approving or denying the application. The Tax Commissioner's final decision may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(8)(a) Upon approval of a specimen of a mechanical amusement device as a game of skill under this section, the department may issue a mechanical amusement device decal for each such device:

(i) If certified by the manufacturer to be functionally identical in both hardware and software configurations to the specimen provided to the department; and

(ii) If the application fee described in subdivision (2)(b) of this section and the annual decal fee described in subdivision (c) of this subsection have been paid.

(b) An owner or operator of a retail establishment shall operate no more than four cash devices, except that an establishment with over four thousand square feet may have one cash device for each one thousand square feet, up to a maximum of fifteen cash devices.

(c) The owner or operator of a cash device shall pay an annual decal fee of two hundred fifty dollars to the department for each device in operation in Nebraska. The decal issued under this section shall be distinct from other decals issued by the department for mechanical amusement devices that are not required to be evaluated under this section. Regardless of the issuance of a decal by the department, no device shall be considered in compliance if it does not bear an unexpired decal in a conspicuous place.

(9) The application process described in this section shall not be construed to limit further investigation by the department or the issuance of further regulations to promote compliance after the application process is completed. At any point after a determination of skill by the department, the department may request from the manufacturer, distributor, or operator information about any device in operation in this state, including, but not limited to, information regarding currently operable source code, changes to software or hardware, and communications from or to the device over the Internet. A manufacturer, distributor, or operator that receives a request shall respond with all responsive information in its possession or control within fifteen business days.

(10)(a) Before any rules and regulations adopted and promulgated to carry out this section become effective, any manufacturer, distributor, or owner may continue to manufacture, sell, transport, place, possess, or enter into a transaction involving (i) cash devices already in operation at an establishment as of May 1, 2019, or (ii) other cash devices that are functionally identical to those already in operation at an establishment as of May 1, 2019.

(b) After any rules and regulations adopted and promulgated to carry out this section become effective, until any determination of compliance or noncompliance by the department, any manufacturer, distributor, or owner may continue to manufacture, sell, transport, place, possess, or enter into a transaction involving cash devices described in subdivision (10)(a) of this section if, within ninety days after the date when any such rules and regulations become effective, the manufacturer or distributor files an application with the department for such a determination.

(c) If a manufacturer or distributor receives a determination from the department that a device described in subdivision (10)(a) of this section is not in compliance with the Mechanical Amusement Device Tax Act, such manufacturer or distributor shall have thirty days after the issuance of that determination to remove any such device from operation in Nebraska.

(11) Application fees collected under subsection (2) of this section and annual decal fees collected under subsection (8) of this section shall be remitted to the State Treasurer for credit to the Department of Revenue Enforcement Fund.

Source: Laws 2019, LB538, § 3.

Operative date January 1, 2020.

Cross References

Administrative Procedure Act, see section 84-920.

Nebraska Bingo Act, see section 9-201.

Nebraska County and City Lottery Act, see section 9-601.

Nebraska Lottery and Raffle Act, see section 9-401.

Nebraska Pickle Card Lottery Act, see section 9-301.

Nebraska Small Lottery and Raffle Act, see section 9-501.

State Lottery Act, see section 9-801.

77-3003.02 Operation of cash device; restrictions.

No cash device shall be operated using a credit card, charge card, or debit card. No person under nineteen years of age shall play or participate in any way in the operation of a cash device. No operator or employee or agent of any operator shall knowingly permit any individual under nineteen years of age to play or participate in any way in the operation of a cash device.

Source: Laws 2019, LB538, § 4.

Operative date January 1, 2020.

77-3006 Tax Commissioner; administration of act.

The administration of the Mechanical Amusement Device Tax Act is hereby vested in the Tax Commissioner subject to other provisions of law relating to the Tax Commissioner. The Tax Commissioner may prescribe, adopt and promulgate, and enforce rules and regulations relating to the administration and enforcement of the act and may delegate authority to his or her representatives to conduct hearings or perform any other duties imposed under the act. The Tax Commissioner may adopt and promulgate rules and regulations necessary to carry out section 77-3003.01.

Source: Laws 1969, c. 635, § 6, p. 2544; Laws 2019, LB538, § 5.
Operative date January 1, 2020.

77-3007 Tax; payment; decal; form; display.

(1) The payment of the tax imposed by the Mechanical Amusement Device Tax Act shall be evidenced by a separate decal for each device signifying payment of the tax, in a form prescribed by the Tax Commissioner.

(2) Every operator shall place such decal in a conspicuous place on each device to denote payment of the tax for each device for the current year.

Source: Laws 1969, c. 635, § 7, p. 2544; Laws 1977, LB 353, § 3; Laws 2019, LB538, § 6.
Operative date January 1, 2020.

77-3008 Municipalities; political subdivisions; power to tax.

Nothing in the Mechanical Amusement Device Tax Act shall be construed to limit, usurp, or repeal any power to tax granted to the political subdivisions and municipalities of the State of Nebraska by the laws and Constitution of Nebraska.

Source: Laws 1969, c. 635, § 8, p. 2545; Laws 2019, LB538, § 7.
Operative date January 1, 2020.

77-3010 Violations; prosecution; limitation.

Prosecutions for any violations of the Mechanical Amusement Device Tax Act shall be brought by the Attorney General or county attorney in the county in which the violation occurs. Any prosecution for the violation of any of the provisions of the act shall be instituted within three years after the commission of the offense.

Source: Laws 1969, c. 635, § 10, p. 2545; Laws 2019, LB538, § 8.
Operative date January 1, 2020.

77-3011 Act, how cited.

Sections 77-3001 to 77-3011 shall be known and may be cited as the Mechanical Amusement Device Tax Act.

Source: Laws 1969, c. 635, § 11, p. 2545; Laws 2019, LB538, § 9.
Operative date January 1, 2020.

ARTICLE 31

VOLUNTEER EMERGENCY RESPONDERS INCENTIVE ACT

Section

- 77-3104. Certification administrator; designation; duties; notice to volunteer member; written certification.
- 77-3105. Certification administrator; certified list of volunteer members; duties; income tax credit.

77-3104 Certification administrator; designation; duties; notice to volunteer member; written certification.

(1) Each volunteer department serving a county, city, village, or rural or suburban fire protection district shall designate one member of the department to serve as the certification administrator. The designation of such individual as the certification administrator shall be confirmed and approved by the governing body of such county, city, village, or rural or suburban fire protection district. The certification administrator shall keep and maintain records on the activities of all volunteer members and award points for such activities based upon the standard criteria for qualified active service.

(2) No later than July 15 of each year, the certification administrator shall provide each volunteer member with notice of the total points he or she has accumulated during the first six months of the current calendar year of service.

(3) No later than February 1 of each year, the certification administrator shall provide each volunteer member with a written certification stating the total number of points accumulated by the volunteer member during the immediately preceding calendar year of service and whether the volunteer member has qualified as an active emergency responder, active rescue squad member, or active volunteer firefighter for such year. Such certification may be sent electronically or by mail.

Source: Laws 2016, LB886, § 4; Laws 2018, LB760, § 4; Laws 2019, LB222, § 1.

Operative date January 1, 2020.

77-3105 Certification administrator; certified list of volunteer members; duties; income tax credit.

(1) The certification administrator of the volunteer department shall file with the Department of Revenue a certified list of those volunteer members who have qualified as active emergency responders, active rescue squad members, or active volunteer firefighters for the immediately preceding calendar year of service no later than February 15. The certification administrator shall also send a copy of such certified list to the governing body of the county, city, village, or rural or suburban fire protection district. Such copy may be sent electronically or by mail.

(2) Each volunteer member on the list described in subsection (1) of this section shall receive a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 in an amount equal to two hundred fifty dollars beginning with the second taxable year in which such volunteer member is included on such list. The volunteer member shall claim the credit by including

a copy of the certification received under subsection (3) of section 77-3104 with the volunteer member's state income tax return.

Source: Laws 2016, LB886, § 5; Laws 2018, LB760, § 5; Laws 2019, LB222, § 2.

Operative date January 1, 2020.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

ARTICLE 34

POLITICAL SUBDIVISIONS, BUDGET LIMITATIONS

(d) LIMITATION ON PROPERTY TAXES

Section

77-3442. Property tax levies; maximum levy; exceptions.

77-3443. Other political subdivisions; levy limit; levy request; governing body; duties; allocation of levy.

(e) BASE LIMITATION

77-3446. Base limitation, defined.

(d) LIMITATION ON PROPERTY TAXES

77-3442 Property tax levies; maximum levy; exceptions.

(1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this section, school districts and multiple-district school systems may levy a maximum levy of one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) For each fiscal year prior to fiscal year 2017-18, learning communities may levy a maximum levy for the general fund budgets of member school districts of ninety-five cents per one hundred dollars of taxable valuation of property subject to the levy. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.

(c) Except as provided in subdivision (2)(e) of this section, for each fiscal year prior to fiscal year 2017-18, school districts that are members of learning communities may levy for purposes of such districts' general fund budget and special building funds a maximum combined levy of the difference of one dollar and five cents on each one hundred dollars of taxable property subject to the levy minus the learning community levy pursuant to subdivision (2)(b) of this section for such learning community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c) of this section are (i) amounts levied to pay for current and future sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment occurring prior to September 1, 2017, (ii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for current and future qualified voluntary termination incentives for certificated teachers pursuant to subsection (3) of section 79-8,142 that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iii) amounts levied by a school district

otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for seventy-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2017, and August 31, 2018, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for fifty percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for twenty-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (vi) amounts levied in compliance with sections 79-10,110 and 79-10,110.02, and (vii) amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(e) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) or (2)(c) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(f) For each fiscal year, learning communities may levy a maximum levy of one-half cent on each one hundred dollars of taxable property subject to the levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to section 79-2111.

(g) For each fiscal year, learning communities may levy a maximum levy of one and one-half cents on each one hundred dollars of taxable property subject to the levy for early childhood education programs for children in poverty, for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects, except that no more than ten percent of such levy may be used for elementary learning center employees.

(3) For each fiscal year, community college areas may levy the levies provided in subdivisions (2)(a) through (c) of section 85-1517, in accordance with the provisions of such subdivisions. A community college area may exceed

the levy provided in subdivision (2)(b) of section 85-1517 by the amount necessary to retire general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997.

(4)(a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition, natural resources districts located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

(5) Any educational service unit authorized to levy a property tax pursuant to section 79-1225 may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6)(a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated.

(9) Municipal counties may levy or authorize a maximum levy of one dollar per one hundred dollars of taxable valuation of property subject to the levy. The municipal county may allocate levy authority to any political subdivision or entity subject to allocation under section 77-3443.

(10) Beginning July 1, 2016, rural and suburban fire protection districts may levy a maximum levy of ten and one-half cents per one hundred dollars of taxable valuation of property subject to the levy if (a) such district is located in a county that had a levy pursuant to subsection (8) of this section in the previous year of at least forty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) such district had a levy request pursuant to section 77-3443 in any of the three previous years and the county board of the county in which the greatest portion of the valuation of such district is located did not authorize any levy authority to such district in such year.

(11) A regional metropolitan transit authority may levy a maximum levy of ten cents per one hundred dollars of taxable valuation of property subject to the levy for each fiscal year that commences on the January 1 that follows the effective date of the conversion of the transit authority established under the Transit Authority Law into the regional metropolitan transit authority.

(12) Property tax levies (a) for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, (b) for preexisting lease-purchase contracts approved prior to July 1, 1998, (c) for bonds as defined in section 10-134 approved according to law and secured by a levy on property except as provided in section 44-4317 for bonded indebtedness issued by educational service units and school districts, and (d) for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

(13) The limitations on tax levies provided in this section are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this section are those provided by or authorized by sections 77-3442 to 77-3444.

(14) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

(15) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

(16) For school districts that file a binding resolution on or before May 9, 2008, with the county assessors, county clerks, and county treasurers for all counties in which the school district has territory pursuant to subsection (7) of section 79-458, if the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, are in excess of the greater of (a) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) the maximum levy authorized by a vote pursuant to section 77-3444, all school district levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, shall be considered unauthorized levies under section 77-1606.

Source: Laws 1996, LB 1114, § 1; Laws 1997, LB 269, § 56; Laws 1998, LB 306, § 36; Laws 1998, LB 1104, § 17; Laws 1999, LB 87, § 87; Laws 1999, LB 141, § 11; Laws 1999, LB 437, § 26; Laws 2001, LB 142, § 57; Laws 2002, LB 568, § 9; Laws 2002, LB 898, § 1; Laws 2002, LB 1085, § 19; Laws 2003, LB 540, § 2; Laws 2004, LB 962, § 110; Laws 2004, LB 1093, § 1; Laws 2005, LB 38, § 2; Laws 2006, LB 968, § 12; Laws 2006, LB 1024, § 14; Laws 2006, LB 1226, § 30; Laws 2007, LB342, § 31; Laws 2007, LB641, § 4; Laws 2007, LB701, § 33; Laws 2008, LB988, § 2; Laws 2008, LB1154, § 5; Laws 2009, LB121, § 11; Laws 2010, LB1070, § 4; Laws 2010, LB1072, § 3; Laws 2011, LB59, § 2; Laws 2011, LB400, § 2; Laws 2012, LB946, § 10; Laws 2012, LB1104, § 1; Laws 2013, LB585, § 1; Laws 2015, LB261, § 13; Laws 2015, LB325, § 7; Laws 2016, LB959, § 1; Laws 2016, LB1067, § 10; Laws 2017, LB339, § 269; Laws 2017, LB512, § 6; Laws 2019, LB63, § 6; Laws 2019, LB492, § 42.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB63, section 6, with LB492, section 42, to reflect all amendments.

Note: Changes made by LB63 became effective March 8, 2019. Changes made by LB492 became effective September 1, 2019.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Nebraska Ground Water Management and Protection Act, see section 46-701.

Transit Authority Law, see section 14-1826.

77-3443 Other political subdivisions; levy limit; levy request; governing body; duties; allocation of levy.

(1) All political subdivisions, other than (a) school districts, community colleges, natural resources districts, educational service units, cities, villages, counties, municipal counties, rural and suburban fire protection districts that have levy authority pursuant to subsection (10) of section 77-3442, and sanitary and improvement districts and (b) political subdivisions subject to municipal allocation under subsection (2) of this section, may levy taxes as authorized by law which are authorized by the county board of the county or the council of a municipal county in which the greatest portion of the valuation is located, which are counted in the county or municipal county levy limit provided in section 77-3442, and which do not collectively total more than fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property for all governments for which allocations are made by the municipality, county, or municipal county, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport. The county board or council shall review and approve or disapprove the levy request of all political subdivisions subject to this subsection. The county board or council may approve all or a portion of the levy request and may approve a levy request that would allow the requesting political subdivision to levy a tax at a levy greater than that permitted by law. Unless a transit authority elects to convert to a regional metropolitan transit authority in accordance with the Regional Metropolitan Transit Authority Act, and for each fiscal year of such a transit authority until the first fiscal year commencing after the effective date of such conversion, the county board of a county or the council of a municipal county which contains a transit authority established pursuant to the Transit Authority Law shall allocate no less than three cents per one hundred dollars of taxable property within the city or municipal county subject to the levy to the transit authority if requested by such authority. For any political subdivision subject to this subsection that receives taxes from more than one county or municipal county, the levy shall be allocated only by the county or municipal county in which the greatest portion of the valuation is located. The county board of equalization shall certify all levies by October 15 to insure that the taxes levied by political subdivisions subject to this subsection do not exceed the allowable limit for any parcel or item of taxable property. The levy allocated by the county or municipal county may be exceeded as provided in section 77-3444.

(2) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, transit authorities established under the Transit Authority Law unless and until the first fiscal year commencing after the effective date of

any conversion by such a transit authority into a regional metropolitan transit authority pursuant to the Regional Metropolitan Transit Authority Act, and offstreet parking districts established under the Offstreet Parking District Act may be allocated property taxes as authorized by law which are authorized by the city, village, or municipal county and are counted in the city or village levy limit or municipal county levy limit provided by section 77-3442, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport. For offstreet parking districts established under the Offstreet Parking District Act, the tax shall be counted in the allocation by the city proportionately, by dividing the total taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the city multiplied by the levy of the district. Unless a transit authority elects to convert into a regional metropolitan transit authority pursuant to the Regional Metropolitan Transit Authority Act, and for each fiscal year of such a transit authority until the first fiscal year commencing after the effective date of such conversion, the city council of a city which has established a transit authority pursuant to the Transit Authority Law or the council of a municipal county which contains a transit authority shall allocate no less than three cents per one hundred dollars of taxable property subject to the levy to the transit authority if requested by such authority. The city council, village board, or council shall review and approve or disapprove the levy request of the political subdivisions subject to this subsection. The city council, village board, or council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the municipality or municipal county may be exceeded as provided in section 77-3444.

(3) On or before August 1, all political subdivisions subject to county, municipal, or municipal county levy authority under this section shall submit a preliminary request for levy allocation to the county board, city council, village board, or council that is responsible for levying such taxes. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in section 77-3444 to exceed the final levy allocation as determined in subsection (4) of this section.

(4) Each county board, city council, village board, or council shall (a) adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions and (b) forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions. No final levy allocation shall be changed after September 1 except by agreement between both the county board, city council, village board, or council which determined the amount of the final levy allocation and the governing body of the political subdivision whose final levy allocation is at issue.

Source: Laws 1996, LB 1114, § 2; Laws 1997, LB 269, § 57; Laws 1998, LB 306, § 37; Laws 1999, LB 141, § 12; Laws 2001, LB 142,

§ 58; Laws 2002, LB 994, § 26; Laws 2015, LB325, § 8; Laws 2017, LB339, § 270; Laws 2019, LB492, § 43.
Effective date September 1, 2019.

Cross References

Cities Airport Authorities Act, see section 3-514.
Community Development Law, see section 18-2101.
Offstreet Parking District Act, see section 19-3301.
Regional Metropolitan Transit Authority Act, see section 18-801.
Transit Authority Law, see section 14-1826.

(e) BASE LIMITATION

77-3446 Base limitation, defined.

Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal years 2017-18 and 2018-19 is one and one-half percent and for school fiscal year 2019-20 is two percent. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

Source: Laws 1998, LB 989, § 15; Laws 2001, LB 365, § 1; Laws 2003, LB 540, § 3; Laws 2009, LB545, § 2; Laws 2009, First Spec. Sess., LB5, § 1; Laws 2011, LB235, § 1; Laws 2013, LB407, § 1; Laws 2017, LB409, § 1; Laws 2019, LB675, § 1.
Effective date May 28, 2019.

ARTICLE 35

HOMESTEAD EXEMPTION

Section

- 77-3506. Certain veterans; exemption; unremarried surviving spouse; application.
77-3508. Homesteads; assessment; exemptions; individuals; based on disability and income.
77-3519. Homestead; exemption; county assessor; rejection; applicant; complaint; contents; hearing; appeal.

77-3506 Certain veterans; exemption; unremarried surviving spouse; application.

(1) All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation, on any homestead described in subsection (2) of this section, one hundred percent of the exempt amount.

(2) The exemption described in subsection (1) of this section shall apply to homesteads of:

(a) A veteran who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), who is drawing compensation from the United States Department of Veterans Affairs because of one hundred percent service-connected disability, and who is not eligible for total exemption under sections 77-3526 to 77-3528, an unremarried surviving

spouse of such a veteran, or a surviving spouse of such a veteran who remarries after attaining the age of fifty-seven years;

(b) An unremarried surviving spouse of any veteran, including a veteran other than a veteran described in section 80-401.01, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) and who died because of a service-connected disability or a surviving spouse of such a veteran who remarries after attaining the age of fifty-seven years;

(c) An unremarried surviving spouse of a serviceman or servicewoman, including a veteran other than a veteran described in section 80-401.01, whose death while on active duty was service-connected or a surviving spouse of such a serviceman or servicewoman who remarries after attaining the age of fifty-seven years; and

(d) An unremarried surviving spouse of a serviceman or servicewoman who died while on active duty during the periods described in section 80-401.01 or a surviving spouse of such a serviceman or servicewoman who remarries after attaining the age of fifty-seven years.

(3) Application for exemption under this section shall include certification of the status set forth in subsection (2) of this section from the United States Department of Veterans Affairs. Such certification shall not be required in succeeding years if no change in status has occurred, except that the county assessor or the Tax Commissioner may request such certification to verify that no change in status has occurred.

Source: Laws 2014, LB1087, § 5; Laws 2016, LB683, § 1; Laws 2018, LB1089, § 6; Laws 2019, LB512, § 25.
Operative date May 31, 2019.

77-3508 Homesteads; assessment; exemptions; individuals; based on disability and income.

(1)(a) All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation, on any homestead described in subdivision (b) of this subsection, a percentage of the exempt amount as limited by section 77-3506.03. The exemption shall be based on the household income of a claimant pursuant to subsections (2) through (4) of this section.

(b) The exemption described in subdivision (a) of this subsection shall apply to homesteads of:

(i) Veterans as defined in section 80-401.01 who were discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) and who are totally disabled by a non-service-connected accident or illness;

(ii) Individuals who have a permanent physical disability and have lost all mobility so as to preclude locomotion without the use of a mechanical aid or a prosthetic device as defined in section 77-2704.09;

(iii) Individuals who have undergone amputation of both arms above the elbow or who have a permanent partial disability of both arms in excess of seventy-five percent; and

(iv) Beginning January 1, 2015, individuals who have a developmental disability as defined in section 83-1205.

(c) Application for the exemption described in subdivision (a) of this subsection shall include certification from a qualified medical physician, physician assistant, or advanced practice registered nurse for subdivisions (b)(i) through (b)(iii) of this subsection, certification from the United States Department of Veterans Affairs affirming that the homeowner is totally disabled due to non-service-connected accident or illness for subdivision (b)(i) of this subsection, or certification from the Department of Health and Human Services for subdivision (b)(iv) of this subsection. Such certification from a qualified medical physician, physician assistant, or advanced practice registered nurse or from the Department of Health and Human Services shall be made on forms prescribed by the Department of Revenue. If an individual described in subdivision (b)(i), (ii), (iii), or (iv) of this subsection is granted a homestead exemption pursuant to this section for any year, such individual shall not be required to submit the certification required under this subdivision in succeeding years if no change in medical condition has occurred, except that the county assessor or the Tax Commissioner may request such certification to verify that no change in medical condition has occurred.

(2) For 2014, for a married or closely related claimant as described in subsection (1) of this section, the percentage of the exempt amount for which the claimant shall be eligible shall be the percentage in Column B which corresponds with the claimant's household income in Column A in the table found in this subsection.

Column A Household Income In Dollars	Column B Percentage Of Relief
0 through 34,700	100
34,701 through 36,400	90
36,401 through 38,100	80
38,101 through 39,800	70
39,801 through 41,500	60
41,501 through 43,200	50
43,201 through 44,900	40
44,901 through 46,600	30
46,601 through 48,300	20
48,301 through 50,000	10
50,001 and over	0

(3) For 2014, for a single claimant as described in subsection (1) of this section, the percentage of the exempt amount for which the claimant shall be eligible shall be the percentage in Column B which corresponds with the claimant's household income in Column A in the table found in this subsection.

Column A Household Income In Dollars	Column B Percentage Of Relief
0 through 30,300	100
30,301 through 31,700	90
31,701 through 33,100	80
33,101 through 34,500	70
34,501 through 35,900	60
35,901 through 37,300	50
37,301 through 38,700	40

Column A Household Income In Dollars	Column B Percentage Of Relief
38,701 through 40,100	30
40,101 through 41,500	20
41,501 through 42,900	10
42,901 and over	0

(4) For exemption applications filed in calendar years 2015 through 2017, the income eligibility amounts in subsections (2) and (3) of this section shall be adjusted by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017. For exemption applications filed in calendar year 2018 and each calendar year thereafter, the income eligibility amounts in subsections (2) and (3) of this section shall be adjusted by the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2016, to the twelve months ending on August 31 of the year preceding the applicable calendar year. The income eligibility amounts shall be adjusted for cumulative inflation since 2014. If any amount is not a multiple of one hundred dollars, the amount shall be rounded to the next lower multiple of one hundred dollars.

Source: Laws 1979, LB 65, § 8; Laws 1980, LB 647, § 5; Laws 1981, LB 478, § 1; Laws 1983, LB 195, § 2; Laws 1986, LB 1258, § 2; Laws 1987, LB 376A, § 5; Laws 1988, LB 1105, § 3; Laws 1991, LB 2, § 17; Laws 1994, LB 902, § 34; Laws 1995, LB 483, § 5; Laws 1997, LB 182, § 5; Laws 1999, LB 179, § 2; Laws 2000, LB 1279, § 2; Laws 2005, LB 17, § 1; Laws 2005, LB 54, § 17; Laws 2014, LB986, § 2; Laws 2016, LB776, § 6; Laws 2017, LB20, § 1; Laws 2018, LB1089, § 10; Laws 2019, LB512, § 26.
Operative date May 31, 2019.

77-3519 Homestead; exemption; county assessor; rejection; applicant; complaint; contents; hearing; appeal.

In any case when the county assessor rejects an application for homestead exemption, such applicant may obtain a hearing before the county board of equalization by filing a written complaint with the county clerk. If the application for homestead exemption was rejected on the basis of value, the complaint must be filed by June 30. The county board of equalization may, by majority vote, extend such deadline to July 20. If the application for homestead exemption was rejected on any other basis, the complaint must be filed within thirty days from receipt of the notice from the county assessor showing such rejection. Such complaint shall specify his or her grievances and the pertinent facts in relation thereto, in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The board may take evidence pertinent to such complaint, and for that purpose may compel the attendance of witnesses and the production of books, records, and papers by subpoena. The board shall issue its decision on the complaint within thirty days after the filing of the complaint. Notice of the board's decision shall be mailed by the county clerk to the applicant within seven days after the decision. The taxpayer shall have the right to appeal from the board's decision with reference to the application for

homestead exemption to the Tax Equalization and Review Commission in accordance with section 77-5013 within thirty days after the decision.

Source: Laws 1979, LB 65, § 19; Laws 1987, LB 376A, § 14; Laws 1995, LB 490, § 177; Laws 2004, LB 973, § 44; Laws 2011, LB384, § 19; Laws 2019, LB512, § 27.
Operative date May 31, 2019.

ARTICLE 41

EMPLOYMENT AND INVESTMENT GROWTH ACT

Section

77-4111. Tax Commissioner; rules and regulations.

77-4111 Tax Commissioner; rules and regulations.

The Tax Commissioner may adopt and promulgate all rules and regulations necessary to carry out the purposes of the Employment and Investment Growth Act.

Source: Laws 1988, LB 1234, § 9; Laws 2019, LB512, § 28.
Operative date May 31, 2019.

ARTICLE 46

REVENUE FORECASTING

Section

77-4602. Actual General Fund net receipts; public statement by Tax Commissioner; Tax Commissioner; duties; transfer of funds; when.

77-4602 Actual General Fund net receipts; public statement by Tax Commissioner; Tax Commissioner; duties; transfer of funds; when.

(1) Within fifteen days after the end of each month, the Tax Commissioner shall provide a public statement of actual General Fund net receipts and a comparison of such actual net receipts to the monthly estimate certified pursuant to section 77-4601.

(2) Within fifteen days after the end of each fiscal year, the public statement shall also include a summary of actual General Fund net receipts and estimated General Fund net receipts for the fiscal year.

(3) Within fifteen days after the end of each fiscal year, the Tax Commissioner shall determine the following:

(a) Actual General Fund net receipts for the most recently completed fiscal year minus estimated General Fund net receipts for such fiscal year; and

(b) Fifty percent of the product of actual General Fund net receipts for the most recently completed fiscal year times the difference between the annual percentage increase in the actual General Fund net receipts for the most recently completed fiscal year and the average annual percentage increase in the actual General Fund net receipts over the twenty previous fiscal years, excluding the year in which the annual percentage change in actual General Fund net receipts is the lowest.

(4) If the number determined under subdivision (3)(a) of this section is a positive number, the Tax Commissioner shall immediately certify the greater of the two numbers determined under subsection (3) of this section to the director. The State Treasurer shall transfer the certified amount from the General Fund

to the Cash Reserve Fund upon certification by the director of such amount. The transfer shall be made according to the following schedule:

(a) An amount equal to the amount determined under subdivision (3)(a) of this section shall be transferred immediately; and

(b) The remainder, if any, shall be transferred by the end of the subsequent fiscal year.

(5) If the transfer required under subsection (4) of this section causes the balance in the Cash Reserve Fund to exceed sixteen percent of the total budgeted General Fund expenditures for the current fiscal year, such transfer shall be reduced so that the balance of the Cash Reserve Fund does not exceed such amount.

(6) Nothing in this section prohibits the balance in the Cash Reserve Fund from exceeding sixteen percent of the total budgeted General Fund expenditures each fiscal year if the Legislature determines it necessary to prepare for and respond to budgetary requirements which may include, but are not limited to, capital construction projects and responses to emergencies.

Source: Laws 1993, LB 38, § 2; Laws 1996, LB 1290, § 4; Laws 2019, LB638, § 1.

Operative date July 1, 2020.

ARTICLE 52

BEGINNING FARMER TAX CREDIT ACT

Section

- 77-5203. Terms, defined.
- 77-5209. Beginning farmer or livestock producer; qualifications.
- 77-5209.01. Tax credit for financial management program participation.
- 77-5211. Owner of agricultural assets; tax credit; when.
- 77-5212. Rental agreement; requirements; appeal.

77-5203 Terms, defined.

For purposes of the Beginning Farmer Tax Credit Act:

(1) Agricultural assets means agricultural land, livestock, farming, or livestock production facilities or buildings and machinery used for farming or livestock production located in Nebraska;

(2) Board means the Beginning Farmer Board created by section 77-5204;

(3) Cash rent agreement means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined amount of money. A flex or variable rent agreement is an alternative form of a cash rent agreement in which a predetermined base rent is adjusted for actual crop yield, crop price, or both according to a predetermined formula;

(4) Farm means any tract of land over ten acres in area used for or devoted to the commercial production of farm products;

(5) Farm product means those plants and animals useful to man and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing livestock, fruits, and vegetables;

(6) Farming or livestock production means the active use, management, and operation of real and personal property for the production of a farm product;

(7) Financial management program means a program for beginning farmers or livestock producers which includes, but is not limited to, assistance in the creation and proper use of record-keeping systems, periodic private consultations with licensed financial management personnel, year-end monthly cash flow analysis, and detailed enterprise analysis;

(8) Owner of agricultural assets means:

(a) An individual or a trustee having an ownership interest in an agricultural asset located within the State of Nebraska who meets any qualifications determined by the board;

(b) A spouse, child, or sibling who acquires an ownership interest in agricultural assets as a joint tenant, heir, or devisee of an individual or trustee who would qualify as an owner of agricultural assets under subdivision (8)(a) of this section; or

(c) A partnership, corporation, limited liability company, or other business entity having an ownership interest in an agricultural asset located within the State of Nebraska which meets any additional qualifications determined by the board;

(9) Qualified beginning farmer or livestock producer means an individual who is a resident individual as defined in section 77-2714.01, who has entered farming or livestock production or is seeking entry into farming or livestock production, who intends to farm or raise crops or livestock on land located within the state borders of Nebraska, and who meets the eligibility guidelines established in section 77-5209 and such other qualifications as determined by the board; and

(10) Share-rent agreement means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined portion of the production of farm products from the rented agricultural assets.

Source: Laws 1999, LB 630, § 4; Laws 2000, LB 1223, § 3; Laws 2006, LB 990, § 9; Laws 2008, LB1027, § 3; Laws 2019, LB560, § 2. Effective date September 1, 2019.

77-5209 Beginning farmer or livestock producer; qualifications.

(1) The board shall determine who is qualified as a beginning farmer or livestock producer based on the qualifications found in this section. A qualified beginning farmer or livestock producer shall be an individual who: (a) Has a net worth of not more than two hundred thousand dollars, including any holdings by a spouse or dependent, based on fair market value; (b) provides the majority of the day-to-day physical labor and management of his or her farming or livestock production operations; (c) has, by the judgment of the board, adequate farming or livestock production experience or demonstrates knowledge in the type of farming or livestock production for which he or she seeks assistance from the board; (d) demonstrates to the board a profit potential by submitting board-approved projected earnings statements and agrees that farming or livestock production is intended to become his or her principal source of income; (e) demonstrates to the board a need for assistance; (f) participates in a financial management program approved by the board; (g) submits a nutrient management plan and a soil conservation plan to the board on any applicable agricultural assets purchased or rented from an owner of agricultural assets; and (h) has such other qualifications as specified by the board. The qualified

beginning farmer or livestock producer net worth thresholds in subdivision (a) of this subsection shall be adjusted annually beginning October 1, 2009, and each October 1 thereafter, by taking the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods divided by the Producer Price Index for 2008 and multiplying the result by the qualified beginning farmer's or livestock producer's net worth threshold. If the resulting amount is not a multiple of twenty-five thousand dollars, the amount shall be rounded to the next lowest twenty-five thousand dollars.

(2) A qualified beginning farmer or livestock producer who has participated in a board approved and certified three-year rental agreement with an owner of agricultural assets shall be eligible to file subsequent applications for different assets.

Source: Laws 1999, LB 630, § 10; Laws 2000, LB 1223, § 5; Laws 2006, LB 990, § 11; Laws 2008, LB1027, § 7; Laws 2009, LB447, § 1; Laws 2019, LB560, § 3.
Effective date September 1, 2019.

77-5209.01 Tax credit for financial management program participation.

A qualified beginning farmer or livestock producer in the first, second, or third year of a qualifying three-year rental agreement shall be allowed a one-time refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 for the cost of participation in the financial management program required for eligibility under section 77-5209. The amount of the credit shall be the actual cost of participation in an approved program incurred during the tax year for which the credit is claimed, up to a maximum of five hundred dollars.

Source: Laws 2006, LB 990, § 12; Laws 2019, LB560, § 4.
Effective date September 1, 2019.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-5211 Owner of agricultural assets; tax credit; when.

(1) Except as otherwise disallowed under subsection (7) of this section, an owner of agricultural assets shall be allowed a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 for agricultural assets rented on a rental agreement basis, including cash rent of agricultural assets or cash equivalent of a share-rent rental, to qualified beginning farmers or livestock producers. Such asset shall be rented at prevailing community rates as determined by the board.

(2) An owner of agricultural assets who has participated in a board approved and certified three-year rental agreement with a beginning farmer or livestock producer shall be eligible to file subsequent applications for different assets.

(3) Except as allowed pursuant to subsection (5) of this section, tax credits for an agricultural asset may be issued for a maximum of three years.

(4) The credit allowed shall be for renting agricultural assets used for farming or livestock production. Such credit shall be granted by the Department of Revenue only after approval and certification by the board and a written three-year rental agreement for such assets is entered into between an owner of

agricultural assets and a qualified beginning farmer or livestock producer. An owner of agricultural assets or qualified beginning farmer or livestock producer may terminate such agreement for reasonable cause upon approval by the board. If an agreement is terminated without fault on the part of the owner of agricultural assets as determined by the board, the tax credit shall not be retroactively disallowed. If an agreement is terminated with fault on the part of the owner of agricultural assets as determined by the board, any prior tax credits claimed by such owner shall be disallowed and recaptured and shall be immediately due and payable to the State of Nebraska.

(5) A credit may be granted to an owner of agricultural assets for renting agricultural assets, including cash rent of agricultural assets or cash equivalent of a share-rent agreement, to any qualified beginning farmer or livestock producer for a period of three years. An owner of agricultural assets shall be eligible for further credits for such assets under the Beginning Farmer Tax Credit Act when the rental agreement is terminated prior to the end of the three-year period through no fault of the owner of agricultural assets. If the board finds that such a termination was not the fault of the owner of the agricultural assets, it may approve the owner for credits arising from a subsequent qualifying rental agreement on the same asset with a different qualified beginning farmer or livestock producer.

(6) Any credit allowable to a partnership, a corporation, a limited liability company, or an estate or trust may be distributed to the partners, members, shareholders, or beneficiaries. Any credit distributed shall be distributed in the same manner as income is distributed.

(7) The credit allowed under this section shall not be allowed to an owner of agricultural assets for a rental agreement with a beginning farmer or livestock producer who is a relative, as defined in section 36-802, of the owner of agricultural assets or of a partner, member, shareholder, or trustee of the owner of agricultural assets unless the rental agreement is included in a written succession plan. Such succession plan shall be in the form of a written contract or other instrument legally binding the parties to a process and timetable for the transfer of agricultural assets from the owner of agricultural assets to the beginning farmer or livestock producer. The succession plan shall provide for the transfer of assets to be completed within a period of no longer than thirty years, except that when the asset to be transferred is land owned by an individual, the period of transfer may be for a period up to the date of death of the owner. The owner of agricultural assets shall be allowed the credit provided for qualified rental agreements under this section if the board certifies the plan as providing a reasonable manner and probability of successful transfer.

Source: Laws 1999, LB 630, § 12; Laws 2000, LB 1223, § 7; Laws 2006, LB 990, § 13; Laws 2008, LB1027, § 8; Laws 2009, LB165, § 15; Laws 2019, LB70, § 17; Laws 2019, LB560, § 5.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB70, section 17, with LB560, section 5, to reflect all amendments.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-5212 Rental agreement; requirements; appeal.

In evaluating a rental agreement between an owner of agricultural assets and a qualified beginning farmer or livestock producer, the board shall not approve

and certify credit for an owner of agricultural assets who has, with fault, terminated a prior board approved and certified rental agreement with a qualified beginning farmer or livestock producer or if the agricultural assets have previously been approved in a qualifying rental agreement. Any person aggrieved by a decision of the board may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1999, LB 630, § 13; Laws 2006, LB 990, § 14; Laws 2019, LB560, § 6.
Effective date September 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 56

TAX AMNESTY PROGRAM

Section

77-5601. Tax amnesty program; application; department; powers and duties; Department of Revenue Enforcement Fund; created; investment.

77-5601 Tax amnesty program; application; department; powers and duties; Department of Revenue Enforcement Fund; created; investment.

(1) From August 1, 2004, through October 31, 2004, there shall be conducted a tax amnesty program with regard to taxes due and owing that have not been reported to the Department of Revenue. Any person applying for tax amnesty shall pay all unreported taxes that were due on or before April 1, 2004. Any person that applies for tax amnesty and is accepted by the Tax Commissioner shall have any penalties and interest waived on unreported and delinquent taxes notwithstanding any other provisions of law to the contrary.

(2) To be eligible for the tax amnesty provided by this section, the person shall apply for amnesty within the amnesty period, file a return for each taxable period for which the amnesty is requested by December 31, 2004, if no return has been filed, and pay in full all taxes for which amnesty is sought with the return or within thirty days after the application if a return was filed prior to the amnesty period. Tax amnesty shall not be available for any person that is under civil or criminal audit, investigation, or prosecution for unreported or delinquent taxes by this state or the United States Government on or before April 16, 2004.

(3) The department shall not seek civil or criminal prosecution against any person for any taxable period for which amnesty has been granted. The Tax Commissioner shall develop forms for applying for the tax amnesty program, develop procedures for qualification for tax amnesty, and conduct a public awareness campaign publicizing the program.

(4) If a person elects to participate in the amnesty program, the election shall constitute an express and irrevocable relinquishment of all administrative and judicial rights to challenge the imposition of the tax or its amount. Nothing in this section shall prohibit the department from adjusting a return as a result of any state or federal audit.

(5)(a) Except for any local option sales tax collected and returned to the appropriate municipality and any motor vehicle fuel, diesel fuel, and compressed fuel taxes, which shall be deposited in the Highway Trust Fund or

Highway Allocation Fund as provided by law, no less than eighty percent of all revenue received pursuant to the tax amnesty program shall be deposited in the General Fund and ten percent, not to exceed five hundred thousand dollars, shall be deposited in the Department of Revenue Enforcement Fund. Any amount that would otherwise be deposited in the Department of Revenue Enforcement Fund that is in excess of the five-hundred-thousand-dollar limitation shall be deposited in the General Fund.

(b) For fiscal year 2005-06, all proceeds in the Department of Revenue Enforcement Fund shall be appropriated to the department for purposes of employing investigators, agents, and auditors and otherwise increasing personnel for enforcement of the Nebraska Revenue Act of 1967.

(c) For fiscal years after fiscal year 2005-06, twenty percent of all proceeds received during the previous calendar year due to the efforts of auditors and investigators hired pursuant to subdivision (5)(b) of this section, not to exceed seven hundred fifty thousand dollars, shall be deposited in the Department of Revenue Enforcement Fund for purposes of employing investigators and auditors or continuing such employment for purposes of increasing enforcement of the act.

(d) Ten percent of all proceeds received during each calendar year due to the contracts entered into pursuant to section 77-367 shall be deposited in the Department of Revenue Enforcement Fund for purposes of identifying nonfilers of returns, underreporters, nonpayers of taxes, and improper or fraudulent payments.

(6)(a) The department shall prepare a report by April 1, 2005, and by February 1 of each year thereafter detailing the results of the tax amnesty program and the subsequent enforcement efforts. For the report due April 1, 2005, the report shall include (i) the amount of revenue obtained as a result of the tax amnesty program broken down by tax program, (ii) the amount obtained from in-state taxpayers and from out-of-state taxpayers, and (iii) the amount obtained from individual taxpayers and from business enterprises.

(b) For reports due in subsequent years, the report shall include (i) the number of personnel hired for purposes of subdivision (5)(b) of this section and their duties, (ii) a description of lists, software, programming, computer equipment, and other technological methods acquired and the purposes of each, and (iii) the amount of new revenue obtained as a result of the new personnel and acquisitions during the prior calendar year, broken down into the same categories as described in subdivision (6)(a) of this section.

(7) The Department of Revenue Enforcement Fund is created. Transfers may be made from the Department of Revenue Enforcement Fund to the General Fund at the direction of the Legislature. The Department of Revenue Enforcement Fund may receive transfers from the Civic and Community Center Financing Fund at the direction of the Legislature for the purpose of administering the Sports Arena Facility Financing Assistance Act. The Department of Revenue Enforcement Fund shall include any money credited to the fund (a) under section 77-2703, and such money shall be used by the Department of Revenue to defray the costs incurred to implement Laws 2019, LB237, and (b) under the Mechanical Amusement Device Tax Act, and such money shall be used by the department to defray the costs incurred to implement and enforce Laws 2019, LB538, and any rules and regulations adopted and promulgated to carry out Laws 2019, LB538. Any money in the Department of Revenue

Enforcement Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(8) For purposes of this section, taxes mean any taxes collected by the department, including, but not limited to state and local sales and use taxes, individual and corporate income taxes, financial institutions deposit taxes, motor vehicle fuel, diesel fuel, and compressed fuel taxes, cigarette taxes, transfer taxes, and charitable gaming taxes.

Source: Laws 2004, LB 1017, § 23; Laws 2009, First Spec. Sess., LB3, § 58; Laws 2010, LB779, § 18; Laws 2011, LB297, § 10; Laws 2011, LB642, § 2; Laws 2019, LB237, § 2; Laws 2019, LB538, § 10.

Operative date January 1, 2020.

Cross References

Mechanical Amusement Device Tax Act, see section 77-3011.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska Revenue Act of 1967, see section 77-2701.

Nebraska State Funds Investment Act, see section 72-1260.

Sports Arena Facility Financing Assistance Act, see section 13-3101.

ARTICLE 57

NEBRASKA ADVANTAGE ACT

Section

77-5725. Tiers; requirements; incentives; enumerated; deadlines.

77-5726. Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.

77-5725 Tiers; requirements; incentives; enumerated; deadlines.

(1) Applicants may qualify for benefits under the Nebraska Advantage Act in one of six tiers:

(a) Tier 1, investment in qualified property of at least one million dollars and the hiring of at least ten new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(b) Tier 2, (i) investment in qualified property of at least three million dollars and the hiring of at least thirty new employees or (ii) for a large data center project, investment in qualified property for the data center of at least two hundred million dollars and the hiring for the data center of at least thirty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(c) Tier 3, the hiring of at least thirty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(d) Tier 4, investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(e) Tier 5, (i) investment in qualified property of at least thirty million dollars or (ii) for the production of electricity by using one or more sources of renewable energy to produce electricity for sale as described in subdivision (1)(j) of section 77-5715, investment in qualified property of at least twenty million dollars. Failure to maintain an average number of equivalent employees as defined in section 77-5727 greater than or equal to the number of equivalent employees in the base year shall result in a partial recapture of benefits. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect; and

(f) Tier 6, investment in qualified property of at least ten million dollars and the hiring of at least seventy-five new employees or the investment in qualified property of at least one hundred million dollars and the hiring of at least fifty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect.

(2) When the taxpayer has met the required levels of employment and investment contained in the agreement for a tier 1, tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be entitled to the following incentives:

(a) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and 77-6403 from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate when such property is incorporated into real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax;

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on the cost of materials subject to the sales and use tax that were annexed to real estate; and

(v) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is both (A) incorporated into real estate as a part of a project and (B) annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and 77-6403 on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such taxes paid during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment.

(3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier 4 project shall be entitled to a credit equal to three percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least sixty percent of the Nebraska average annual wage for the year of application. The credit shall equal four percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least seventy-five percent of the Nebraska average annual wage for the year of application. The credit shall equal five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska average annual wage for the year of application. The credit shall equal six percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred twenty-five percent of the Nebraska average annual wage for the year of application. For computation of such credit:

(a) Average annual wage means the total compensation paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year, divided by the number of equivalent employees making up such total compensation;

(b) Average wage of new employees means the average annual wage paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year; and

(c) Nebraska average annual wage means the Nebraska average weekly wage times fifty-two.

(4) Any taxpayer who qualifies for a tier 6 project shall be entitled to a credit equal to ten percent times the total compensation paid to all employees, other than base-year employees, excluding any compensation in excess of one million dollars paid to any one employee during the year, employed at the project.

(5) Any taxpayer who has met the required levels of employment and investment for a tier 2 or tier 4 project shall receive a credit equal to ten percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 1 project shall receive a credit equal to three percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 6 project shall receive a credit equal to fifteen percent of the investment made in qualified property at the project.

(6) The credits prescribed in subsections (3), (4), and (5) of this section shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

(7) The credit prescribed in subsection (5) of this section shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment were met.

(8)(a) Property described in subdivisions (8)(c)(i) through (v) of this section used in connection with a project or projects, whether purchased or leased, and placed in service by the taxpayer after the date the application was filed shall constitute separate classes of property and are eligible for exemption under the conditions and for the time periods provided in subdivision (8)(b) of this section.

(b)(i) A taxpayer who has met the required levels of employment and investment for a tier 4 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer who has met the required levels of employment and investment for a tier 6 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(ii) A taxpayer who has filed an application that describes a tier 2 large data center project or a project under tier 4 or tier 6 shall receive the exemption of property in subdivision (8)(c)(i) of this section beginning with the first January 1 following the date the property was placed in service. The exemption shall continue through the end of the period property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(iii) A taxpayer who has filed an application that describes a tier 2 large data center project or a tier 5 project that is sequential to a tier 2 large data center project for which the entitlement period has expired shall receive the exemption of all property in subdivision (8)(c) of this section beginning any January 1 after the date the property was placed in service. Such property shall be eligible for exemption from the tax on personal property from the January 1 preceding the first claim for exemption approved under this subdivision through the ninth December 31 after the year the first claim for exemption is approved.

(iv) A taxpayer who has a project for an Internet web portal or a data center and who has met the required levels of employment and investment for a tier 2 project or the required level of investment for a tier 5 project, taking into account only the employment and investment at the web portal or data center project, shall receive the exemption of property in subdivision (8)(c)(ii) of this section. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year any property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(v) Such investment and hiring of new employees shall be considered a required level of investment and employment for this subsection and for the recapture of benefits under this subsection only.

(c) The following property used in connection with such project or projects, whether purchased or leased, and placed in service by the taxpayer after the date the application was filed shall constitute separate classes of personal property:

(i) Turbine-powered aircraft, including turboprop, turbojet, and turboprop aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;

(ii) Computer systems, made up of equipment that is interconnected in order to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware, used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user. A computer system includes peripheral components which require environmental controls of temperature and power connected to such computer systems. Peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, data switches, and communication controllers;

(iii) Depreciable personal property used for a distribution facility, including, but not limited to, storage racks, conveyor mechanisms, forklifts, and other property used to store or move products;

(iv) Personal property which is business equipment located in a single project if the business equipment is involved directly in the manufacture or processing of agricultural products; and

(v) For a tier 2 large data center project or tier 6 project, any other personal property located at the project.

(d) In order to receive the property tax exemptions allowed by subdivision (8)(c) of this section, the taxpayer shall annually file a claim for exemption with

the Tax Commissioner on or before May 1. The form and supporting schedules shall be prescribed by the Tax Commissioner and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each project and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Tax Commissioner shall determine whether a taxpayer is eligible to obtain exemption for personal property based on the criteria for exemption and the eligibility of each item listed for exemption and, on or before August 1, certify such to the taxpayer and to the affected county assessor.

(9)(a) The investment thresholds in this section for a particular year of application shall be adjusted by the method provided in this subsection, except that the investment threshold for a tier 5 project described in subdivision (1)(e)(ii) of this section shall not be adjusted.

(b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier 5 projects described in subdivision (1)(e)(ii) of this section, beginning October 1, 2006, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2006 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2006.

(c) For tier 6, beginning October 1, 2008, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2008 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2008.

(d) For a tier 2 large data center project, beginning October 1, 2012, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2012 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2012.

(e) If the resulting amount is not a multiple of one million dollars, the amount shall be rounded to the next lowest one million dollars.

(f) The investment thresholds established by this subsection apply for purposes of project qualifications for all applications filed on or after January 1 of the following year for all years of the project. Adjustments do not apply to projects after the year of application.

Source: Laws 2005, LB 312, § 47; Laws 2006, LB 1003, § 14; Laws 2007, LB223, § 30; Laws 2007, LB334, § 98; Laws 2008, LB895, § 16; Laws 2008, LB965, § 22; Laws 2009, LB164, § 6; Laws 2010, LB879, § 18; Laws 2010, LB918, § 4; Laws 2012, LB1118, § 7; Laws 2013, LB104, § 4; Laws 2014, LB1067, § 2; Laws 2015, LB538, § 13; Laws 2016, LB1022, § 9; Laws 2017, LB217, § 23; Laws 2019, LB472, § 16.

Effective date September 1, 2019.

Cross References

Local Option Revenue Act, see section 77-27,148.

Nebraska Revenue Act of 1967, see section 77-2701.

77-5726 Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.

(1)(a) The credits prescribed in section 77-5725 for a year shall be established by filing the forms required by the Tax Commissioner with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used and shall be applied in the order in which they were first allowed. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(b) The taxpayer may use the credit provided in subsection (3) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to the number of new employees at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year. The taxpayer may use the credit provided in subsection (4) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the taxpayer of the credit shall not change the amount that otherwise would be reported by the taxpayer to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755.

For a tier 1, tier 2, tier 3, or tier 4 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to new employees employed at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year.

For a tier 6 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year.

If the amount of credit used by the taxpayer against income tax withholding exceeds this amount, the excess withholding shall be returned to the Department of Revenue in the manner provided in section 77-2756, such excess amount returned shall be considered unused, and the amount of unused credits may be used as otherwise permitted in this section or shall carry over to the extent authorized in subdivision (1)(e) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and 77-6403 which are not otherwise refundable that are paid on purchases, including rentals, for use at the project for a tier 1, tier 2, tier 3, or tier 4 project or for use within this state for a tier 2 large data center project or a tier 6 project.

(d) The credits earned for a tier 6 project may be used to obtain a payment from the state equal to the real property taxes due after the year the required levels of employment and investment were met and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. Once the required levels of employment and investment for a tier 2 large data center project have been met, the credits earned for a tier 2 large data center project may be used to obtain a payment from the state equal to the real property taxes due after the year of application and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. The payment from the state shall be made only after payment of the real property taxes have been made to the county as required by law. Payments shall not be allowed for any taxes paid on real property for which the taxes are divided under section 18-2147 or 58-507.

(e) Credits may be carried over until fully utilized, except that such credits may not be carried over more than nine years after the year of application for a tier 1 or tier 3 project, fourteen years after the year of application for a tier 2 or tier 4 project, or more than sixteen years past the end of the entitlement period for a tier 6 project.

(2)(a) No refund claims shall be filed until after the required levels of employment and investment have been met.

(b) Refund claims shall be filed no more than once each quarter for refunds under the Nebraska Advantage Act, except that any claim for a refund in excess of twenty-five thousand dollars may be filed at any time.

(c) Refund claims for materials purchased by a purchasing agent shall include:

(i) A copy of the purchasing agent appointment;

(ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of section 77-5725, a certification by the contractor or repairperson of the percentage of the materials incorporated into or annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 77-5725, a certification by the contractor or repairperson of the percentage of the contract price that represents the cost of materials annexed to the project and the percentage of the materials annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

(d) All refund claims shall be filed, processed, and allowed as any other claim under section 77-2708, except that the amounts allowed to be refunded under the Nebraska Advantage Act shall be deemed to be overpayments and shall be refunded notwithstanding any limitation in subdivision (2)(a) of section 77-2708. The refund may be allowed if the claim is filed within three years from

the end of the year the required levels of employment and investment are met or within the period set forth in section 77-2708.

(e) If a claim for a refund of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 of more than twenty-five thousand dollars is filed by June 15 of a given year, the refund shall be made on or after November 15 of the same year. If such a claim is filed on or after June 16 of a given year, the refund shall not be made until on or after November 15 of the following year. The Tax Commissioner shall notify the affected city, village, county, or municipal county of the amount of refund claims of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 that are in excess of twenty-five thousand dollars on or before July 1 of the year before the claims will be paid under this section.

(f) Interest shall not be allowed on any taxes refunded under the Nebraska Advantage Act.

(3) The appointment of purchasing agents shall be recognized for the purpose of changing the status of a contractor or repairperson as the ultimate consumer of tangible personal property purchased after the date of the appointment which is physically incorporated into or annexed to the project and becomes the property of the owner of the improvement to real estate or the taxpayer. The purchasing agent shall be jointly liable for the payment of the sales and use tax on the purchases with the owner of the property.

(4) A determination that a taxpayer is not engaged in a qualified business or has failed to meet or maintain the required levels of employment or investment for incentives, exemptions, or recapture may be protested within sixty days after the mailing of the written notice of the proposed determination. If the notice of proposed determination is not protested within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the Tax Commissioner shall issue a written order resolving such protests. The written order of the Tax Commissioner resolving a protest may be appealed to the district court of Lancaster County within thirty days after the issuance of the order.

Source: Laws 2005, LB 312, § 48; Laws 2008, LB895, § 17; Laws 2008, LB914, § 23; Laws 2009, LB164, § 7; Laws 2010, LB879, § 19; Laws 2012, LB1118, § 8; Laws 2013, LB34, § 7; Laws 2017, LB161, § 1; Laws 2019, LB472, § 17.
Effective date September 1, 2019.

Cross References

Local Option Revenue Act, see section 77-27,148.

Nebraska Revenue Act of 1967, see section 77-2701.

ARTICLE 62

NAMEPLATE CAPACITY TAX

Section

77-6203. Nameplate capacity tax; annual payment; exemptions; Department of Revenue; duties; owner; file report; interest; penalties.

77-6203 Nameplate capacity tax; annual payment; exemptions; Department of Revenue; duties; owner; file report; interest; penalties.

(1) The owner of a renewable energy generation facility annually shall pay a nameplate capacity tax equal to the total nameplate capacity of the commissioned renewable energy generation facility multiplied by a tax rate of three thousand five hundred eighteen dollars per megawatt.

(2) No tax shall be imposed on a renewable energy generation facility:

(a) Owned or operated by the federal government, the State of Nebraska, a public power district, a public power and irrigation district, an individual municipality, a registered group of municipalities, an electric membership association, or a cooperative; or

(b) That is a customer-generator as defined in section 70-2002.

(3) No tax levied pursuant to this section shall be construed to constitute restricted funds as defined in section 13-518 for the first five years after the renewable energy generation facility is commissioned.

(4) The presence of one or more renewable energy generation facilities or supporting infrastructure shall not be a factor in the assessment, determination of actual value, or classification under section 77-201 of the real property underlying or adjacent to such facilities or infrastructure.

(5)(a) The Department of Revenue shall collect the tax due under this section.

(b) The tax shall be imposed beginning the first calendar year the renewable energy generation facility is commissioned. A renewable energy generation facility that uses wind as the fuel source which was commissioned prior to July 15, 2010, shall be subject to the tax levied pursuant to sections 77-6201 to 77-6204 on and after January 1, 2010. The amount of property tax on depreciable tangible personal property previously paid on a renewable energy generation facility that uses wind as the fuel source which was commissioned prior to July 15, 2010, which is greater than the amount that would have been paid pursuant to sections 77-6201 to 77-6204 from the date of commissioning until January 1, 2010, shall be credited against any tax due under Chapter 77, and any amount so credited that is unused in any tax year shall be carried over to subsequent tax years until fully utilized.

(c)(i) The tax for the first calendar year shall be prorated based upon the number of days remaining in the calendar year after the renewable energy generation facility is commissioned.

(ii) In the first year in which a renewable energy generation facility is taxed or in any year in which additional commissioned nameplate capacity is added to a renewable energy generation facility, the taxes on the initial or additional nameplate capacity shall be prorated for the number of days remaining in the calendar year.

(iii) When a renewable energy generation facility is decommissioned or made nonoperational by a change in law during a tax year, the taxes shall be prorated for the number of days during which the renewable energy generation facility was not decommissioned or was operational.

(iv) When the capacity of a renewable energy generation facility to produce electricity is reduced but the renewable energy generation facility is not decommissioned, the nameplate capacity of the renewable energy generation facility is deemed to be unchanged.

(6)(a) On March 1 of each year, the owner of a renewable energy generation facility shall file with the Department of Revenue a report on the nameplate capacity of the facility for the previous year from January 1 through December

31. All taxes shall be due on April 1 and shall be delinquent if not paid on a quarterly basis on April 1 and each quarter thereafter. Delinquent quarterly payments shall draw interest at the rate provided for in section 45-104.02, as such rate may from time to time be adjusted.

(b) The owner of a renewable energy generation facility is liable for the taxes under this section with respect to the facility, whether or not the owner of the facility is the owner of the land on which the facility is situated.

(7) Failure to file a report required by subsection (6) of this section, filing such report late, failure to pay taxes due, or underpayment of such taxes shall result in a penalty of five percent of the amount due being imposed for each quarter the report is overdue or the payment is delinquent, except that the penalty shall not exceed ten thousand dollars.

(8) The Department of Revenue shall enforce the provisions of this section. The department may adopt and promulgate rules and regulations necessary for the implementation and enforcement of this section.

(9) The Department of Revenue shall separately identify the proceeds from the tax imposed by this section and shall pay all such proceeds over to the county treasurer of the county where the renewable energy generation facility is located within thirty days after receipt of such proceeds.

Source: Laws 2010, LB1048, § 14; Laws 2011, LB360, § 4; Laws 2015, LB424, § 6; Laws 2016, LB824, § 14; Laws 2019, LB512, § 29. Operative date May 31, 2019.

ARTICLE 63

ANGEL INVESTMENT TAX CREDIT ACT

Section

77-6306. Tax credit; amount; director; allocation; limitation; reallocation; when; notice to director; tax credit certificates issued; holding period.

77-6306 Tax credit; amount; director; allocation; limitation; reallocation; when; notice to director; tax credit certificates issued; holding period.

(1) A qualified investor or qualified fund is eligible for a refundable tax credit equal to forty percent of its qualified investment in a qualified small business. The director shall not allocate more than four million dollars in tax credits to all qualified investors or qualified funds in a calendar year, except that for calendar year 2019, the director shall not allocate more than three million nine hundred thousand dollars in tax credits in such calendar year. If the director does not allocate the entire amount of tax credits authorized for a calendar year, the tax credits that are not allocated shall not carry forward to subsequent years. The director shall not allocate any amount for tax credits for calendar years after 2019.

(2) The director shall not allocate more than a total maximum amount in tax credits for a calendar year to a qualified investor for the investor's cumulative qualified investments as an individual qualified investor and as an investor in a qualified fund as provided in this subsection. For married couples filing joint returns the maximum is three hundred fifty thousand dollars, and for all other filers the maximum is three hundred thousand dollars. The director shall not allocate more than a total of one million dollars in tax credits for qualified investments in any one qualified small business.

(3) The director shall not allocate a tax credit to a qualified investor either as an individual qualified investor or as an investor in a qualified fund if the investor receives more than forty-nine percent of the investor's gross annual income from the qualified small business in which the qualified investment is proposed. A family member of an individual disqualified by this subsection is not eligible for a tax credit under this section. For a married couple filing a joint return, the limitations in this subsection apply collectively to the investor and spouse. For purposes of determining the ownership interest of an investor under this subsection, the rules under section 267(c) and (e) of the Internal Revenue Code of 1986, as amended, apply.

(4) Tax credits shall be allocated to qualified investors or qualified funds in the order that the tax credit applications are filed with the director. Once tax credits have been approved and allocated by the director, the qualified investors and qualified funds shall implement the qualified investment specified within ninety days after allocation of the tax credits. Qualified investors and qualified funds shall notify the director no later than thirty days after the expiration of the ninety-day period that the qualified investment has been made. If the qualified investment is not made within ninety days after allocation of the tax credits, or the director has not, within thirty days following expiration of the ninety-day period, received notification that the qualified investment was made, the tax credit allocation is canceled and available for reallocation. A qualified investor or qualified fund that fails to invest as specified in the application within ninety days after allocation of the tax credits shall notify the director of the failure to invest within five business days after the expiration of the ninety-day investment period.

(5) All tax credit applications filed with the director on the same day shall be treated as having been filed contemporaneously. If two or more qualified investors or qualified funds file tax credit applications on the same day and the aggregate amount of tax credit allocation requests exceeds the aggregate limit of tax credits under this section or the lesser amount of tax credits that remain unallocated on that day, then the tax credits shall be allocated among the qualified investors or qualified funds who filed on that day on a pro rata basis with respect to the amounts requested. The pro rata allocation for any one qualified investor or qualified fund shall be the product obtained by multiplying a fraction, the numerator of which is the amount of the tax credit allocation request filed on behalf of a qualified investor or qualified fund and the denominator of which is the total of all tax credit allocation requests filed on behalf of all applicants on that day, by the amount of tax credits that remain unallocated on that day for the taxable year.

(6) A qualified investor or qualified fund, or a qualified small business acting on behalf of the investor or fund, shall notify the director when an investment for which tax credits were allocated has been made and shall furnish the director with documentation of the investment date. A qualified fund shall also provide the director with a statement indicating the amount invested by each investor in the qualified fund based on each investor's share of the assets of the qualified fund at the time of the qualified investment. After receiving notification that the qualified investment was made, the director shall issue tax credit certificates for the taxable year in which the qualified investment was made to the qualified investor or, for a qualified investment made by a qualified fund, to each qualified investor who is an investor in the fund. The certificate shall state that the tax credit is subject to revocation if the qualified investor or qualified

fund does not hold the investment in the qualified small business for at least three years, consisting of the calendar year in which the investment was made and the two following calendar years. The three-year holding period does not apply if:

- (a) The qualified investment by the qualified investor or qualified fund becomes worthless before the end of the three-year period;
- (b) Eighty percent or more of the assets of the qualified small business are sold before the end of the three-year period;
- (c) The qualified small business is sold or merges with another business before the end of the three-year period;
- (d) The qualified small business's common stock begins trading on a public exchange before the end of the three-year period; or
- (e) In the case of an individual qualified investor, such investor becomes deceased before the end of the three-year period.

(7) The director shall notify the Tax Commissioner that tax credit certificates have been issued, including the amount of tax credits and all other pertinent tax information.

Source: Laws 2011, LB389, § 6; Laws 2014, LB1067, § 8; Laws 2015, LB156, § 1; Laws 2016, LB1022, § 12; Laws 2017, LB217, § 29; Laws 2019, LB334, § 6.
Effective date September 1, 2019.

ARTICLE 64

QUALIFIED JUDGMENT PAYMENT ACT

Section

- 77-6401. Act, how cited.
- 77-6402. Qualified judgment, defined.
- 77-6403. Imposition of sales and use tax; procedure; Tax Commissioner; duties.
- 77-6404. Imposition of sales and use tax; limitation.
- 77-6405. Property tax levy; required.
- 77-6406. Act, termination.

77-6401 Act, how cited.

Sections 77-6401 to 77-6406 shall be known and may be cited as the Qualified Judgment Payment Act.

Source: Laws 2019, LB472, § 1.
Effective date September 1, 2019.
Termination date January 1, 2027.

77-6402 Qualified judgment, defined.

For purposes of the Qualified Judgment Payment Act, qualified judgment means a judgment that is rendered against a county by a federal court for a violation of federal law.

Source: Laws 2019, LB472, § 2.
Effective date September 1, 2019.
Termination date January 1, 2027.

77-6403 Imposition of sales and use tax; procedure; Tax Commissioner; duties.

(1) Any county that has a qualified judgment in excess of twenty-five million dollars rendered against it may, upon adoption of a resolution by the affirmative vote of at least a two-thirds majority of all elected members of the county board, impose a sales and use tax of one-half of one percent on transactions that are subject to the state sales and use tax under the Nebraska Revenue Act of 1967, as amended from time to time, and that are sourced as provided in sections 77-2703.01 to 77-2703.04 within the county. Any sales and use tax imposed pursuant to this section shall be used to pay the qualified judgment.

(2) The Tax Commissioner shall administer all sales and use taxes imposed pursuant to this section. The Tax Commissioner may prescribe forms and adopt and promulgate rules and regulations in conformity with the Nebraska Revenue Act of 1967, as amended, for the making of returns and for the ascertainment, assessment, and collection of taxes. The county shall furnish a certified copy of the resolution imposing the tax to the Tax Commissioner. The tax shall begin on the first day of the first calendar quarter which begins at least sixty days after receipt by the Tax Commissioner of the certified copy of the resolution. The Tax Commissioner shall provide at least thirty days' notice of the adoption of the tax to retailers within the county. Such notice may be provided through the web site of the Department of Revenue or by other electronic means.

(3) Any sales and use tax imposed pursuant to this section shall terminate on the first day of the first calendar quarter which begins after the qualified judgment has been paid in full or after seven years, whichever is earlier. The county shall notify the Tax Commissioner of the anticipated termination date at least one hundred twenty days in advance. The Tax Commissioner shall provide at least sixty days' notice of the termination date to retailers within the county. Such notice may be provided through the web site of the Department of Revenue or by other electronic means.

(4) The Tax Commissioner shall collect any sales and use tax imposed pursuant to this section concurrently with collection of a state sales and use tax in the same manner as the state tax is collected. The Tax Commissioner shall remit monthly the proceeds of the tax to the county imposing the tax, after deducting the amount of refunds made and three percent of the remainder as an administrative fee necessary to defray the cost of collecting the tax and the expenses incident thereto. The Tax Commissioner shall keep full and accurate records of all money received and distributed. All receipts from the three-percent administrative fee shall be deposited in the state General Fund.

(5) Upon any claim of illegal assessment and collection of any sales and use tax imposed pursuant to this section, the taxpayer has the same remedies provided for claims of illegal assessment and collection of the state sales and use tax.

(6) All relevant provisions of the Nebraska Revenue Act of 1967, as amended, not inconsistent with this section, shall govern transactions, proceedings, and activities related to any sales and use tax imposed pursuant to this section.

(7) For purposes of any sales and use tax imposed pursuant to this section, all retail sales, rentals, and leases, as defined and described in the Nebraska Revenue Act of 1967, shall be sourced as provided in sections 77-2703.01 to 77-2703.04.

Source: Laws 2019, LB472, § 3.

Effective date September 1, 2019.

Termination date January 1, 2027.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6404 Imposition of sales and use tax; limitation.

A county shall not impose a sales and use tax pursuant to the Qualified Judgment Payment Act if such county is imposing a tax pursuant to section 13-319.

Source: Laws 2019, LB472, § 4.
Effective date September 1, 2019.
Termination date January 1, 2027.

77-6405 Property tax levy; required.

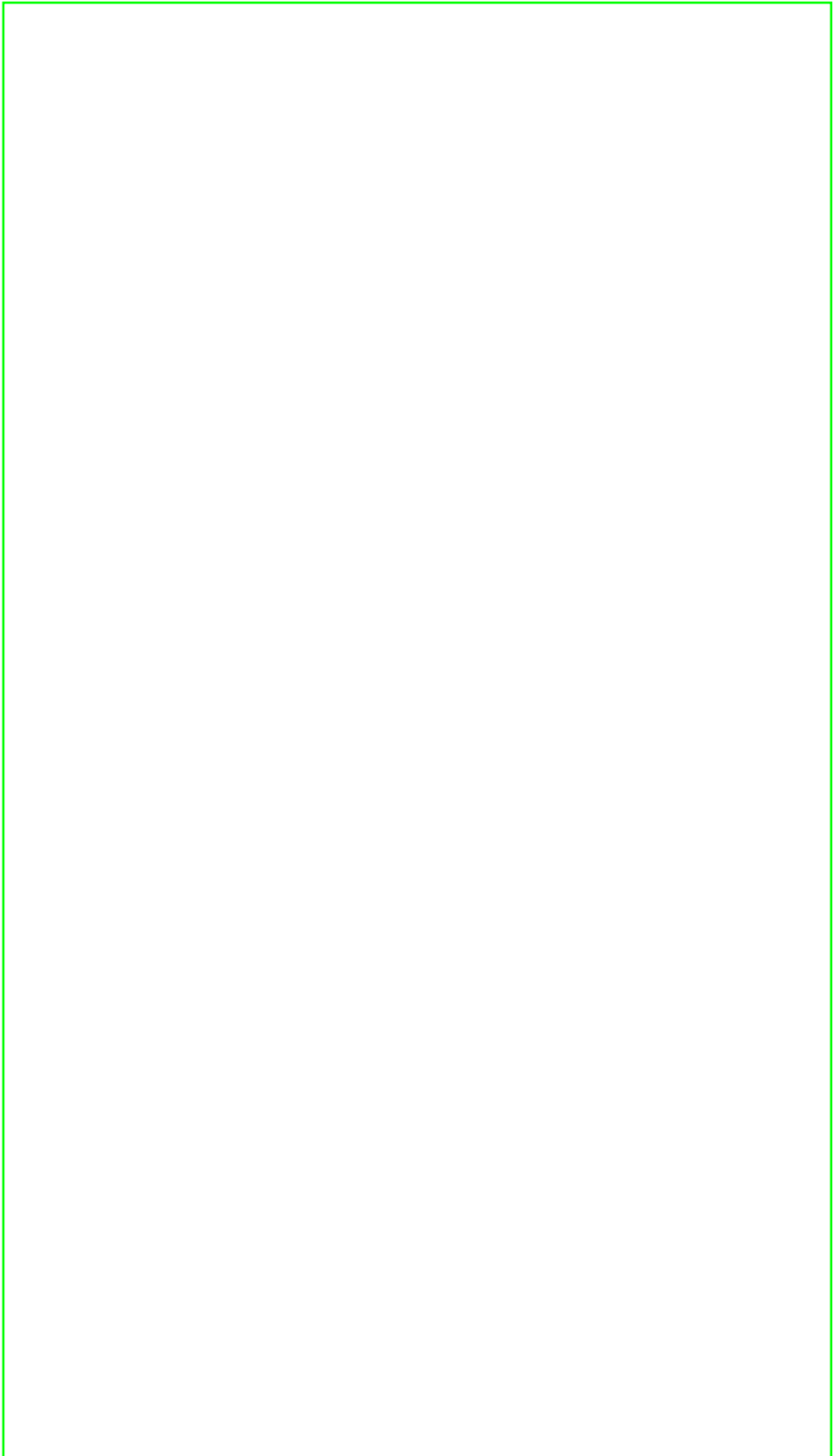
Any county that imposes a sales and use tax pursuant to the Qualified Judgment Payment Act shall set its property tax levy at the maximum levy authorized in section 77-3442 for each year that the county is imposing such sales and use tax. The county shall use any available revenue from the imposition of such levy to pay the qualified judgment.

Source: Laws 2019, LB472, § 5.
Effective date September 1, 2019.
Termination date January 1, 2027.

77-6406 Act, termination.

The Qualified Judgment Payment Act terminates on January 1, 2027.

Source: Laws 2019, LB472, § 6.
Effective date September 1, 2019.



SCHOOLS

CHAPTER 79
SCHOOLS

Article.

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ARTICLE 2

PROVISIONS RELATING TO STUDENTS

(a) COMPULSORY EDUCATION

Section

79-209. Compulsory attendance; nonattendance; school district; duties; collaborative plan; considerations; referral to county attorney; notice.

(c) ADMISSION REQUIREMENTS

79-215. Students; admission; tuition; persons exempt; department; duties.

79-216. Children of members in military service; children of parents employed by federal government and living on property of national parks; residency.

(g) STUDENT DISCIPLINE

79-258. Administrative and teaching personnel; authorized actions.

(u) MILITARY RECRUITERS ACCESS TO STUDENTS

79-2,156. Military recruiter; access to routine directory information; school board policy; parent or guardian; request to not release information.

Section

(v) CHILD ABUSE OR NEGLECT

79-2,157. Poster regarding reports of child abuse or neglect; authorized.

(a) COMPULSORY EDUCATION

79-209 Compulsory attendance; nonattendance; school district; duties; collaborative plan; considerations; referral to county attorney; notice.

(1) In all school districts in this state, any superintendent, principal, teacher, or member of the school board who knows of any violation of subsection (2) of section 79-201 shall within three days report such violation to the attendance officer of the school, who shall immediately investigate the case. When of his or her personal knowledge or by report or complaint from any resident of the district, the attendance officer believes that there is a violation of subsection (2) of section 79-201, the attendance officer shall immediately investigate such alleged violation.

(2) All school boards shall have a written policy on attendance developed and annually reviewed in collaboration with the county attorney of the county in which the principal office of the school district is located. The policy shall include a provision indicating how the school district will handle cases in which excessive absences are due to illness. The policy shall also state the circumstances and number of absences or the hourly equivalent upon which the school shall render all services to address barriers to attendance. Such services shall include, but not be limited to:

(a) Verbal or written communication by school officials with the person or persons who have legal or actual charge or control of any child; and

(b) One or more meetings between, at a minimum, a school attendance officer, a school social worker, or a school administrator or his or her designee, the person who has legal or actual charge or control of the child, and the child, when appropriate, to attempt to address the barriers to attendance. The result of the meeting or meetings shall be to develop a collaborative plan to reduce barriers identified to improve regular attendance. The plan shall consider, but not be limited to:

- (i) Illness related to physical or behavioral health of the child;
- (ii) Educational counseling;
- (iii) Educational evaluation;
- (iv) Referral to community agencies for economic services;
- (v) Family or individual counseling;
- (vi) Assisting the family in working with other community services; and
- (vii) Referral to restorative justice practices or services.

(3) The school may report to the county attorney of the county in which the person resides when the school has documented the efforts it has made as required by subsection (2) of this section that the collaborative plan to reduce barriers identified to improve regular attendance has not been successful and that the child has been absent more than twenty days per year. The school shall notify the child's family in writing prior to referring the child to the county attorney. Failure by the school to document the efforts required by subsection (2) of this section is a defense to prosecution under section 79-201 and adjudication for educational neglect under subdivision (3)(a) of section 43-247

and habitual truancy under subdivision (3)(b) of section 43-247. Illness that makes attendance impossible or impracticable shall not be the basis for referral to the county attorney.

(4) Nothing in this section shall preclude a county attorney from being involved at any stage in the process to address excessive absenteeism.

Source: Laws 1901, c. 70, § 2, p. 456; Laws 1903, c. 95, § 2, p. 552; Laws 1905, c. 141, § 1, p. 578; Laws 1909, c. 130, § 1, p. 474; R.S.1913, § 6925; Laws 1919, c. 155, § 9, p. 350; Laws 1921, c. 53, § 2, p. 231; C.S.1922, § 6509; C.S.1929, § 79-1914; R.S.1943, § 79-1922; Laws 1949, c. 256, § 17, p. 696; Laws 1986, LB 528, § 8; Laws 1994, LB 1250, § 5; R.S.1943, (1994), § 79-211; Laws 1996, LB 900, § 13; Laws 1998, Spec. Sess., LB 1, § 6; Laws 1999, LB 272, § 28; Laws 2010, LB800, § 35; Laws 2011, LB463, § 19; Laws 2012, LB933, § 1; Laws 2014, LB464, § 34; Laws 2019, LB595, § 39.

Effective date September 1, 2019.

(c) ADMISSION REQUIREMENTS

79-215 Students; admission; tuition; persons exempt; department; duties.

(1) Except as otherwise provided in this section, a student is a resident of the school district where he or she resides and shall be admitted to any such school district upon request without charge.

(2) A school board shall admit a student upon request without charge if at least one of the student's parents resides in the school district.

(3) A school board shall admit any homeless student upon request without charge if the district is the district in which the student (a) is currently located, (b) attended when permanently housed, or (c) was last enrolled.

(4) A school board may allow a student whose residency in the district ceases during a school year to continue attending school in such district for the remainder of that school year.

(5) A school board may admit nonresident students to the school district pursuant to a contract with the district where the student is a resident and shall collect tuition pursuant to the contract.

(6) A school board may admit nonresident students to the school district pursuant to the enrollment option program as authorized by sections 79-232 to 79-246, and such admission shall be without charge.

(7) In order to carry out the provisions of section 79-2201, a school board shall permit children of military families to enroll preliminarily in a school district if a parent presents evidence of military orders that the military family will be stationed in this state during the current or following school year. A student of a military family shall be admitted to the school district without charge upon arrival in Nebraska if the requirements of this section are met.

(8) A school board may admit a student who is a resident of another state to the school district and collect tuition in advance at a rate determined by the school board.

(9) When a student as a ward of the state or as a ward of any court (a) has been placed in a school district other than the district in which he or she resided at the time he or she became a ward and such ward does not reside in a

foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 or (b) has been placed in any institution which maintains a special education program which has been approved by the State Department of Education and such institution is not owned or operated by the district in which he or she resided at the time he or she became a ward, the cost of his or her education and the required transportation costs associated with the student's education shall be paid by the state, but not in advance, to the receiving school district or approved institution under rules and regulations prescribed by the Department of Health and Human Services and the student shall remain a resident of the district in which he or she resided at the time he or she became a ward. Any student who is a ward of the state or a ward of any court who resides in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 shall be deemed a resident of the district in which he or she resided at the time he or she became a foster child, unless it is determined under section 43-1311 or 43-1312 that he or she will not attend such district in which case he or she shall be deemed a resident of the district in which the foster family home or foster home is located.

(10)(a) When a student is not a ward of the state or a ward of any court and is residing in a residential setting located in Nebraska for reasons other than to receive an education and the residential setting is operated by a service provider which is certified or licensed by the Department of Health and Human Services or is enrolled in the medical assistance program established pursuant to the Medical Assistance Act and Title XIX or XXI of the federal Social Security Act, as amended, the student shall remain a resident of the district in which he or she resided immediately prior to residing in such residential setting. The resident district for a student who is not a ward of the state or a ward of any court does not change when the student moves from one residential setting to another.

(b) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting does not maintain an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the resident school district shall contract with the district in which such residential setting is located for the provision of all educational services, including all special education services and support services as defined in section 79-1125.01, unless a parent or guardian and the resident school district agree that an appropriate education will be provided by the resident school district while the student is residing in such residential setting. If the resident school district is required to contract, the district in which such residential setting is located shall contract with the resident district and provide all educational services, including all special education services, to the student. If the two districts cannot agree on the amount of the contract, the State Department of Education shall determine the amount to be paid by the resident district to the district in which such residential setting is located based on the needs of the student, approved special education rates, the department's general experience with special education budgets, and the cost per student in the district in which such residential setting is located. Once the contract has been entered into, all legal responsibility for special education and related services shall be transferred to the school district in which the residential setting is located.

(c) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting maintains an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the department shall reimburse such residential setting for the provision of all educational services, including all special education services and support services, with the amount of payment for all educational services determined pursuant to the average per pupil cost of the service agency as defined in section 79-1116. The resident school district shall retain responsibility for such student's individualized education plan, if any. The educational services may be provided through (i) such interim-program school or approved or accredited school, (ii) a contract between the residential setting and the school district in which such residential setting is located, (iii) a contract between the residential setting and another service agency as defined in section 79-1124, or (iv) a combination of such educational service providers.

(d) If a school district pays a school district in which a residential setting is located for educational services provided pursuant to subdivision (10)(b) of this section and it is later determined that a different school district was the resident school district for such student at the time such educational services were provided, the school district that was later determined to be the resident school district shall reimburse the school district that initially paid for the educational services one hundred ten percent of the amount paid.

(e) A student residing in a residential setting described in this subsection shall be defined as a student with a handicap pursuant to Article VII, section 11, of the Constitution of Nebraska, and as such the state and any political subdivision may contract with institutions not wholly owned or controlled by the state or any political subdivision to provide the educational services to the student if such educational services are nonsectarian in nature.

(11) In the case of any individual eighteen years of age or younger who is a ward of the state or any court and who is placed in a county detention home established under section 43-2,110, the cost of his or her education shall be paid by the state, regardless of the district in which he or she resided at the time he or she became a ward, to the agency or institution which: (a) Is selected by the county board with jurisdiction over such detention home; (b) has agreed or contracted with such county board to provide educational services; and (c) has been approved by the State Department of Education pursuant to rules and regulations prescribed by the State Board of Education.

(12) No tuition shall be charged for students who may be by law allowed to attend the school without charge.

(13) The State Department of Education shall establish procedures and criteria for collecting enrollment, admission, and related information needed for any student to attend a school district in this state which shall include, but not be limited to, having an adult with legal or actual charge or control of a student provide through electronic means or other means specified by the department the name of the student, the name of the adult with legal or actual charge or control of the student, the address where the student is or will be residing, and information on how and where the adult may generally be reached during the school day.

(14) The department may adopt and promulgate rules and regulations to carry out the provisions of this section.

Source: Laws 1881, c. 78, subdivision V, § 4, p. 352; Laws 1883, c. 72, § 11, p. 293; Laws 1901, c. 63, § 10, p. 440; R.S.1913, § 6784;

Laws 1921, c. 64, § 1, p. 250; C.S.1922, § 6325; Laws 1927, c. 88, § 1, p. 257; C.S.1929, § 79-504; R.S.1943, § 79-504; Laws 1947, c. 273, § 1, p. 877; Laws 1949, c. 256, § 84, p. 720; Laws 1972, LB 1219, § 1; Laws 1974, LB 43, § 1; Laws 1979, LB 128, § 1; Laws 1980, LB 770, § 1; Laws 1980, LB 839, § 1; Laws 1982, LB 642, § 1; Laws 1984, LB 286, § 1; Laws 1984, LB 768, § 1; Laws 1985, LB 592, § 1; Laws 1985, LB 725, § 1; Laws 1991, LB 511, § 29; Laws 1992, LB 245, § 34; Laws 1992, Third Spec. Sess., LB 3, § 1; Laws 1994, LB 858, § 5; R.S.1943, (1994), § 79-445; Laws 1996, LB 900, § 19; Laws 1996, LB 1044, § 814; Laws 1997, LB 307, § 212; Laws 2000, LB 1243, § 2; Laws 2001, LB 797, § 5; Laws 2002, LB 1105, § 503; Laws 2006, LB 1248, § 87; Laws 2008, LB1014, § 68; Laws 2010, LB1071, § 3; Laws 2010, LB1087, § 1; Laws 2015, LB525, § 4; Laws 2016, LB1067, § 11; Laws 2019, LB115, § 1.

Effective date September 1, 2019.

Cross References

Medical Assistance Act, see section 68-901.

79-216 Children of members in military service; children of parents employed by federal government and living on property of national parks; residency.

In all cases when any person is on active duty as a member of the United States Army, Navy, Marine Corps, or Air Force in the State of Nebraska and is residing on federally owned property, any child of school age of such active duty member who also resides on such property shall be considered a resident of the school district where such property is located and may be admitted pursuant to subsection (1) of section 79-215.

This section also applies to children of parents employed by the federal government and residing with their parents on the property of national parks or national monuments within this state.

Source: Laws 1937, c. 185, § 1, p. 742; C.S.Supp.,1941, § 79-521; R.S. 1943, § 79-518; Laws 1949, c. 256, § 85, p. 721; Laws 1959, c. 390, § 1, p. 1345; Laws 1967, c. 533, § 1, p. 1767; Laws 1971, LB 292, § 9; Laws 1993, LB 839, § 4; R.S.1943, (1994), § 79-446; Laws 1996, LB 900, § 20; Laws 2019, LB115, § 2.
Effective date September 1, 2019.

(g) STUDENT DISCIPLINE

79-258 Administrative and teaching personnel; authorized actions.

Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, referral to restorative justice practices or services, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student

receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation.

Source: Laws 1976, LB 503, § 3; Laws 1994, LB 1250, § 9; R.S.1943, (1994), § 79-4,172; Laws 1996, LB 900, § 62; Laws 2019, LB595, § 40.

Effective date September 1, 2019.

(u) MILITARY RECRUITERS ACCESS TO STUDENTS

79-2,156 Military recruiter; access to routine directory information; school board policy; parent or guardian; request to not release information.

(1) The school board of each school district shall adopt a policy to provide, except as provided in subdivision (2)(a) of this section, access to routine directory information for each student in a high school grade upon a request made by a military recruiter.

(2)(a) Except as provided in subsection (5) of this section, a parent or guardian of a student in a high school grade may submit a written request to the school district that routine directory information for such student shall not be released for purposes of subsection (1) of this section without prior written consent of the parent or guardian. Upon receiving such request, a school district shall not release the routine directory information of such student for such purposes without the prior written consent of the parent or guardian.

(b) Within thirty days prior to or following the commencement of each school year and, for a new student who enrolls after the commencement of a school year, within thirty days following such enrollment, each school district shall notify the parents and guardians of each student in a high school grade enrolled in the school district of the option, except as provided in subsection (5) of this section, to make a request pursuant to subdivision (2)(a) of this section.

(3) The school board of each school district shall adopt a policy to provide military recruiters the same access to a student in a high school grade as is provided to postsecondary educational institutions or to prospective employers of such students.

(4) Nothing in this section shall be construed to allow a school board to adopt a policy to withhold access to routine directory information from a military recruiter by implementing any process that differs from the written consent request process under subdivision (2)(a) of this section.

(5) For purposes of this section, when a student reaches eighteen years of age, the permission or consent required of and the rights accorded to the parents or guardians of such student under this section shall only be required of and accorded to such student. Within thirty days prior to or following the commencement of each school year and, for a new student who enrolls after the commencement of a school year, within thirty days following such enrollment, each school district shall notify each student who is at least eighteen years of age or who will reach eighteen years of age during such school year of the option to make a request pursuant to subdivision (2)(a) of this section and that any such request made previously by a parent or guardian for such student expires upon the student reaching eighteen years of age.

(6) For purposes of this section, routine directory information means a student's name, address, and telephone number.

(7) Except as otherwise provided by federal law, nothing in this section shall be construed to limit the applicability of the federal Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g, as such act existed on January 1, 2019.

Source: Laws 2019, LB575, § 1.
Effective date September 1, 2019.

(v) CHILD ABUSE OR NEGLECT

79-2,157 Poster regarding reports of child abuse or neglect; authorized.

(1) Each public school in Nebraska may post in a clearly visible location in a public area of the school that is readily accessible to students a sign in English and Spanish, using terminology appropriate for posting in schools, that contains the statewide toll-free number established by the Department of Health and Human Services pursuant to section 28-711 to receive reports of child abuse or neglect. In lieu of displaying the poster, the school may post a link to the poster on its web site.

(2) The State Department of Education may contract with an appropriate entity to create the poster described in subsection (1) of this section. The department shall ensure that schools have free and easy access to a digital image of such poster.

Source: Laws 2019, LB281, § 1.
Effective date September 1, 2019.

ARTICLE 3

STATE DEPARTMENT OF EDUCATION

(c) STATE BOARD OF EDUCATION

Section

79-318. State Board of Education; powers; duties.

(c) STATE BOARD OF EDUCATION

79-318 State Board of Education; powers; duties.

The State Board of Education shall:

(1) Appoint and fix the compensation of the Commissioner of Education;

(2) Remove the commissioner from office at any time for conviction of any crime involving moral turpitude or felonious act, for inefficiency, or for willful and continuous disregard of his or her duties as commissioner or of the directives of the board;

(3) Upon recommendation of the commissioner, appoint and fix the compensation of all new professional positions in the department, including any deputy commissioners;

(4) Organize the State Department of Education into such divisions, branches, or sections as may be necessary or desirable to perform all its proper functions and to render maximum service to the board and to the state school system;

(5) Provide, through the commissioner and his or her professional staff, enlightened professional leadership, guidance, and supervision of the state school system, including educational service units. In order that the commis-

sioner and his or her staff may carry out their duties, the board shall, through the commissioner: (a) Provide supervisory and consultation services to the schools of the state; (b) issue materials helpful in the development, maintenance, and improvement of educational facilities and programs; (c) establish rules and regulations which govern standards and procedures for the approval and legal operation of all schools in the state and for the accreditation of all schools requesting state accreditation. All public, private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in this section and section 79-703 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in subsections (2) through (6) of section 79-1601. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through (6) of section 79-1601, not to meet state accreditation or approval requirements shall be as described in such section; (d) institute a statewide system of testing to determine the degree of achievement and accomplishment of all the students within the state's school systems if it determines such testing would be advisable; (e) prescribe a uniform system of records and accounting for keeping adequate educational and financial records, for gathering and reporting necessary educational data, and for evaluating educational progress; (f) cause to be published laws, rules, and regulations governing the schools and the school lands and funds with explanatory notes for the guidance of those charged with the administration of the schools of the state; (g) approve teacher education programs conducted in Nebraska postsecondary educational institutions designed for the purpose of certificating teachers and administrators; (h) approve certificated-employee evaluation policies and procedures developed by school districts and educational service units; and (i) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned to the State Department of Education by the Legislature;

(6) Adopt and promulgate rules and regulations for the guidance, supervision, accreditation, and coordination of educational service units. Such rules and regulations for accreditation shall include, but not be limited to, (a) a requirement that programs and services offered to school districts by each educational service unit shall be evaluated on a regular basis, but not less than every seven years, to assure that educational service units remain responsive to school district needs and (b) guidelines for the use and management of funds generated from the property tax levy and from other sources of revenue as may be available to the educational service units, to assure that public funds are used to accomplish the purposes and goals assigned to the educational service units by section 79-1204. The State Board of Education shall establish procedures to encourage the coordination of activities among educational service units and to encourage effective and efficient educational service delivery on a statewide basis;

(7) Prepare and distribute reports designed to acquaint school district officers, teachers, and patrons of the schools with the conditions and needs of the schools;

(8) Provide for consultation with professional educators and lay leaders for the purpose of securing advice deemed necessary in the formulation of policies and in the effectual discharge of its duties;

(9) Make studies, investigations, and reports and assemble information as necessary for the formulation of policies, for making plans, for evaluating the state school program, and for making essential and adequate reports;

(10) Submit to the Governor and the Legislature a budget necessary to finance the state school program under its jurisdiction, including the internal operation and maintenance of the State Department of Education;

(11) Interpret its own policies, standards, rules, and regulations and, upon reasonable request, hear complaints and disputes arising therefrom;

(12) With the advice of the Department of Motor Vehicles, adopt and promulgate rules and regulations containing reasonable standards, not inconsistent with existing statutes, governing: (a) The general design, equipment, color, operation, and maintenance of any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for the transportation of public, private, denominational, or parochial school students; and (b) the equipment, operation, and maintenance of any vehicle with a capacity of ten or less passengers used for the transportation of public, private, denominational, or parochial school students, when such vehicles are owned, operated, or owned and operated by any public, private, denominational, or parochial school or privately owned or operated under contract with any such school in this state, except for vehicles owned by individuals operating a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements. Similar rules and regulations shall be adopted and promulgated for operators of such vehicles as provided in section 79-607;

(13) Accept, on behalf of the Nebraska Center for the Education of Children who are Blind or Visually Impaired, devises of real property or donations or bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of the center or the students receiving services from the center, or both, and irrigate or otherwise improve any such real estate when in the board's judgment it would be advisable to do so; and

(14) Upon acceptance of any devise, donation, or bequest as provided in this section, administer and carry out such devise, donation, or bequest in accordance with the terms and conditions thereof. If not prohibited by the terms and conditions of any such devise, donation, or bequest, the board may sell, convey, exchange, or lease property so devised, donated, or bequeathed upon such terms and conditions as it deems best and remit all money derived from any such sale or lease to the State Treasurer for credit to the State Department of Education Trust Fund.

None of the duties prescribed in this section shall prevent the board from exercising such other duties as in its judgment may be necessary for the proper and legal exercise of its obligations.

Source: Laws 1953, c. 320, § 8, p. 1056; Laws 1955, c. 306, § 1, p. 947; Laws 1959, c. 383, § 1, p. 1328; Laws 1967, c. 528, § 2, p. 1753; Laws 1969, c. 707, § 2, p. 2712; Laws 1969, c. 708, § 1, p. 2716;

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Laws 1971, LB 292, § 5; Laws 1974, LB 863, § 8; Laws 1977, LB 205, § 1; Laws 1979, LB 322, § 37; Laws 1981, LB 316, § 1; Laws 1981, LB 545, § 27; Laws 1984, LB 928, § 2; Laws 1984, LB 994, § 6; Laws 1986, LB 1177, § 36; Laws 1987, LB 688, § 11; Laws 1989, LB 15, § 1; Laws 1989, LB 285, § 141; Laws 1990, LB 980, § 34; Laws 1994, LB 858, § 3; R.S.1943, (1994), § 79-328; Laws 1996, LB 900, § 146; Laws 1999, LB 813, § 6; Laws 2009, LB549, § 18; Laws 2010, LB1071, § 5; Laws 2011, LB575, § 8; Laws 2012, LB782, § 148; Laws 2013, LB222, § 32; Laws 2015, LB525, § 9; Laws 2019, LB675, § 2.
Effective date May 28, 2019.

Cross References

Gifts, devises, and bequests, loans to needy students, see section 79-2,106.

Private, denominational, or parochial schools, election not to meet approval or accreditation requirements, see section 79-1601 et seq.

ARTICLE 5

SCHOOL BOARDS

(a) SCHOOL BOARD POWERS

Section

79-515. Contracts for services, supplies, and collective-bargaining agreements; authorized.

(b) SCHOOL BOARD DUTIES

79-527. Repealed. Laws 2019, LB675, § 57.

(a) SCHOOL BOARD POWERS

79-515 Contracts for services, supplies, and collective-bargaining agreements; authorized.

The school board or board of education of any school district may enter into contracts under such terms and conditions as the board deems appropriate, for periods not to exceed seven years, for the provision of utility services, refuse disposal, transportation services, maintenance services, financial services, insurance, security services, and instructional materials, supplies, and equipment and, for periods not to exceed four years, for collective-bargaining agreements with employee groups. This section does not permit multiyear contracts with individual school district employees.

Source: Laws 1984, LB 333, § 1; R.S.1943, (1994), § 79-4,154.01; Laws 1996, LB 900, § 268; Laws 2019, LB675, § 3.
Effective date May 28, 2019.

(b) SCHOOL BOARD DUTIES

79-527 Repealed. Laws 2019, LB675, § 57.

ARTICLE 7

ACCREDITATION, CURRICULUM, AND INSTRUCTION

(c) CURRICULUM AND INSTRUCTION REQUIREMENTS

Section

79-724. Committee on American civics; created; duties; school board, State Board of Education, and superintendent; duties.

79-727. Rules and regulations; State Department of Education; duties.

(c) CURRICULUM AND INSTRUCTION REQUIREMENTS

79-724 Committee on American civics; created; duties; school board, State Board of Education, and superintendent; duties.

It is the responsibility of society to ensure that youth are given the opportunity to become competent, responsible, patriotic, and civil citizens to ensure a strong, stable, just, and prosperous America. Such a citizenry necessitates that every member thereof be knowledgeable of our nation's history, government, geography, and economic system. The youth in our state should be committed to the ideals and values of our country's democracy and the constitutional republic established by the people. Schools should help prepare our youth to make informed and reasoned decisions for the public good. Civic competence is necessary to sustain and improve our democratic way of life and must be taught in all public, private, denominational, and parochial schools. A central role of schools is to impart civic knowledge and skills that help our youth to see the relevance of a civic dimension for their lives. Students should be made fully aware of the liberties, opportunities, and advantages we possess and the sacrifices and struggles of those through whose efforts these benefits were gained. Since young people are most susceptible to the acceptance of principles and doctrines that will influence them throughout their lives, it is one of the first duties of our educational system to conduct its activities, choose its textbooks, and arrange its curriculum in such a way that the youth of our state have the opportunity to become competent, responsible, patriotic, and civil American citizens.

(1) The school board of each school district shall, at the beginning of each calendar year, appoint from its members a committee of three, to be known as the committee on American civics, which shall:

(a) Hold no fewer than two public meetings annually, at least one when public testimony is accepted;

(b) Keep minutes of each meeting showing the time and place of the meeting, which members were present or absent, and the substance and details of all matters discussed;

(c) Examine and ensure that the social studies curriculum used in the district is aligned with the social studies standards adopted pursuant to section 79-760.01 and teaches foundational knowledge in civics, history, economics, financial literacy, and geography;

(d) Review and approve the social studies curriculum to ensure that it stresses the services of the men and women who played a crucial role in the

achievement of national independence, establishment of our constitutional government, and preservation of the union and includes the incorporation of multicultural education as set forth in sections 79-719 to 79-723 in order to instill a pride and respect for the nation's institutions and not be merely a recital of events and dates;

(e) Ensure that any curriculum recommended or approved by the committee on American civics is made readily accessible to the public and contains a reference to this section;

(f) Ensure that the district develops and utilizes formative, interim, and summative assessments to measure student mastery of the social studies standards adopted pursuant to section 79-760.01;

(g) Ensure that the social studies curriculum in the district incorporates one or more of the following for each student:

(i) Administration of a written test that is identical to the entire civics portion of the naturalization test used by United States Citizenship and Immigration Services prior to the completion of eighth grade and again prior to the completion of twelfth grade with the individual score from each test for each student made available to a parent or guardian of such student; or

(ii) Attendance or participation between the commencement of eighth grade and completion of twelfth grade in a meeting of a public body as defined by section 84-1409 followed by the completion of a project or paper in which each student demonstrates or discusses the personal learning experience of such student related to such attendance or participation; or

(iii) Completion of a project or paper and a class presentation between the commencement of eighth grade and the completion of twelfth grade on a person or persons or an event commemorated by a holiday listed in subdivision (6) of this section or on a topic related to such person or persons or event; and

(h) Take all such other steps as will assure the carrying out of the provisions of this section and provide a report to the school board regarding the committee's findings and recommendations.

(2) All social studies courses approved for grade levels as provided by this section shall include and adequately stress contributions of all ethnic groups to (a) the development and growth of America into a great nation, (b) art, music, education, medicine, literature, science, politics, and government, and (c) the military in all of this nation's wars.

(3) All grades of all public, private, denominational, and parochial schools, below the sixth grade, shall devote at least one hour per week to exercises or teaching periods for the following purpose:

(a) The discussion of noteworthy events pertaining to American history or the exceptional acts of individuals and groups of Americans;

(b) The historical background, memorization, and singing of patriotic songs such as the Star-Spangled Banner and America the Beautiful;

(c) The development of respect for the American flag as a symbol of freedom and the sacrifices of those who secured that freedom; and

(d) Instruction as to proper conduct in the presentation of the American flag.

(4) In at least two of the three grades from the fifth grade to the eighth grade in all public, private, denominational, and parochial schools, time shall be set aside for the teaching of American history from the social studies curriculum,

which shall be taught in such a manner that all students are given the opportunity to (a) become competent, responsible, patriotic, and civil citizens who possess a deep understanding of and respect for both the Constitution of the United States and the Constitution of Nebraska and (b) prepare to preserve, protect, and defend freedom and democracy in our nation and our world.

(5) In at least two courses in every high school, time shall be devoted to the teaching of civics and American history as outlined in the social studies standards adopted pursuant to section 79-760.01, during which specific attention shall be given to the following matters:

(a) The Declaration of Independence, the United States Constitution, the Constitution of Nebraska, and the structure and function of local government in this state;

(b) The benefits and advantages of representative government, the rights and responsibilities of citizenship in our government, and the dangers and fallacies of forms of government that restrict individual freedoms or possess antidemocratic ideals such as, but not limited to, Nazism and communism;

(c) The duties of citizenship, which include active participation in the improvement of a citizen's community, state, country, and world and the value and practice of civil discourse between opposing interests; and

(d) The application of knowledge in civics, history, economics, financial literacy, and geography to address societal issues.

(6) Appropriate patriotic exercises suitable to the occasion shall be held under the direction of the superintendent in every public, private, denominational, and parochial school on George Washington's birthday, Abraham Lincoln's birthday, Dr. Martin Luther King, Jr.'s birthday, Native American Heritage Day, Constitution Day, Memorial Day, Veterans Day, and Thanksgiving Day, or on the day or week preceding or following such holiday, if the school is in session.

(7) Every school board, the State Board of Education, and the superintendent of each school district in the state shall be held directly responsible in the order named for carrying out this section. Neglect thereof by any employee may be considered a cause for dismissal.

Source: Laws 1949, c. 256, § 19, p. 697; Laws 1969, c. 705, § 1, p. 2705; Laws 1971, LB 292, § 3; R.S.1943, (1994), § 79-213; Laws 1996, LB 900, § 398; Laws 1999, LB 272, § 86; Laws 2011, LB544, § 1; Laws 2019, LB399, § 1.
Effective date September 1, 2019.

Cross References

Flag display requirements, see section 79-707.

79-727 Rules and regulations; State Department of Education; duties.

The State Board of Education shall adopt and promulgate rules and regulations to carry out the provisions of sections 79-724 to 79-726. The State Department of Education shall ensure that all requirements of such sections and such rules and regulations are carried out by each school district.

Source: Laws 1996, LB 900, § 401; Laws 2019, LB399, § 2.
Effective date September 1, 2019.

ARTICLE 8
TEACHERS AND ADMINISTRATORS

(a) CERTIFICATES

Section

79-807. Terms, defined.

(a) CERTIFICATES

79-807 Terms, defined.

For purposes of sections 79-806 to 79-815, unless the context otherwise requires:

(1) Basic skills competency means either (a) proficiency in (i) the written use of the English language, (ii) reading, comprehending, and interpreting professional writing and other written materials, and (iii) working with fundamental mathematical computations as demonstrated by successful completion of an examination designated by the board or (b) successful employment experiences;

(2) Board means the State Board of Education;

(3) Certificate means an authorization issued by the commissioner to an individual who meets the qualifications to engage in teaching, providing special services, or administering in prekindergarten through grade twelve in the elementary and secondary schools in this state;

(4) Commissioner means the Commissioner of Education;

(5) Department means the State Department of Education;

(6) Human relations training means course work or employment experiences that lead to (a) an awareness and understanding of the values, lifestyles, contributions, and history of a pluralistic society, (b) the ability to recognize and deal with dehumanizing biases, including, but not limited to, sexism, racism, prejudice, and discrimination, and an awareness of the impact such biases have on interpersonal relations, (c) the ability to translate knowledge of human relations into attitudes, skills, and techniques which result in favorable experiences for students, (d) the ability to recognize the ways in which dehumanizing biases may be reflected in instructional materials, (e) respect for human dignity and individual rights, and (f) the ability to relate effectively to other individuals and to groups in a pluralistic society other than the applicant's own;

(7) Special education training means course work or employment experiences that provide an individual with the knowledge of (a) the exceptional needs of the disabilities defined under the Special Education Act, (b) the major characteristics of each disability in order to recognize its existence in children, (c) the various alternatives for providing the least restrictive environment for children with disabilities, (d) methods of teaching children with disabilities in the regular classroom, and (e) prereferral alternatives, referral systems, multi-disciplinary team responsibilities, the individualized education plan process, and the placement process;

(8) Special services means supportive services provided to students that do not primarily involve teaching, including, but not limited to, (a) audiology, psychology, and physical or occupational therapy, (b) the coaching of extracurricular activities, and (c) subject areas for which endorsement programs are not offered by a standard institution of higher education; and

(9) Standard institution of higher education means any college or university, the teacher education programs of which are fully approved by the board or approved in another state pursuant to standards which are comparable and equivalent to those set by the board.

Source: Laws 1963, c. 491, § 2, p. 1569; Laws 1988, LB 802, § 25; Laws 1989, LB 250, § 1; R.S.1943, (1994), § 79-1247.04; Laws 1996, LB 900, § 437; Laws 2003, LB 685, § 7; Laws 2019, LB675, § 4. Effective date May 28, 2019.

Cross References

Special Education Act, see section 79-1110.

ARTICLE 9

SCHOOL EMPLOYEES RETIREMENT SYSTEMS

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

Section

- 79-901. Act, how cited.
- 79-902. Terms, defined.
- 79-921. Retirement system; membership; termination; employer; duty; member; duty; reinstatement; application for restoration of relinquished creditable service; payment required.
- 79-927. Service credit; computation.
- 79-934. Formula annuity retirement allowance; eligibility; formula; payment.
- 79-956. Death of member before retirement; contributions; how treated; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.
- 79-969. Beneficiary designation; order of priority.
- 79-971. Accumulated contributions; use.

(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

- 79-978.01. Act, how cited.
- 79-989. Employees retirement system; board of education; records available; information not considered public record.
- 79-9,100. Employees retirement system; formula retirement annuity; computation.
- 79-9,106. Employees retirement system; member; death; effect; survivorship annuity; amount; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.
- 79-9,119. Beneficiary designation; order of priority.
- 79-9,120. Legislative intent.
- 79-9,121. Work plan for transfer of management and actuarial services; contents; access to records, documents, data, or other information; report; billing for work.
- 79-9,122. Class V School Employees Retirement System Management Work Plan Fund; created; use; investment.
- 79-9,123. Work plan; billing for work; payment.

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

79-901 Act, how cited.

Sections 79-901 to 79-977.03 shall be known and may be cited as the School Employees Retirement Act.

Source: Laws 1991, LB 549, § 23; Laws 1993, LB 292, § 1; Laws 1994, LB 833, § 29; Laws 1995, LB 501, § 4; Laws 1996, LB 700, § 6; Laws 1996, LB 847, § 28; R.S.Supp.,1995, § 79-1501.01; Laws 1996, LB 900, § 536; Laws 1996, LB 1076, § 14; Laws 1997, LB

724, § 2; Laws 1998, LB 532, § 5; Laws 1998, LB 1191, § 44; Laws 2002, LB 407, § 21; Laws 2011, LB509, § 16; Laws 2013, LB553, § 2; Laws 2019, LB34, § 9.

Effective date April 18, 2019.

79-902 Terms, defined.

For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Retirement Fund together with regular interest thereon, compounded monthly, quarterly, semiannually, or annually;

(2)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment.

(b) For a school employee hired before July 1, 2017, the determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making these determinations except when a lump-sum settlement is made to an estate.

(c) For a school employee hired on or after July 1, 2017, or rehired on or after July 1, 2017, after termination of employment and being paid a retirement benefit or taking a refund of contributions, the determinations shall be based on a unisex mortality table and an interest rate specified by the board. Both the mortality table and the interest rate shall be recommended by the actuary and approved by the retirement board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the school employee's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate.

(d) If the lump-sum settlement is made to an estate, the interest rate will be determined by the AAA-rated segment of the Bloomberg Barclays Long U.S. Corporate Bond Index as of the prior June 30, rounded to the next lower quarter percent. If the AAA-rated segment of the Bloomberg Barclays Long U.S. Corporate Bond Index is discontinued or replaced, a substitute index shall be selected by the board which shall be a reasonably representative index;

(3) Beneficiary means any person in receipt of a school retirement allowance or other benefit provided by the act;

(4)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation does not include (i) fraudulently obtained amounts as determined by the retirement board, (ii) amounts for accrued unused sick leave or accrued unused vacation leave converted to cash payments, (iii) insurance

premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for services not actually rendered, (viii) early retirement inducements, (ix) cash awards, (x) severance pay, or (xi) employer contributions made for the purposes of separation payments made at retirement.

(c) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(5) County school official means (a) until July 1, 2000, the county superintendent or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate and (b) on or after July 1, 2000, the county superintendent, county school administrator, or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate;

(6)(a) Creditable service means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered while a contributing member of the retirement system; and

(b) Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, service years for which member contributions are withdrawn and not repaid by the member, service rendered for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act, service which the board determines was rendered with the intent to defraud the retirement system, or service provided to an employer in a retirement system established pursuant to the Class V School Employees Retirement Act;

(7) Current benefit means the initial benefit increased by all adjustments made pursuant to the School Employees Retirement Act;

(8) Disability means an inability to engage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which was initially diagnosed or became disabling while the member was an active participant in the plan and which can be expected to result in death or be of a long-continued and indefinite duration;

(9) Disability retirement allowance means the annuity paid to a person upon retirement for disability under section 79-952;

(10) Disability retirement date means the first day of the month following the date upon which a member's request for disability retirement is received on a retirement application provided by the retirement system if the member has terminated employment in the school system and has complied with sections 79-951 to 79-954 as such sections refer to disability retirement;

(11) Early retirement inducement means, but is not limited to:

(a) A benefit, bonus, or payment to a member in exchange for an agreement by the member to terminate from employment;

(b) A benefit, bonus, or payment paid to a member in addition to the member's retirement benefit;

(c) Lump-sum or installment cash payments, except payments for accrued unused leave converted to cash payments;

(d) An additional salary or wage component of any kind that is being paid as an incentive to leave employment and not for personal services performed for which creditable service is granted;

(e) Partial or full employer payment of a member's health, dental, life, or long-term disability insurance benefits or cash in lieu of such insurance benefits that extend beyond the member's termination of employment and contract of employment dates. This subdivision does not apply to any period during which the member is contributing to the retirement system and being awarded creditable service; and

(f) Any other form of separation payments made by an employer to a member at termination, including, but not limited to, purchasing retirement annuity contracts for the member pursuant to section 79-514, depositing money for the member in an account established under section 403(b) of the Internal Revenue Code except for payments for accrued unused leave, or purchasing service credit for the member pursuant to section 79-933.08;

(12) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the School Employees Retirement Act. Such credit shall not be included as years of creditable service in the benefit calculation;

(13) Emeritus member means a person (a) who has entered retirement under the provisions of the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-916, (b) who has thereafter been reemployed in any capacity by a public school, a Class V school district, or a school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors or has become a state school official or county school official subsequent to such retirement, and (c) who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

(14) Employer means the State of Nebraska or any subdivision thereof or agency of the state or subdivision authorized by law to hire school employees or to pay their compensation;

(15)(a) Final average compensation means:

(i) Except as provided in subdivision (ii) of this subdivision:

(A) The sum of the member's total compensation during the three twelve-month periods of service as a school employee in which such compensation was the greatest divided by thirty-six; or

(B) If a member has such compensation for less than thirty-six months, the sum of the member's total compensation in all months divided by the total number of months of his or her creditable service therefor; and

(ii) For an employee who became a member on or after July 1, 2013:

(A) The sum of the member's total compensation during the five twelve-month periods of service as a school employee in which such compensation was the greatest divided by sixty; or

(B) If a member has such compensation for less than sixty months, the sum of the member's total compensation in all months divided by the total number of months of his or her creditable service therefor.

(b) Payments under the Retirement Incentive Plan pursuant to section 79-855 and Staff Development Assistance pursuant to section 79-856 shall not be included in the determination of final average compensation;

(16) Fiscal year means any year beginning July 1 and ending June 30 next following;

(17) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(18) Initial benefit means the retirement benefit calculated at the time of retirement;

(19) Member means any person who has an account in the School Retirement Fund;

(20) Participation means qualifying for and making required deposits to the retirement system during the course of a plan year;

(21) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(22) Prior service means service rendered as a school employee in the public schools of the State of Nebraska prior to July 1, 1945;

(23) Public school means any and all schools offering instruction in elementary or high school grades, as defined in section 79-101, which schools are supported by public funds and are wholly under the control and management of the State of Nebraska or any subdivision thereof, including (a) schools or other entities established, maintained, and controlled by the school boards of local school districts, except Class V school districts, (b) any educational service unit, and (c) any other educational institution wholly supported by public funds, except schools under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or the community college boards of governors for any community college areas;

(24) Regular employee means an employee hired by a public school or under contract in a regular full-time or part-time position who works a full-time or part-time schedule on an ongoing basis for twenty or more hours per week. An employee hired as described in this subdivision to provide service for less than twenty hours per week but who provides service for an average of twenty hours or more per week in each calendar month of any three calendar months of a plan year shall, beginning with the next full payroll period, commence contributions and shall be deemed a regular employee for all future employment with the same employer;

(25) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(26) Relinquished creditable service means, with respect to a member who has withdrawn his or her accumulated contributions under section 79-955, the total amount of creditable service which such member has given up as a result of his or her election not to remain a member of the retirement system;

(27) Required deposit means the deduction from a member's compensation as provided for in section 79-958 which shall be deposited in the School Retirement Fund;

(28) Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

(29) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(30) Retirement board or board means the Public Employees Retirement Board;

(31) Retirement date means (a) if the member has terminated employment, the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system or (b) if the member has filed a retirement application but has not yet terminated employment, the first day of the month following the date on which the member terminates employment. An application may be filed no more than one hundred twenty days prior to the effective date of the member's initial benefit;

(32) Retirement system means the School Employees Retirement System of the State of Nebraska;

(33) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(34) School employee means a contributing member who earns service credit pursuant to section 79-927. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a regular basis in any capacity; and (c) regular employees hired by a public school on an ongoing basis to assume the duties of other regular employees who are temporarily absent. Substitute employees, temporary employees, and employees who have not attained the age of eighteen years shall not be considered school employees;

(35) School year means one fiscal year which includes not less than one thousand instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five percent of the then legal school year;

(36) School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to 79-935. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of

annuity. The last payment shall be at the end of the calendar month in which such member dies or in accordance with the payment option chosen by the member;

(37) Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) military service when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under sections 79-951 to 79-953;

(38) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(39) State deposit means the deposit by the state in the retirement system on behalf of any member;

(40) State school official means the Commissioner of Education and his or her professional staff who are required by law or by the State Department of Education to hold a certificate as such term is defined in section 79-807;

(41) Substitute employee means a person hired by a public school as a temporary employee to assume the duties of regular employees due to a temporary absence of any regular employees. Substitute employee does not mean a person hired as a regular employee on an ongoing basis to assume the duties of other regular employees who are temporarily absent;

(42) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(43) Temporary employee means an employee hired by a public school who is not a regular employee and who is hired to provide service for a limited period of time to accomplish a specific purpose or task. When such specific purpose or task is complete, the employment of such temporary employee shall terminate and in no case shall the temporary employment period exceed one year in duration;

(44) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's employer, the date of which separation is determined by the end of the member's contractual agreement or, if there is no contract or only partial fulfillment of a contract, by the employer.

A member shall not be deemed to have terminated employment if the member subsequently provides service to any employer participating in the retirement system provided for in the School Employees Retirement Act within one hundred eighty days after ceasing employment unless such service:

(a) Is bona fide unpaid voluntary service or substitute service, provided on an intermittent basis; or

(b) Is as provided in subsection (2) of section 79-920.

Nothing in this subdivision precludes an employer from adopting a policy which limits or denies employees who have terminated employment from providing voluntary or substitute service within one hundred eighty days after termination.

A member shall not be deemed to have terminated employment if the board determines that a claimed termination was not a bona fide separation from service with the employer or that a member was compensated for a full contractual period when the member terminated prior to the end date of the contract; and

(45) Voluntary service or volunteer means providing bona fide unpaid service to any employer.

Source: Laws 1945, c. 219, § 1, p. 638; R.S.Supp.,1947, § 79-2901; Laws 1949, c. 256, § 435, p. 840; Laws 1953, c. 315, § 1, p. 1042; Laws 1961, c. 410, § 1, p. 1229; Laws 1963, c. 469, § 7, p. 1506; Laws 1963, c. 495, § 1, p. 1580; Laws 1965, c. 530, § 1, p. 1663; Laws 1965, c. 531, § 1, p. 1671; Laws 1967, c. 546, § 2, p. 1798; Laws 1969, c. 584, § 84, p. 2396; Laws 1969, c. 735, § 1, p. 2773; Laws 1971, LB 987, § 16; Laws 1975, LB 50, § 1; Laws 1984, LB 971, § 1; Laws 1985, LB 350, § 1; Laws 1986, LB 325, § 1; Laws 1986, LB 311, § 14; Laws 1987, LB 549, § 1; Laws 1988, LB 551, § 10; Laws 1988, LB 1170, § 1; Laws 1989, LB 506, § 9; Laws 1991, LB 549, § 24; Laws 1992, LB 1001, § 32; Laws 1994, LB 833, § 28; Laws 1996, LB 700, § 5; Laws 1996, LB 847, § 27; R.S.1943, (1994), § 79-1501; Laws 1996, LB 900, § 537; Laws 1996, LB 1076, § 13; Laws 1996, LB 1273, § 23; Laws 1997, LB 347, § 26; Laws 1997, LB 623, § 12; Laws 1997, LB 624, § 16; Laws 1997, LB 724, § 3; Laws 1998, LB 1191, § 45; Laws 1999, LB 272, § 91; Laws 1999, LB 538, § 1; Laws 1999, LB 674, § 3; Laws 2000, LB 1192, § 9; Laws 2001, LB 408, § 13; Laws 2002, LB 407, § 22; Laws 2003, LB 451, § 18; Laws 2005, LB 329, § 2; Laws 2005, LB 364, § 8; Laws 2005, LB 503, § 8; Laws 2006, LB 1019, § 8; Laws 2010, LB950, § 11; Laws 2011, LB509, § 17; Laws 2012, LB916, § 19; Laws 2013, LB263, § 13; Laws 2013, LB553, § 3; Laws 2014, LB1042, § 1; Laws 2015, LB446, § 1; Laws 2016, LB790, § 4; Laws 2017, LB415, § 24; Laws 2018, LB1005, § 18; Laws 2019, LB34, § 10.

Effective date April 18, 2019.

Cross References

Class V School Employees Retirement Act, see section 79-978.

Public Employees Retirement Board, see sections 84-1501 to 84-1513.

Spousal Pension Rights Act, see section 42-1101.

Wage and Hour Act, see section 48-1209.

79-921 Retirement system; membership; termination; employer; duty; member; duty; reinstatement; application for restoration of relinquished creditable service; payment required.

(1) The membership of any person in the retirement system shall cease only if he or she (a) withdraws his or her accumulated contributions under section 79-955, (b) retires on a school or formula or disability retirement allowance, or (c) dies.

(2)(a) The employer shall (i) notify the board in writing of the date upon which a termination of employment has occurred and provide the board with such information as the board deems necessary, (ii) notify the board in writing whether or not a member accepted and received an early retirement inducement, and (iii) submit in writing with the notice of termination of employment and notice of receipt of an early retirement inducement a completed certification by the employer and member under penalty of prosecution pursuant to section 79-949 that, prior to the member's termination, there was no prearranged written or verbal agreement for the member to return to service in any capacity with the same employer.

(b) The member shall submit certification to the board on a form prescribed by the board, under penalty of prosecution pursuant to section 79-949, whether or not the member accepted and received an early retirement inducement from his or her employer.

(c) The board may adopt and promulgate rules and regulations and prescribe forms as the board determines appropriate in order to carry out this subsection and to ensure full disclosure and reporting by the employer and member in order to minimize fraud and abuse and prevent the filing of false or fraudulent claim or benefit applications.

(3)(a) A former member of the retirement system who has withdrawn his or her accumulated contributions under section 79-955 shall be reinstated to membership in the retirement system if such person again becomes a school employee.

(b) The date of such membership shall relate back to the beginning of his or her original membership in the retirement system only if such school employee has repaid all amounts required in accordance with subsection (4) of this section. Unless and until all such amounts are repaid, the school employee shall be considered a new member, effective as of the date he or she again becomes a school employee.

(4)(a) With respect to any person who is reinstated to membership in the retirement system pursuant to subdivision (3)(a) of this section prior to April 17, 2014, and who files a valid and complete one-time application with the retirement board for the restoration of part or all of his or her relinquished creditable service prior to six years after April 17, 2014, but prior to termination, the following shall apply:

(i) Such member shall pay to the retirement system an amount equal to the previously withdrawn contributions for the creditable service to be restored, plus an amount equal to the actuarial assumed rate of return on such amount to the date of repayment; and

(ii) Payment for restoration of such relinquished creditable service must be completed within seven years of April 17, 2014, or prior to termination, whichever is earlier.

(b) With respect to any person who is reinstated to membership in the retirement system pursuant to subdivision (3)(a) of this section on and after April 17, 2014, and who files a valid and complete one-time application with the retirement board for the restoration of part or all of his or her relinquished creditable service within five years after the date of such member's reinstatement to membership in the retirement system but prior to termination, the following shall apply:

(i) Such member shall pay to the retirement system an amount equal to the previously withdrawn contributions for the creditable service to be restored, plus an amount equal to the actuarial assumed rate of return on such amount to the date of repayment; and

(ii) Payment for restoration of such relinquished creditable service must be completed within five years of the date of such member's reinstatement to membership in the retirement system or prior to termination, whichever is earlier.

(5)(a) If less than full payment is made by the member, relinquished creditable service shall be restored in proportion to the amounts repaid.

(b) Repayment may be made through direct payment, installment payments, an irrevocable payroll deduction authorization, cash rollover contributions pursuant to section 79-933.02, or trustee-to-trustee transfers pursuant to section 79-933.09, except that if the application for the restoration of part or all of the relinquished creditable service is received by the retirement system within one year before the member's termination date or the applicable last payment date as specified in subsection (4) of this section, whichever is earlier, repayment may only be made through a lump-sum direct payment, cash rollover contributions pursuant to section 79-933.02, or trustee-to-trustee transfers pursuant to section 79-933.09.

Source: Laws 1945, c. 219, § 14, p. 643; R.S.Supp., 1947, § 79-2914; Laws 1949, c. 256, § 448, p. 845; Laws 1969, c. 735, § 4, p. 2778; Laws 1986, LB 311, § 16; Laws 1986, LB 325, § 2; R.S. 1943, (1994), § 79-1514; Laws 1996, LB 900, § 556; Laws 1996, LB 1076, § 16; Laws 1997, LB 623, § 16; Laws 1997, LB 624, § 18; Laws 1999, LB 703, § 9; Laws 2001, LB 408, § 14; Laws 2004, LB 1097, § 24; Laws 2013, LB263, § 16; Laws 2014, LB1042, § 2; Laws 2017, LB415, § 26; Laws 2019, LB34, § 12.
Effective date April 18, 2019.

79-927 Service credit; computation.

(1) The board shall grant service credit pursuant to this section on an annual basis to members who participate during each fiscal year.

(2) Service credit shall be calculated as follows:

(a) For each year during which a member provides compensated service to one or more school districts for one thousand or more hours, the member shall be credited one year of service credit; and

(b) For each year during which a member provides less than one thousand hours of compensated service to one or more school districts, the member shall be credited one one-thousandth of a year's service credit for each hour worked.

(3) The board may adopt and promulgate rules and regulations for the granting of service credit in accordance with this section, but in no case shall more than one year of service be granted for all service in one plan year.

Source: Laws 1945, c. 219, § 16, p. 644; R.S.Supp., 1947, § 79-2916; Laws 1949, c. 256, § 450, p. 846; Laws 1971, LB 987, § 23; Laws 1986, LB 546, § 1; Laws 1991, LB 549, § 34; R.S. 1943, (1994), § 79-1516; Laws 1996, LB 900, § 562; Laws 2002, LB 407, § 27; Laws 2019, LB34, § 13.
Effective date April 18, 2019.

79-934 Formula annuity retirement allowance; eligibility; formula; payment.

(1) In lieu of the school retirement allowance provided by section 79-933, any member who is not an employee of a Class V school district and who becomes eligible to make application for and receive a school retirement allowance under section 79-931 may receive a formula annuity retirement allowance if it is greater than the school retirement allowance provided by section 79-933.

(2) Subject to the other provisions of this section, the monthly formula annuity in the normal form shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the service annuity provided by section 79-933 by (a) one and one-quarter percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following August 24, 1975, (b) one and one-half percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 17, 1982, (c) one and sixty-five hundredths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1984, (d) one and seventy-three hundredths percent of his or her final average compensation for a member actively employed as a school employee under the retirement system or under contract with an employer on or after June 5, 1993, (e) one and eight-tenths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1995, and was employed as a school employee under the retirement system or under contract with an employer on or after April 10, 1996, (f) one and nine-tenths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1998, and was employed as a school employee under the retirement system or under contract with an employer on or after April 29, 1999, (g) two percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 2000, who was employed as a school employee under the retirement system or under contract with an employer on or after May 2, 2001, and hired prior to July 1, 2016, and who has not retired prior to May 2, 2001, or (h) two percent of his or her final average compensation for a member initially hired on or after July 1, 2016, or a member who has taken a refund or retirement and is rehired or hired by a separate employer covered by the retirement system on or after July 1, 2016, and has acquired the equivalent of five years of service or more as a

school employee under the retirement system or under contract with an employer on or after July 1, 2016. Subdivision (2)(f) of this section shall not apply to a member who is retired prior to April 29, 1999. Subdivision (2)(g) of this section shall not apply to a member who is retired prior to May 2, 2001.

(3) If the annuity begins on or after the member's sixty-fifth birthday, the annuity shall not be reduced.

(4) If the annuity begins prior to the member's sixtieth birthday and the member has completed thirty-five or more years of creditable service, the annuity shall be actuarially reduced on the basis of age sixty-five.

(5)(a) For a member who has acquired the equivalent of one-half year of creditable service or more as a school employee under the retirement system following July 1, 1997, and who was a school employee on or after March 4, 1998, and who was hired prior to July 1, 2016, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least fifty-five years of age, the annuity shall not be reduced. This subdivision shall not apply to a member who is retired prior to March 4, 1998.

(b) For a member hired on or after July 1, 2016, and prior to July 1, 2018, or for a member who has taken a retirement or refund that relinquished all prior service credit and who has not repaid the full amount of the refund pursuant to section 79-921 and is rehired or hired by any employer covered by the retirement system on or after July 1, 2016, and prior to July 1, 2018, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least fifty-five years of age, the annuity shall not be reduced.

(c) For a member hired on or after July 1, 2018, or for a member or former member who has taken a retirement or refund that relinquished all prior service credit and who has not repaid the full amount of the refund pursuant to section 79-921 and is rehired or hired by any employer covered by the retirement system on or after July 1, 2018, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least sixty years of age, the annuity shall not be reduced.

(6) If the annuity begins on or after the member's sixtieth birthday and the member has completed at least a total of five years of creditable service including eligibility and vesting credit but has not yet qualified for an unreduced annuity as specified in this section, the annuity shall be reduced by three percent for each year after the member's sixtieth birthday and prior to his or her sixty-fifth birthday.

(7)(a) Except as provided in section 42-1107, the normal form of the formula annuity shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of the member's death before sixty monthly payments have been made the monthly payments will continue until sixty monthly payments have been made in total pursuant to section 79-969.

(b) Except as provided in section 42-1107, a member may elect to receive in lieu of the normal form of annuity an actuarially equivalent annuity in any optional form provided by section 79-938.

(8) All formula annuities shall be paid from the School Retirement Fund.

(9)(a) For purposes of this section, in the determination of compensation for members whose retirement date is on or after July 1, 2013, that part of a member's compensation for the plan year which exceeds the member's compensation for the preceding plan year by more than eight percent during the capping period shall be excluded. Such member's compensation for the first plan year of the capping period shall be compared to the member's compensation received for the plan year immediately preceding the capping period.

(b) For purposes of this subsection:

(i) Capping period means the five plan years preceding the later of (A) such member's retirement date or (B) such member's final compensation date; and

(ii) Final compensation date means the later of (A) the date on which a retiring member's final compensation is actually paid or (B) if a retiring member's final compensation is paid in advance as a lump sum, the date on which such final compensation would have been paid to the member in the absence of such advance payment.

Source: Laws 1967, c. 546, § 7, p. 1804; Laws 1969, c. 736, § 1, p. 2785; Laws 1975, LB 50, § 2; Laws 1981, LB 248, § 2; Laws 1982, LB 609, § 1; Laws 1984, LB 457, § 2; Laws 1986, LB 546, § 2; Laws 1986, LB 325, § 7; Laws 1987, LB 549, § 8; Laws 1988, LB 160, § 1; Laws 1988, LB 1170, § 3; Laws 1991, LB 549, § 36; Laws 1993, LB 292, § 2; Laws 1996, LB 700, § 9; R.S.1943, (1994), § 79-1522.01; Laws 1996, LB 900, § 569; Laws 1996, LB 1050, § 7; Laws 1996, LB 1076, § 21; Laws 1996, LB 1273, § 24; Laws 1998, LB 822, § 2; Laws 1999, LB 674, § 4; Laws 2001, LB 711, § 2; Laws 2002, LB 407, § 32; Laws 2015, LB446, § 3; Laws 2016, LB447, § 10; Laws 2016, LB790, § 6; Laws 2017, LB415, § 30; Laws 2019, LB33, § 4; Laws 2019, LB34, § 14.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB33, section 4, with LB34, section 14, to reflect all amendments.

Note: Changes made by LB33 became effective March 7, 2019. Changes made by LB34 became effective April 18, 2019.

79-956 Death of member before retirement; contributions; how treated; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.

(1)(a) Except as provided in section 42-1107, if a member dies before the member's retirement date, the member's accumulated contributions shall be paid pursuant to section 79-969.

(b) Except for payment to an alternative payee pursuant to a qualified domestic relations order, if no legal representative or beneficiary applies for such accumulated contributions within five years following the date of the deceased member's death, the contributions shall be distributed in accordance with the Uniform Disposition of Unclaimed Property Act.

(2) When the deceased member has twenty years or more of creditable service regardless of age or dies on or after his or her sixty-fifth birthday and leaves a surviving spouse who has been designated by the member as the sole surviving primary beneficiary, on forms provided by the board, as of the date of the member's death, such beneficiary may elect, within twelve months after the death of the member, to receive (a) a refund of the member's contribution account balance, including interest, plus an additional one hundred one percent of the member's contribution account balance, including interest, or (b) an

annuity which shall be equal to the amount that would have accrued to the member had he or she elected to have the retirement annuity paid as a one-hundred-percent joint and survivor annuity payable as long as either the member or the member's spouse should survive and had the member retired (i) on the date of death if his or her age at death is sixty-five years or more or (ii) at age sixty-five years if his or her age at death is less than sixty-five years.

(3) When the deceased member who was a school employee on or after May 1, 2001, has not less than five years of creditable service and less than twenty years of creditable service and dies before his or her sixty-fifth birthday and leaves a surviving spouse who has been designated in writing as beneficiary and who, as of the date of the member's death, is the sole surviving primary beneficiary, such beneficiary may elect, within twelve months after the death of the member, to receive (a) a refund of the member's contribution account balance with interest plus an additional one hundred one percent of the member's contribution account balance with interest or (b) an annuity payable monthly for the surviving spouse's lifetime which shall be equal to the benefit amount that had accrued to the member at the date of the member's death, commencing when the member would have reached age sixty, or the member's age at death if greater, reduced by three percent for each year payments commence before the member would have reached age sixty-five, and adjusted for payment in the form of a one-hundred-percent joint and survivor annuity.

(4)(a) If the requirements of subsection (2) or (3) of this section are not met, a lump sum equal to all contributions to the fund made by such member plus regular interest shall be paid pursuant to section 79-969.

(b) An application for benefits under subsection (2) or (3) of this section shall be deemed to have been timely filed if the application is received by the retirement system within twelve months after the date of the death of the member.

(5) Benefits to which a surviving spouse, beneficiary, or estate of a member shall be entitled pursuant to this section shall commence immediately upon the death of such member.

(6) A lump-sum death benefit paid to the member's beneficiary, other than the member's estate, that is an eligible distribution may be distributed in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(7) For any member whose death occurs on or after January 1, 2007, while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the member's beneficiary shall be entitled to any additional death benefit that would have been provided, other than the accrual of any benefit relating to the period of qualified military service. The additional death benefit shall be determined as if the member had returned to employment with the employer and such employment had terminated on the date of the member's death.

Source: Laws 1945, c. 219, § 29, p. 648; R.S.Supp.,1947, § 79-2929; Laws 1949, c. 256, § 462, p. 850; Laws 1951, c. 293, § 3, p. 972; Laws 1969, c. 735, § 8, p. 2781; Laws 1975, LB 50, § 5; Laws 1976, LB 645, § 1; Laws 1981, LB 128, § 1; Laws 1986, LB 325, § 9; Laws 1987, LB 549, § 10; Laws 1988, LB 1170, § 5; Laws 1990, LB 903, § 1; Laws 1994, LB 833, § 32; R.S.1943, (1994), § 79-1528; Laws 1996, LB 900, § 591; Laws 1996, LB 1273, § 25; Laws

2000, LB 1192, § 16; Laws 2001, LB 711, § 4; Laws 2003, LB 451, § 20; Laws 2007, LB508, § 2; Laws 2012, LB916, § 23; Laws 2013, LB263, § 18; Laws 2019, LB34, § 15.
Effective date April 18, 2019.

Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

79-969 Beneficiary designation; order of priority.

(1) Except as provided in section 42-1107, in the event of a member's death, the death benefit shall be paid to the following, in order of priority:

- (a) To the member's surviving designated beneficiary on file with the board;
- (b) To the spouse married to the member on the member's date of death if there is no surviving designated beneficiary on file with the board; or
- (c) To the member's estate if the member is not married on the member's date of death and there is no surviving designated beneficiary on file with the board.

(2) The priority designations described in subsection (1) of this section shall not apply if the member has retired under a joint and survivor benefit option.

Source: Laws 2019, LB34, § 11.

Effective date April 18, 2019.

79-971 Accumulated contributions; use.

The Nebraska Public Employees Retirement Systems shall keep an accounting of the required deposits from the compensation of members collected to provide savings annuities. The accumulated contributions, plus statutorily required accumulated interest, of a member may be (1) returned to the member upon the member's termination, (2) paid pursuant to section 79-969 in the event of the member's death, or (3) in the event of the member's retirement, used to assist in funding the member's school retirement allowance, disability retirement allowance, or formula annuity allowance. Any accumulated contributions forfeited shall be transferred from the School Retirement Fund to the Contingent Account.

Source: Laws 1945, c. 219, § 47, p. 653; R.S.Supp.,1947, § 79-2947; Laws 1949, c. 256, § 480, p. 855; Laws 1969, c. 735, § 14, p. 2783; Laws 1971, LB 987, § 26; Laws 1987, LB 549, § 12; Laws 1988, LB 1170, § 15; R.S.1943, (1994), § 79-1546; Laws 1996, LB 900, § 606; Laws 2002, LB 407, § 43; Laws 2019, LB34, § 16.
Effective date April 18, 2019.

(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

79-978.01 Act, how cited.

Sections 79-978 to 79-9,123 shall be known and may be cited as the Class V School Employees Retirement Act.

Source: Laws 1998, LB 497, § 7; Laws 2011, LB509, § 33; Laws 2016, LB447, § 15; Laws 2017, LB415, § 35; Laws 2019, LB31, § 1; Laws 2019, LB34, § 17.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB31, section 1, with LB34, section 17, to reflect all amendments.

Note: Changes made by LB34 became effective April 18, 2019. Changes made by LB31 became effective May 2, 2019.

79-989 Employees retirement system; board of education; records available; information not considered public record.

(1) The board of education shall have available records showing the name, address, title, social security number, beneficiary records, annual compensation, sex, date of birth, length of creditable and noncreditable service in hours, standard hours, and contract days, bargaining unit, and annual contributions of each employee entitled to membership in the retirement system and such other information as may be reasonably requested by the board of trustees regarding such member as may be necessary for actuarial study and valuation and the administration of the retirement system. This information shall be available in a timely manner to the board of trustees upon request.

(2) The information maintained by the board of education and obtained by the board of trustees for the administration of the retirement system pursuant to this section shall not be considered public records subject to sections 84-712 to 84-712.09, except that the following information shall be considered public records: The member's name, the date the member's participation in the retirement system commenced, and the date the member's participation in the retirement system ended, if applicable.

Source: Laws 1951, c. 274, § 11, p. 917; R.S.1943, (1994), § 79-1042; Laws 1996, LB 900, § 624; Laws 2016, LB447, § 27; Laws 2019, LB33, § 5.

Effective date March 7, 2019.

79-9,100 Employees retirement system; formula retirement annuity; computation.

(1) In lieu of the retirement annuity provided by section 79-999 or 79-9,113, any member who becomes eligible to receive a retirement annuity after February 20, 1982, under the Class V School Employees Retirement Act shall receive a formula retirement annuity based on final average compensation, except that if the monthly formula retirement annuity based on final average compensation is less than the monthly retirement annuity specified in section 79-999 or 79-9,113, accrued to the date of retirement or August 31, 1983, whichever first occurs, the member shall receive the monthly retirement annuity specified in section 79-999 or 79-9,113 accrued to the date of retirement or August 31, 1983, whichever first occurs.

(2) The monthly formula retirement annuity based on final average compensation shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the retirement annuity provided by section 79-999 or 79-9,113 by one and one-half percent of his or her final average compensation. For retirements after June 15, 1989, and before April 18, 1992, the applicable percentage shall be one and sixty-five hundredths percent of his or her final average compensation. For retirements on or after April 18, 1992, and before June 7, 1995, the applicable percentage shall be one and seventy-hundredths percent of his or her final average compensation. For retirements on or after June 7, 1995, and before March 4, 1998, the applicable percentage shall be one and eighty-hundredths percent of his or her final average compensation. For retirements on or after March 4, 1998, and before March 22, 2000, the applicable percentage shall be one and

eighty-five hundredths percent of his or her final average compensation. For retirements on or after March 22, 2000, the applicable percentage shall be two percent of his or her final average compensation.

(3) Final average compensation shall be determined:

(a) Except as provided in subdivision (3)(b) of this section, by dividing the member's total compensation for the three fiscal years in which such compensation was the highest by thirty-six; and

(b) For an employee who became a member on or after July 1, 2013, by dividing the member's total compensation for the five fiscal years in which such compensation was the highest by sixty.

(4)(a) In the determination of compensation for members whose retirement date is on or after July 1, 2016, that part of a member's compensation for the plan year which exceeds the member's compensation for the preceding plan year by more than eight percent during the capping period shall be excluded. If the compensation for the preceding plan year was reduced as a result of unpaid absence from work, the compensation used in the capping calculation will be the greater of (i) the annualized compensation for the preceding year as if it had been fully received or (ii) the most recent preceding plan year in which the member had no unpaid absence from work. Such member's compensation for the first plan year of the capping period shall be compared to the member's compensation received for the plan year immediately preceding the capping period. If the first plan year of the capping period is the member's first year of membership service, these capping provisions shall not be applied to that first plan year.

(b) For purposes of this subsection:

(i) Capping period means the five plan years preceding the later of (A) such member's retirement date or (B) such member's final compensation date; and

(ii) Final compensation date means the later of (A) the date on which a retiring member's final compensation is actually paid or (B) if a retiring member's final compensation is paid in advance as a lump sum, the date on which such final compensation would have been paid to the member in the absence of such advance payment.

(5) This subsection does not apply to employees who become members on or after July 1, 2016. If the annuity begins prior to the sixty-second birthday of the member and the member has completed thirty-five or more years of creditable service, the annuity shall not be reduced. For retirements on or after June 7, 1995, any retirement annuity which begins prior to the sixty-second birthday of the member shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-second birthday. If the annuity begins at a time when:

(a) The sum of the member's attained age and creditable service is eighty-five or more, the annuity shall not be reduced;

(b) The sum of the member's attained age and creditable service totals eighty-four, the annuity shall not be reduced by an amount greater than three percent of the unreduced annuity;

(c) The sum of the member's attained age and creditable service totals eighty-three, the annuity shall not be reduced by an amount greater than six percent of the unreduced annuity; and

(d) The sum of the member's attained age and creditable service totals eighty-two, the annuity shall not be reduced by an amount greater than nine percent of the unreduced annuity.

(6) For purposes of this section, a member's creditable service and attained age shall be measured in one-half-year increments.

(7)(a) Except as provided in section 79-9,104, the normal form of the formula retirement annuity based on final average compensation shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of the member's death before sixty monthly payments have been made the monthly payments will continue until sixty monthly payments have been made in total pursuant to section 79-9,119.

(b) A member may elect to receive, in lieu of the normal form of annuity, an actuarially equivalent annuity in any optional form provided by section 79-9,101.

(8) Any member receiving a formula retirement annuity based on final average compensation who is a member prior to July 1, 2016, shall also receive the service annuity to be paid by the State of Nebraska as provided in sections 79-933 to 79-935 and 79-951.

Source: Laws 1982, LB 131, § 4; Laws 1985, LB 215, § 3; Laws 1989, LB 237, § 2; Laws 1992, LB 1001, § 22; Laws 1995, LB 505, § 5; R.S.Supp.,1995, § 79-1044.01; Laws 1996, LB 900, § 635; Laws 1998, LB 497, § 21; Laws 1998, LB 1191, § 62; Laws 2000, LB 155, § 2; Laws 2013, LB553, § 11; Laws 2015, LB446, § 5; Laws 2016, LB447, § 33; Laws 2019, LB34, § 19.
Effective date April 18, 2019.

Cross References

For supplemental retirement benefits, see sections 79-941 to 79-947.

79-9,106 Employees retirement system; member; death; effect; survivorship annuity; amount; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.

(1) Upon the death of a member who has not yet retired and who has twenty years or more of creditable service, the member's primary beneficiary, as designated by the member in writing on forms provided by the system, shall receive a survivorship annuity in accordance with subdivision (1) of section 79-9,101 if the primary beneficiary is (a) the member's spouse or (b) one other designated beneficiary whose attained age in the calendar year of the member's death is no more than ten years less than the attained age of the member in such calendar year. The amount of such actuarially equivalent annuity shall be calculated using the attained ages of the member and the beneficiary and be based on the annuity earned to the date of the member's death without reduction due to any early commencement of benefits. Within sixty days from the date of the member's death, if the member has not previously filed with the administrator of the retirement system a form requiring that only the survivorship annuity be paid, the beneficiary may request to receive in a lump sum an amount equal to the member's accumulated contributions. If prior to the member's death, the member files with the administrator of the retirement system a form requiring that the beneficiary receive a lump-sum settlement in lieu of the survivorship annuity, the beneficiary shall receive, in lieu of the survivorship annuity, a lump-sum settlement in an amount equal to the mem-

ber's accumulated contributions notwithstanding any other provision of this section.

(2) Upon the death of a member who has not yet retired and who has less than twenty years of creditable service or upon the death of a member who has not yet retired and who has twenty years or more of creditable service but whose beneficiary does not meet the criteria in subsection (1) of this section, a lump sum in an amount equal to the member's accumulated contributions shall be paid pursuant to section 79-9,119.

(3) A lump-sum death benefit paid pursuant to subsection (1) or (2) of this section, other than the member's estate, that is an eligible distribution may be distributed in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(4) For any member whose death occurs on or after January 1, 2007, while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the member's beneficiary shall be entitled to any additional death benefit that would have been provided, other than the accrual of any benefit relating to the period of qualified military service. The additional death benefit shall be determined as if the member had returned to employment with the school district and such employment had terminated on the date of the member's death.

Source: Laws 1951, c. 274, § 16, p. 919; Laws 1965, c. 527, § 1, p. 1659; Laws 1967, c. 544, § 2, p. 1788; Laws 1982, LB 131, § 6; Laws 1985, LB 215, § 5; Laws 1992, LB 1001, § 24; Laws 1993, LB 107, § 7; R.S.1943, (1994), § 79-1047; Laws 1996, LB 900, § 641; Laws 2001, LB 711, § 16; Laws 2012, LB916, § 27; Laws 2019, LB34, § 20.
Effective date April 18, 2019.

79-9,119 Beneficiary designation; order of priority.

(1) Except as provided in section 79-9,104, in the event of a member's death, the death benefit shall be paid to the following, in order of priority:

(a) To the member's surviving designated beneficiary as designated in writing on forms provided by the system;

(b) To the spouse married to the member on the member's date of death if there is no surviving designated beneficiary as designated in writing on forms provided by the system; or

(c) To the member's estate if the member is not married on the member's date of death and there is no surviving designated beneficiary as designated in writing on forms provided by the system.

(2) The priority designations described in subsection (1) of this section shall not apply if the member has retired under a joint and survivor benefit option.

Source: Laws 2019, LB34, § 18.
Effective date April 18, 2019.

79-9,120 Legislative intent.

It is the intent of the Legislature that the Public Employees Retirement Board develop a work plan, recommendations, cost estimates, and cost comparisons regarding the transfer of management of any Class V school employees retirement system established under the Class V School Employees Retirement Act

and which existed on January 1, 2019, to the Public Employees Retirement Board.

Source: Laws 2019, LB31, § 2.
Effective date May 2, 2019.

79-9,121 Work plan for transfer of management and actuarial services; contents; access to records, documents, data, or other information; report; billing for work.

(1)(a) The Public Employees Retirement Board, in consultation with stakeholders including, but not limited to, the Nebraska Retirement Systems Committee of the Legislature and the board of trustees and employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, shall develop a work plan for the transfer of management and actuarial services of any such Class V school employees retirement system to the Public Employees Retirement Board.

(b) The work plan shall include, but not be limited to, a detailed analysis and recommendations regarding (i) management, administration, actuarial service, information technology, computer infrastructure, accounting, and member data and record transfer; (ii) necessary statutory changes to achieve the transfer of management and actuarial services; (iii) staff training and assessment of staffing needs; (iv) educational and communication plans to fully inform all system stakeholders and affected governmental entities regarding management changes; (v) sufficient timeframes for an orderly transition and implementation of management and actuarial changes; (vi) cost estimates associated with the tasks necessary to carry out the management transition; and (vii) a comparison of the current annual cost to administer any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, with an estimate of the annual cost for the Public Employees Retirement Board to administer such system after a management transfer occurs.

(c) The employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, shall provide all records, documents, data, or other information to the Public Employees Retirement Board within thirty calendar days after receiving a written request from the director of the Nebraska Public Employees Retirement Systems, or from the director's representative on behalf of the Public Employees Retirement Board, for such records, documents, data, or other information.

(d) The Public Employees Retirement Board shall electronically report the work plan, including any recommendations, cost estimates, and cost comparisons, to the Clerk of the Legislature no later than June 30, 2020.

(2) For purposes of this section, management does not include:

(a) A merger or consolidation of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, with the School Employees Retirement System of the State of Nebraska or any other retirement system administered by the Public Employees Retirement Board; or

(b) An assumption of any of the liability for any such Class V school employees retirement system by the State of Nebraska, the Public Employees Retirement Board, or the Nebraska Public Employees Retirement Systems.

(3) The Public Employees Retirement Board may quarterly bill the employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, for all work performed by the Public Employees Retirement Board for services and related expenses in completion of the work plan described in this section. Such employer shall remit payment as provided in section 79-9,122 within forty-five calendar days after receipt of each bill.

Source: Laws 2019, LB31, § 3.
Effective date May 2, 2019.

79-9,122 Class V School Employees Retirement System Management Work Plan Fund; created; use; investment.

(1) The Class V School Employees Retirement System Management Work Plan Fund is created. The purpose of the fund is to transfer funds as specified in this section. The fund shall consist of the amounts transferred from the employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, for all work performed by the Public Employees Retirement Board for services and related expenses in completion of the work described in section 79-9,121. The fund shall be administered by the Nebraska Public Employees Retirement Systems. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, shall remit the payment described in subsection (3) of section 79-9,121 to the State Treasurer for credit to the Class V School Employees Retirement System Management Work Plan Fund for all work performed by the Public Employees Retirement Board for services and related expenses in completion of the work plan.

Source: Laws 2019, LB31, § 4.
Effective date May 2, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

79-9,123 Work plan; billing for work; payment.

The administrator and board of trustees of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, may quarterly bill the employer of such Class V school employees retirement system for all work performed and expenses incurred by the administrator, staff, and any consultants of the Class V school employees retirement system in response to requests for records, documents, data, or other information from the Nebraska Public Employees Retirement Systems or the Public Employees Retirement Board in completion of the work plan described in section 79-9,121. Such employer shall remit

payment within forty-five calendar days after receipt of each quarterly bill to such Class V school employees retirement system.

Source: Laws 2019, LB31, § 5.
Effective date May 2, 2019.

ARTICLE 10

SCHOOL TAXATION, FINANCE, AND FACILITIES

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

Section

- 79-1003. Terms, defined.
- 79-1005.01. Tax Commissioner; certify data; department; calculate allocation percentage and local system's allocated income tax funds.
- 79-1007.04. Repealed. Laws 2019, LB675, § 57.
- 79-1007.07. Financial reports relating to poverty allowance; department; duties; powers.
- 79-1007.09. Financial reports relating to limited English proficiency; department; duties; powers.
- 79-1007.17. Repealed. Laws 2019, LB675, § 57.
- 79-1007.23. Repealed. Laws 2019, LB675, § 57.
- 79-1007.25. Repealed. Laws 2019, LB675, § 57.
- 79-1008.01. Equalization aid; amount.
- 79-1008.02. Repealed. Laws 2019, LB675, § 57.
- 79-1017.01. Local system formula resources; amounts included.
- 79-1022. Distribution of income tax receipts and state aid; effect on budget.
- 79-1022.02. School fiscal year 2019-2020 certifications null and void.
- 79-1023. School district; general fund budget of expenditures; limitation; department; certification.
- 79-1027. Budget; restrictions.
- 79-1028.03. Repealed. Laws 2019, LB675, § 57.
- 79-1031.01. Appropriations Committee; duties.

(c) SCHOOL TAXATION

- 79-1074. Joint district or learning community; joint affiliated school system or learning community; taxable property; certification.

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

79-1003 Terms, defined.

For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted general fund operating expenditures means (a) for school fiscal years 2013-14 through 2015-16, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance, (b) for school fiscal years 2016-17 through 2018-19, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, and focus school and program allowance, and (c) for school fiscal year 2019-20 and each school fiscal year thereafter, the difference of the

general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, community achievement plan allowance, and focus school and program allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each local system in the state, adjusted pursuant to the adjustment factors described in section 79-1016. Adjusted valuation means the adjusted valuation for the property tax year ending during the school fiscal year immediately preceding the school fiscal year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-1015.01, adjusted valuation does not include the value of any property which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;

(3) Allocated income tax funds means the amount of assistance paid to a local system pursuant to section 79-1005.01;

(4) Average daily membership means the average daily membership for grades kindergarten through twelve attributable to the local system, as provided in each district's annual statistical summary, and includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(5) Base fiscal year means the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

(6) Board means the school board of each school district;

(7) Categorical funds means funds limited to a specific purpose by federal or state law, including, but not limited to, Title I funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, Head Start funds, and funds from the Education Innovation Fund;

(8) Consolidate means to voluntarily reduce the number of school districts providing education to a grade group and does not include dissolution pursuant to section 79-498;

(9) Converted contract means an expired contract that was in effect for at least fifteen school years beginning prior to school year 2012-13 for the education of students in a nonresident district in exchange for tuition from the resident district when the expiration of such contract results in the nonresident district educating students, who would have been covered by the contract if the contract were still in effect, as option students pursuant to the enrollment option program established in section 79-234;

(10) Converted contract option student means a student who will be an option student pursuant to the enrollment option program established in section 79-234 for the school fiscal year for which aid is being calculated and who would have been covered by a converted contract if the contract were still in effect and such school fiscal year is the first school fiscal year for which such contract is not in effect;

(11) Department means the State Department of Education;

(12) District means any school district or unified system as defined in section 79-4,108;

(13) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;

(14) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to section 79-1008.01;

(15) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528;

(16) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

(17) Formula students means:

(a) For state aid certified pursuant to section 79-1022, the sum of the product of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and the prior two school fiscal years plus sixty percent of the qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which aid is to be paid minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5; and

(b) For the final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus sixty percent of the qualified early childhood education average daily membership plus tuitioned students minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the average daily membership multiplied by 0.5 from the school fiscal year immediately preceding the school fiscal year in which aid was paid;

(18) Free lunch and free milk calculated students means, using the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, (a) for schools that did not provide free meals to all students pursuant to the community eligibility provision, students who individually qualified for free lunches or free milk pursuant to the federal Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., and the federal Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., as such acts and sections existed on January 1, 2015, and rules and regulations adopted thereunder, plus (b) for schools that provided free meals to all students pursuant to the community eligibility provision, (i) for school fiscal year 2016-17, the product of the students who attended such school multiplied by the identified student percentage calculated pursuant to such federal provision or (ii) for school fiscal year 2017-18 and each school fiscal year thereafter, the greater of the number of students in such school who individually qualified for free lunch or free milk using the most recent school fiscal year for which the school did not provide free meals to all students pursuant to the community eligibility provision or one hundred ten percent of the product of the students who qualified for free meals at such school pursuant to the community eligibility provision multiplied by the identified student percentage calculated pursuant to such federal provision, except that the free lunch and free milk students calculated for any school pursuant to subdivision (18)(b)(ii) of this section shall not exceed one hundred percent of the students qualified for free meals at such school pursuant to the community eligibility provision;

(19) Free lunch and free milk student means, for school fiscal years prior to school fiscal year 2016-17, a student who qualified for free lunches or free milk from the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

(20) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;

(21) General fund budget of expenditures means the total budget of disbursements and transfers for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-1023, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district;

(22) General fund expenditures means all expenditures from the general fund;

(23) General fund operating expenditures means for state aid calculated for school fiscal years 2012-13 and each school fiscal year thereafter, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (a) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (b) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (c) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (d) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (e)(i) for state aid calculated for school fiscal years prior to school fiscal year 2018-19, expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year, or, to the extent that a district has demonstrated to the State Board of Education pursuant to section 79-1028.01 that the agreement will result in a net savings in salary and benefit costs to the school district over a five-year period, occurring on or after the first day of the 2013-14 school year or (ii) for state aid calculated for school fiscal year 2018-19 and each school fiscal year thereafter, expenditures to pay for incentives agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment for which the State Board of Education approved an exclusion pursuant to subdivision (1)(h), (i), (j), or (k) of section 79-1028.01, (f)(i) expenditures to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribu-

tion rate of seven and thirty-five hundredths percent or (ii) expenditures to pay for school district contributions pursuant to subdivision (1)(c)(i) or (1)(d)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent, and (g) any amounts paid by the district for lobbyist fees and expenses reported to the Clerk of the Legislature pursuant to section 49-1483.

For purposes of this subdivision (23) of this section, receipts from levy override elections shall equal ninety-nine percent of the difference of the total general fund levy minus a levy of one dollar and five cents per one hundred dollars of taxable valuation multiplied by the assessed valuation for school districts that have voted pursuant to section 77-3444 to override the maximum levy provided pursuant to section 77-3442;

(24) Income tax liability means the amount of the reported income tax liability for resident individuals pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(25) Income tax receipts means the amount of income tax collected pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(26) Limited English proficiency students means the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid plus the difference of such students with limited English proficiency minus the average number of limited English proficiency students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(27) Local system means a unified system or a school district;

(28) Low-income child means (a) for school fiscal years prior to 2016-17, a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income that would allow a student from a family of four people to be a free lunch and free milk student during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated and (b) for school fiscal year 2016-17 and each school fiscal year thereafter, a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income pursuant to sections 9(b)(1) and 17(c)(4) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4), respectively, and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966, 42 U.S.C. 1772(a)(6) and 42 U.S.C. 1773(e)(1)(A), respectively, as such acts and sections existed on January 1, 2015, for a household of that size that would have allowed the child to meet the income qualifications for free meals during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated;

(29) Low-income students means the number of low-income children within the district multiplied by the ratio of the formula students in the district divided

by the total children under nineteen years of age residing in the district as derived from income tax information;

(30) Most recently available complete data year means the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual statistical summary, Nebraska income tax liability by school district for the calendar year in which the majority of the school fiscal year falls, and adjusted valuation data are available;

(31) Poverty students means (a) for school fiscal years prior to 2016-17, the number of low-income students or the number of students who are free lunch and free milk students in a district plus the difference of the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero and (b) for school fiscal year 2016-17 and each school fiscal year thereafter, the unadjusted poverty students plus the difference of such unadjusted poverty students minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(32) Qualified early childhood education average daily membership means the product of the average daily membership for school fiscal year 2006-07 and each school fiscal year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the actual instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(33) Qualified early childhood education fall membership means the product of membership on October 1 of each school year of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(34) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

(35) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

(36) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

(37) Sparse local system means a local system that is not a very sparse local system but which meets the following criteria:

(a)(i) Less than two students per square mile in the county in which each high school is located, based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than ten miles between each high school attendance center and the next closest high school attendance center on paved roads;

(b)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads;

(c)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than two hundred seventy-five square miles in the local system; or

(d)(i) Less than two formula students per square mile in the local system and (ii) the local system includes an area equal to ninety-five percent or more of the square miles in the largest county in which a high school attendance center is located in the local system;

(38) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

(39) Special grant funds means the budgeted receipts for grants, including, but not limited to, categorical funds, reimbursements for wards of the court, short-term borrowings including, but not limited to, registered warrants and tax anticipation notes, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment. The state board shall approve a listing of grants that qualify as special grant funds;

(40) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

(41) State board means the State Board of Education;

(42) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

(43) Statewide average basic funding per formula student means the statewide total basic funding for all districts divided by the statewide total formula students for all districts;

(44) Statewide average general fund operating expenditures per formula student means the statewide total general fund operating expenditures for all districts divided by the statewide total formula students for all districts;

(45) Teacher has the definition found in section 79-101;

(46) Temporary aid adjustment factor means (a) for school fiscal years before school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, the local system's special receipts allowance, and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping and (b) for school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping;

(47) Tuition receipts from converted contracts means tuition receipts received by a district from another district in the most recently available complete data year pursuant to a converted contract prior to the expiration of the contract;

(48) Tuitioned students means students in kindergarten through grade twelve of the district whose tuition is paid by the district to some other district or education agency;

(49) Unadjusted poverty students means, for school fiscal year 2016-17 and each school fiscal year thereafter, the greater of the number of low-income students or the free lunch and free milk calculated students in a district; and

(50) Very sparse local system means a local system that has:

(a)(i) Less than one-half student per square mile in each county in which each high school attendance center is located based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads; or

(b)(i) More than four hundred fifty square miles in the local system, (ii) less than one-half student per square mile in the local system, and (iii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads.

Source: Laws 1990, LB 1059, § 3; Laws 1991, LB 511, § 71; Laws 1992, LB 245, § 76; Laws 1994, LB 1290, § 3; Laws 1995, LB 840, § 4; R.S.Supp.,1995, § 79-3803; Laws 1996, LB 900, § 654; Laws 1996, LB 1050, § 12; Laws 1997, LB 347, § 29; Laws 1997, LB 710, § 5; Laws 1997, LB 713, § 1; Laws 1997, LB 806, § 31; Laws 1998, LB 306, § 42; Laws 1998, LB 1134, § 2; Laws 1998, LB 1219, § 15; Laws 1998, LB 1229, § 3; Laws 1998, Spec. Sess., LB 1, § 15; Laws 1999, LB 149, § 3; Laws 1999, LB 813, § 19; Laws 2001, LB 313, § 1; Laws 2001, LB 797, § 18; Laws 2001, LB 833, § 4; Laws 2002, LB 898, § 3; Laws 2005, LB 126, § 45; Laws 2005, LB 577, § 1; Laws 2006, LB 1024, § 73; Laws 2006, LB 1208, § 4; Referendum 2006, No. 422; Laws 2007, LB641, § 13; Laws 2008, LB988, § 9; Laws 2009, LB545, § 4; Laws 2009, LB549, § 26; Laws 2009, First Spec. Sess., LB5, § 3; Laws 2010, LB1071, § 12; Laws 2011, LB18, § 2; Laws 2011, LB235, § 5; Laws 2011, LB382, § 5; Laws 2011, LB509, § 38; Laws 2013, LB407, § 2; Laws 2013, LB553, § 15; Laws 2014, LB967, § 11; Laws 2015, LB519, § 12; Laws 2015, LB525, § 17; Laws 2016, LB959, § 2; Laws 2016, LB1066, § 16; Laws 2016, LB1067, § 32; Laws 2017, LB512, § 12; Laws 2018, LB377, § 62; Laws 2018, LB1005, § 33; Laws 2018, LB1081, § 11; Laws 2019, LB675, § 5.

Effective date May 28, 2019.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

Nebraska Budget Act, see section 13-501.

Nebraska Revenue Act of 1967, see section 77-2701.

79-1005.01 Tax Commissioner; certify data; department; calculate allocation percentage and local system's allocated income tax funds.

(1) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the preceding tax year the income tax liability of resident individuals for each local system.

(2) For school fiscal years prior to 2017-18, one hundred two million two hundred eighty-nine thousand eight hundred seventeen dollars which is equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 shall be disbursed as option payments as determined under section 79-1009 and as allocated income tax funds as determined in this section and sections 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01. For school fiscal years prior to school fiscal year 2017-18, funds not distributed as allocated income tax funds due to minimum levy adjustments shall not increase the amount available to local systems for distribution as allocated income tax funds.

(3) Using the data certified by the Tax Commissioner pursuant to subsection (1) of this section, the department shall calculate the allocation percentage and each local system's allocated income tax funds. The allocation percentage shall be the amount stated in subsection (2) of this section minus the total amount paid for option students pursuant to section 79-1009, with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to subsection (1) of this section. Each local system's allocated income tax funds shall be calculated by multiplying the allocation percentage times the local system's income tax liability certified pursuant to subsection (1) of this section.

(4) For school fiscal year 2017-18 and each school fiscal year thereafter, each local system's allocated income tax funds shall be calculated by multiplying the local system's income tax liability certified pursuant to subsection (1) of this section by two and twenty-three hundredths percent.

Source: Laws 1997, LB 806, § 33; Laws 1998, Spec. Sess., LB 1, § 16; Laws 1999, LB 149, § 4; Laws 2002, LB 898, § 4; Laws 2004, LB 1093, § 2; Laws 2008, LB988, § 11; Laws 2009, First Spec. Sess., LB5, § 4; Laws 2011, LB235, § 7; Laws 2016, LB959, § 3; Laws 2016, LB1066, § 17; Laws 2016, LB1067, § 34; Laws 2019, LB675, § 6.

Effective date May 28, 2019.

79-1007.04 Repealed. Laws 2019, LB675, § 57.

79-1007.07 Financial reports relating to poverty allowance; department; duties; powers.

(1)(a) The annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the poverty allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on poverty as defined by the federal program providing the funds; and

(iii) The expenditures and sources of funding for each program related to poverty and the expenditures and sources of funding for support costs directly attributable to poverty.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(2) The department shall determine the poverty allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would include in the poverty allowance expenditures only those expenditures that are not included in other allowances, that were used to specifically address issues related to the education of students living in poverty, that do not replace expenditures that would have occurred if the students involved in the program did not live in poverty, and that are paid for with noncategorical funds generated by state or local taxes.

(3) If the poverty allowance expenditures do not equal 117.65 percent or more of the poverty allowance for the most recently available complete data year, the department shall calculate a poverty allowance correction. The poverty allowance correction shall equal the poverty allowance minus eighty-five percent of the poverty allowance expenditures.

(4) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated.

Source: Laws 2006, LB 1024, § 80; Laws 2007, LB641, § 20; Laws 2008, LB988, § 29; Laws 2009, LB545, § 5; Laws 2011, LB18, § 3; Laws 2012, LB782, § 158; Laws 2013, LB407, § 4; Laws 2015, LB525, § 20; Laws 2018, LB1081, § 13; Laws 2019, LB675, § 7. Effective date May 28, 2019.

79-1007.09 Financial reports relating to limited English proficiency; department; duties; powers.

(1)(a) The annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the limited English proficiency allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on students who are limited English proficient as defined by the federal program providing the funds; and

(iii) The expenditures and sources of funding for each program related to limited English proficiency and the expenditures and sources of funding for support costs directly attributable to limited English proficiency.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(2) The department shall determine the limited English proficiency allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would only include in the limited English proficiency allowance expenditures those expenditures that are not included in other allowances, that were used to specifically address issues related to the education of students with limited English proficiency, that do not replace expenditures that would have occurred if the students involved in

the program did not have limited English proficiency, and that are paid for with noncategorical funds generated by state or local taxes.

(3) If the limited English proficiency allowance expenditures do not equal 117.65 percent or more of the limited English proficiency allowance for the most recently available complete data year, the department shall calculate a limited English proficiency allowance correction. The limited English proficiency allowance correction shall equal the limited English proficiency allowance minus eighty-five percent of the limited English proficiency allowance expenditures. If the limited English proficiency allowance expenditures do not equal fifty percent or more of the allowance for such school fiscal year, the school district shall also be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

(4) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

Source: Laws 2006, LB 1024, § 82; Laws 2007, LB641, § 22; Laws 2008, LB988, § 31; Laws 2009, LB545, § 6; Laws 2011, LB18, § 4; Laws 2013, LB407, § 5; Laws 2018, LB1081, § 15; Laws 2019, LB675, § 8.
Effective date May 28, 2019.

79-1007.17 Repealed. Laws 2019, LB675, § 57.

79-1007.23 Repealed. Laws 2019, LB675, § 57.

79-1007.25 Repealed. Laws 2019, LB675, § 57.

79-1008.01 Equalization aid; amount.

Each local system shall receive equalization aid in the amount that the total formula need, as determined pursuant to section 79-1007.11, exceeds its total formula resources, as determined pursuant to section 79-1017.01. The equalization aid for a local system shall be zero if the total formula resources equals or exceeds the total formula need for such local system.

Source: Laws 1997, LB 710, § 11; Laws 1997, LB 806, § 38; Laws 1998, LB 989, § 7; Laws 1998, Spec. Sess., LB 1, § 19; Laws 1999, LB 149, § 6; Laws 2001, LB 797, § 20; Laws 2002, LB 898, § 8; Laws 2003, LB 540, § 4; Laws 2004, LB 1093, § 5; Laws 2006, LB 1024, § 84; Laws 2008, LB988, § 33; Laws 2009, First Spec. Sess., LB5, § 10; Laws 2011, LB8, § 2; Laws 2011, LB18, § 5; Laws 2011, LB235, § 12; Laws 2016, LB959, § 5; Laws 2019, LB675, § 9.
Effective date May 28, 2019.

79-1008.02 Repealed. Laws 2019, LB675, § 57.

79-1017.01 Local system formula resources; amounts included.

For state aid calculated for each school fiscal year, local system formula resources includes other actual receipts determined pursuant to section

79-1018.01, net option funding determined pursuant to section 79-1009, allocated income tax funds determined pursuant to section 79-1005.01, and community achievement plan aid determined pursuant to section 79-1005, and is reduced by amounts paid by the district in the most recently available complete data year as property tax refunds pursuant to or in the manner prescribed by section 77-1736.06.

Source: Laws 1997, LB 806, § 48; Laws 2002, LB 898, § 11; Laws 2009, LB545, § 14; Laws 2011, LB235, § 17; Laws 2013, LB407, § 12; Laws 2014, LB967, § 17; Laws 2015, LB519, § 14; Laws 2016, LB959, § 7; Laws 2016, LB1067, § 40; Laws 2017, LB512, § 14; Laws 2019, LB675, § 10.
Effective date May 28, 2019.

79-1022 Distribution of income tax receipts and state aid; effect on budget.

(1) On or before June 10, 2019, and on or before March 1 of each year thereafter, the department shall determine the amounts to be distributed to each local system for the ensuing school fiscal year pursuant to the Tax Equity and Educational Opportunities Support Act and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, and each local system. On or before June 10, 2019, and on or before March 1 of each year thereafter, the department shall report the necessary funding level for the ensuing school fiscal year to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature. The report submitted to the committees of the Legislature shall be submitted electronically. Except as otherwise provided in this subsection, certified state aid amounts, including adjustments pursuant to section 79-1065.02, shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the local system's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

(2) Except as provided in this subsection, subsection (8) of section 79-1016, and sections 79-1005, 79-1033, and 79-1065.02, the amounts certified pursuant to subsection (1) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each ensuing school fiscal year and ending in June of the following year, except that when a local system is to receive a monthly payment of less than one thousand dollars, such payment shall be one lump-sum payment on the last business day of December during the ensuing school fiscal year.

Source: Laws 1990, LB 1059, § 13; Laws 1991, LB 511, § 79; Laws 1992, LB 245, § 84; Laws 1994, LB 1290, § 8; Laws 1994, LB 1310, § 16; Laws 1995, LB 840, § 9; R.S.Supp., 1995, § 79-3813; Laws 1996, LB 900, § 668; Laws 1996, LB 1050, § 30; Laws 1997, LB 710, § 13; Laws 1997, LB 713, § 5; Laws 1997, LB 806, § 51; Laws 1998, Spec. Sess., LB 1, § 28; Laws 1999, LB 149, § 10; Laws 1999, LB 194, § 35; Laws 1999, LB 813, § 23; Laws 2002, LB 898, § 12; Laws 2002, Second Spec. Sess., LB 4, § 1; Laws 2003, LB 67, § 12; Laws 2003, LB 540, § 5; Laws 2004, LB 973, § 67; Laws 2005, LB 126, § 47; Laws 2005, LB 198, § 3; Laws 2006, LB 1024, § 86; Referendum 2006, No. 422; Laws 2007, LB21, § 3; Laws 2007, LB641, § 28; Laws 2008, LB988, § 41; Laws 2009, LB61, § 1; Laws 2009, LB545, § 15; Laws 2009,

LB548, § 1; Laws 2010, LB711, § 2; Laws 2010, LB1071, § 19; Laws 2011, LB18, § 6; Laws 2012, LB633, § 1; Laws 2012, LB782, § 159; Laws 2013, LB408, § 1; Laws 2014, LB838, § 1; Laws 2016, LB1067, § 43; Laws 2017, LB119, § 1; Laws, 2019, LB430, § 1; Laws 2019, LB675, § 11.

Note: Changes made by LB430 became effective March 1, 2019. Changes made by LB675 became effective May 28, 2019.

79-1022.02 School fiscal year 2019-2020 certifications null and void.

Notwithstanding any other provision of law, any certification of state aid pursuant to section 79-1022, certification of budget authority pursuant to section 79-1023, and certification of applicable allowable reserve percentages pursuant to section 79-1027 completed prior to March 1, 2019, for school fiscal year 2019-20 is null and void.

Source: Laws 2002, LB 898, § 13; Laws 2003, LB 540, § 6; Laws 2008, LB988, § 42; Laws 2011, LB18, § 7; Laws 2012, LB633, § 2; Laws 2017, LB119, § 2; Laws 2019, LB430, § 2.
Effective date March 1, 2019.

79-1023 School district; general fund budget of expenditures; limitation; department; certification.

(1) On or before June 10, 2019, and on or before March 1 of each year thereafter, the department shall determine and certify to each school district budget authority for the general fund budget of expenditures for the ensuing school fiscal year.

(2) Except as provided in sections 79-1028.01, 79-1029, 79-1030, and 81-829.51, each school district shall have budget authority for the general fund budget of expenditures equal to the greater of (a) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated, (b) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by an amount equal to any student growth adjustment calculated for the school fiscal year for which budget authority is being calculated, or (c) one hundred ten percent of formula need for the school fiscal year for which budget authority is being calculated minus the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year, which special education budget of expenditures is increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated.

(3) For any school fiscal year for which the budget authority for the general fund budget of expenditures for a school district is based on a student growth adjustment, the budget authority for the general fund budget of expenditures for such school district shall be adjusted in future years to reflect any student growth adjustment corrections related to such student growth adjustment.

Source: Laws 1990, LB 1059, § 14; Laws 1991, LB 829, § 33; Laws 1992, LB 1063, § 202; Laws 1992, Second Spec. Sess., LB 1, § 173; Laws 1995, LB 613, § 3; Laws 1996, LB 299, § 27;

R.S.Supp.,1995, § 79-3814; Laws 1996, LB 900, § 669; Laws 1998, LB 989, § 8; Laws 2003, LB 67, § 13; Laws 2008, LB988, § 43; Laws 2009, LB61, § 2; Laws 2009, LB545, § 16; Laws 2009, LB548, § 2; Laws 2009, First Spec. Sess., LB5, § 11; Laws 2010, LB711, § 3; Laws 2010, LB1071, § 20; Laws 2011, LB18, § 8; Laws 2011, LB235, § 19; Laws 2012, LB633, § 3; Laws 2013, LB408, § 2; Laws 2014, LB838, § 2; Laws 2015, LB283, § 3; Laws 2017, LB119, § 3; Laws 2019, LB430, § 3.
 Effective date March 1, 2019.

Cross References

Retirement expenditures, not exempt from limitations, see section 79-977.

79-1027 Budget; restrictions.

No district shall adopt a budget, which includes total requirements of depreciation funds, necessary employee benefit fund cash reserves, and necessary general fund cash reserves, exceeding the applicable allowable reserve percentages of total general fund budget of expenditures as specified in the schedule set forth in this section.

Average daily membership of district	Allowable reserve percentage
0 - 471	45
471.01 - 3,044	35
3,044.01 - 10,000	25
10,000.01 and over	20

On or before June 10, 2019, and on or before March 1 each year thereafter, the department shall determine and certify each district’s applicable allowable reserve percentage for the ensuing school fiscal year.

Each district with combined necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves less than the applicable allowable reserve percentage specified in this section may, notwithstanding the district’s applicable allowable growth rate, increase its necessary general fund cash reserves such that the total necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves do not exceed such applicable allowable reserve percentage.

Source: Laws 1990, LB 1059, § 18; Laws 1991, LB 511, § 83; Laws 1992, LB 245, § 88; Laws 1992, LB 1063, § 204; Laws 1992, Second Spec. Sess., LB 1, § 175; R.S.1943, (1994), § 79-3818; Laws 1996, LB 900, § 673; Laws 1998, Spec. Sess., LB 1, § 31; Laws 1999, LB 149, § 12; Laws 1999, LB 813, § 26; Laws 2001, LB 797, § 28; Laws 2002, LB 460, § 2; Laws 2003, LB 67, § 16; Laws 2005, LB 126, § 49; Referendum 2006, No. 422; Laws 2007, LB21, § 5; Laws 2009, LB61, § 4; Laws 2009, LB545, § 18; Laws 2009, LB548, § 4; Laws 2010, LB711, § 5; Laws 2010, LB1071, § 22; Laws 2011, LB18, § 10; Laws 2012, LB633, § 4; Laws 2013, LB408, § 3; Laws 2014, LB838, § 3; Laws 2017, LB119, § 4; Laws 2019, LB430, § 4.
 Effective date March 1, 2019.

79-1028.03 Repealed. Laws 2019, LB675, § 57.**79-1031.01 Appropriations Committee; duties.**

The Appropriations Committee of the Legislature shall annually include the amount necessary to fund the state aid that will be certified to school districts on or before June 10, 2019, and on or before March 1 of each year thereafter for each ensuing school fiscal year in its recommendations to the Legislature to carry out the requirements of the Tax Equity and Educational Opportunities Support Act.

Source: Laws 1997, LB 710, § 17; Laws 1997, LB 806, § 54; Laws 1998, Spec. Sess., LB 1, § 34; Laws 1999, LB 149, § 15; Laws 2002, LB 898, § 14; Laws 2005, LB 126, § 51; Referendum 2006, No. 422; Laws 2007, LB21, § 6; Laws 2008, LB988, § 48; Laws 2009, LB61, § 5; Laws 2009, LB545, § 22; Laws 2009, LB548, § 5; Laws 2010, LB711, § 6; Laws 2010, LB1071, § 24; Laws 2011, LB18, § 13; Laws 2012, LB633, § 5; Laws 2013, LB408, § 4; Laws 2014, LB838, § 4; Laws 2017, LB119, § 5; Laws 2019, LB430, § 5.

Effective date March 1, 2019.

(c) SCHOOL TAXATION**79-1074 Joint district or learning community; joint affiliated school system or learning community; taxable property; certification.**

(1) The county clerk of any county in which a part of a joint school district or learning community is located shall, on or before the date prescribed in subsection (1) of section 13-509, certify the taxable valuation of all taxable property of such part of the joint district or learning community to the clerk of the headquarters county in which the schoolhouse or the administrative office of the school district or learning community is located.

(2) The county clerk of any county in which a part of a joint affiliated school system or learning community is located shall, on or before the date prescribed in subsection (1) of section 13-509, certify the taxable valuation of all taxable property of such part of the joint affiliated school system or learning community to the clerk of the headquarters county in which the schoolhouse or the administrative office of the high school district or learning community is located.

Source: Laws 1907, c. 118, § 1, p. 398; Laws 1913, c. 6, § 1, p. 64; R.S.1913, § 6741; C.S.1922, § 6282; C.S.1929, § 79-214; R.S. 1943, § 79-213; Laws 1947, c. 272, § 1, p. 876; Laws 1949, c. 256, § 72, p. 717; Laws 1979, LB 187, § 228; Laws 1992, LB 719A, § 184; Laws 1992, LB 1001, § 14; Laws 1993, LB 348, § 15; R.S.1943, (1994), § 79-433; Laws 1996, LB 900, § 720; Laws 2006, LB 1024, § 95; Laws 2019, LB524, § 2.
Effective date September 1, 2019.

SCHOOLS

ARTICLE 11

SPECIAL POPULATIONS AND SERVICES

(c) SPECIAL EDUCATION

SUBPART (i)—SPECIAL EDUCATION ACT

Section

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- 79-1153. Repealed. Laws 2019, LB675, § 57.
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- 79-1162. Identification, evaluation, or educational placement; hearing; copy of procedures provided; reimbursement.
- 79-1163. Department; conduct hearings; hearing officers; employed; qualifications; jurisdiction.
- 79-1164. Hearing; hearing officer; duties.
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Section

SUBPART (ii)—DEPARTMENT DUTIES

79-1188. Repealed. Laws 2019, LB675, § 57.

(c) SPECIAL EDUCATION

SUBPART (i)—SPECIAL EDUCATION ACT

79-1110 Act, how cited.

Sections 79-1110 to 79-1167 shall be known and may be cited as the Special Education Act.

Source: Laws 1987, LB 367, § 1; Laws 1989, LB 487, § 14; Laws 1993, LB 520, § 22; Laws 1995, LB 742, § 4; R.S.Supp.,1995, § 79-3301; Laws 1996, LB 900, § 792; Laws 1997, LB 346, § 9; Laws 1997, LB 865, § 3; Laws 1998, Spec. Sess., LB 1, § 46; Laws 1999, LB 813, § 36; Laws 2000, LB 1135, § 23; Laws 2009, LB549, § 39; Laws 2010, LB1087, § 2; Laws 2019, LB675, § 12. Effective date May 28, 2019.

79-1113 Definitions, where found.

For purposes of the Special Education Act, unless the context otherwise requires, the definitions found in sections 79-1114 to 79-1125.01 shall be used.

Source: Laws 1987, LB 367, § 3; Laws 1993, LB 520, § 23; R.S.1943, (1994), § 79-3303; Laws 1996, LB 900, § 795; Laws 1997, LB 865, § 4; Laws 1999, LB 813, § 37; Laws 2010, LB1087, § 3; Laws 2019, LB675, § 13. Effective date May 28, 2019.

79-1115 Allowable costs, defined.

Allowable costs means salaries, wages, benefits, any medical expenditure by a school district for purposes of providing individualized education plan services for a special education student and health protection to the provider of the services, and maintenance, supplies, travel, and other expenses essential to carry out the provisions for special education and support services.

Source: Laws 1987, LB 367, § 5; R.S.1943, (1994), § 79-3305; Laws 1996, LB 900, § 797; Laws 1997, LB 865, § 5; Laws 2000, LB 1243, § 5; Laws 2019, LB675, § 14. Effective date May 28, 2019.

79-1115.01 Assistive technology device, defined.

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf or modified or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

Source: Laws 1997, LB 865, § 6; Laws 2019, LB675, § 15. Effective date May 28, 2019.

79-1117 Child with a disability, defined.

Child with a disability means any person having a disability listed in section 79-1118.01 that has been verified pursuant to sections 79-1137 to 79-1139 from the date of such verification until he or she is twenty-one years of age or, if his or her twenty-first birthday occurs during a school year, until the end of such school year.

Source: Laws 1993, LB 520, § 24; R.S.1943, (1994), § 79-3306.01; Laws 1996, LB 900, § 799; Laws 1997, LB 346, § 11; Laws 2019, LB675, § 16.
Effective date May 28, 2019.

79-1118 Department, defined.

Department means the State Department of Education.

Source: Laws 2019, LB675, § 17.
Effective date May 28, 2019.

79-1119 Excess cost, defined.

Excess cost means the difference between the total cost of the special education program excluding residential care minus federal medicaid funds received pursuant to section 43-2511 for services to school-age children excluding amounts designated as reimbursement for costs associated with the implementation and administration of the billing system pursuant to section 43-2511 and minus the product of the number of students in the special education program multiplied by the adjusted average per pupil cost of the preceding year for the school district of residence of each child.

Source: Laws 1987, LB 367, § 8; R.S.1943, (1994), § 79-3308; Laws 1996, LB 900, § 801; Laws 2014, LB276, § 6; Laws 2019, LB675, § 18.
Effective date May 28, 2019.

79-1119.01 Interim-program school, defined.

Interim-program school means a school approved by the State Board of Education and located in or operated by (1) a county detention home established under section 43-2,110, (2) a juvenile emergency shelter, or (3) any institution which is a public or private facility, not owned or operated by a school district, which provides a residential program and regular educational or special education services approved by the State Department of Education.

Source: Laws 2010, LB1087, § 4; Laws 2019, LB675, § 19.
Effective date May 28, 2019.

79-1124 Service agency, defined.

Service agency means the school district, educational service unit, local or regional office of intellectual disability, interim-program school, or some combination thereof or such other agency as may provide a special education program approved by the State Department of Education, including an institution not wholly owned or controlled by the state or any political subdivision to the extent that it provides educational or other services for the benefit of a child with a disability if such services are nonsectarian in nature.

Source: Laws 1987, LB 367, § 14; R.S.1943, (1994), § 79-3313; Laws 1996, LB 900, § 806; Laws 1997, LB 346, § 14; Laws 2010, LB1087, § 5; Laws 2013, LB23, § 46; Laws 2019, LB675, § 20.
Effective date May 28, 2019.

79-1125.01 Support services, defined.

Support services means preventive services for a student that is not identified or verified pursuant to sections 79-1118.01, 79-1138, and 79-1139 but demonstrates a need for specially designed assistance in order to benefit from the school district's general education curriculum and to avoid the need for potentially expensive special education placement and services. Support services include the educational services provided to a child pursuant to subdivision (10)(c) of section 79-215 by an interim-program school or an approved or accredited school maintained by a residential setting if such child has not been identified or verified as a child with a disability pursuant to sections 79-1118.01 and 79-1138 but demonstrates a need for specially designed assistance by residing in a residential setting described in subdivision (10)(a) of section 79-215.

Source: Laws 1995, LB 742, § 3; R.S.Supp.,1995, § 79-348; Laws 1996, LB 900, § 867; Laws 1997, LB 346, § 49; Laws 1998, Spec. Sess., LB 1, § 49; R.S.Supp.,1998, § 79-1185; Laws 1999, LB 813, § 51; Laws 2000, LB 1243, § 6; Laws 2010, LB1087, § 6; Laws 2019, LB675, § 21.

Effective date May 28, 2019.

79-1126 Act; to whom applicable; Division of Vocational Rehabilitation; duties.

The Special Education Act applies to a child with a disability until the child no longer meets the definition of a child with a disability. The Division of Vocational Rehabilitation of the department shall, in compliance with federal guidelines, assume responsibility for the training of those individuals whose education or training under the Special Education Act is terminated and for whom additional supportive services are required.

Source: Laws 1973, LB 403, § 6; Laws 1976, LB 761, § 8; Laws 1978, LB 889, § 1; R.S.1943, (1984), § 43-646; Laws 1987, LB 367, § 15; Laws 1990, LB 1090, § 40; R.S.1943, (1994), § 79-3315; Laws 1996, LB 900, § 808; Laws 1997, LB 346, § 16; Laws 2019, LB675, § 22.

Effective date May 28, 2019.

79-1127 Special education; school board; duties.

The school board of every school district shall provide or contract for special education programs and transportation for all resident children with disabilities who would benefit from such programs in accordance with the Special Education Act and all applicable requirements of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., as such sections existed on January 1, 2019, and the regulations adopted thereunder.

Source: Laws 1973, LB 403, § 1; Laws 1986, LB 1093, § 2; R.S.Supp.,1986, § 43-641; Laws 1987, LB 367, § 20; R.S.1943, (1994), § 79-3320; Laws 1996, LB 900, § 809; Laws 1997, LB 346, § 17; Laws 2009, LB549, § 40; Laws 2019, LB675, § 23.
Effective date May 28, 2019.

Cross References

Option students, how treated, see section 79-235.

79-1128 Use of funds; failure to offer acceptable program; effect.

Any program receiving funds under the Special Education Act shall not use such funds to match state funds under the provisions of other programs. The members of the school board of any school district not offering continuous special education programs acceptable to the State Board of Education shall be in violation of the law. No state funds shall be paid to any school district as long as such violation exists, but no deduction shall be made from any funds required by the Constitution of Nebraska to be paid to such district.

Source: Laws 1973, LB 403, § 2; Laws 1974, LB 863, § 5; Laws 1976, LB 761, § 5; Laws 1977, LB 443, § 1; R.S.1943, (1984), § 43-642; Laws 1987, LB 367, § 21; R.S.1943, (1994), § 79-3321; Laws 1996, LB 900, § 810; Laws 1997, LB 346, § 18; Laws 1999, LB 813, § 39; Laws 2013, LB23, § 47; Laws 2019, LB675, § 24.
Effective date May 28, 2019.

79-1129 Children with disabilities; types of services to be furnished; transportation; reimbursement; special instruction.

(1) The school board of the resident school district shall provide one of the following types of services to children with disabilities:

(a) Provide for the transportation expenses for children with disabilities who are forced to leave the school district temporarily because of lack of educational services. A parent or guardian transporting such a child shall be paid for each day of attendance at the mileage rate provided in section 81-1176 for each actual mile or fraction thereof traveled between the place of residence and the program of attendance, and when any parent or guardian transports more than one child with a disability in his or her custody or control enrolled in programs at the same location, the amount of payments to such parent or guardian shall be based upon the transportation of one such child. No transportation payments shall be made to a parent or guardian for mileage not actually traveled by such parent or guardian;

(b) Provide for the transportation expenses within the school district of any child with a disability who is enrolled in a special educational program of the district when either (i) the child is required to attend a facility other than what would be the normal school or attendance facility of the child to receive appropriate special educational services or (ii) the nature of the child's disability is such that special transportation is required. A parent or guardian transporting such child shall be paid for each day of attendance at the mileage rate provided in section 81-1176 for each actual mile or fraction thereof traveled between the place of residence and the program of attendance, and when any parent or guardian transports more than one child with a disability in his or her custody or control enrolled in programs at the same location, the amount of payments to such parent or guardian shall be based upon the transportation of one such child. No transportation payments shall be made to a parent or guardian for mileage not actually traveled by such parent or guardian;

(c) Provide visiting teachers for homebound children with disabilities. Such teachers shall be certified and qualified in the same manner as required for other teachers in Nebraska;

(d) Provide correspondence instruction approved by the Commissioner of Education; or

(e) Provide any other method of instruction approved by the Commissioner of Education.

(2) When a child with a disability resides in or attends a preschool or child care program in a school district other than the school district of residence of his or her parents or guardian, the nonresident school district may, upon mutual agreement with the school district of residence, provide for the transportation expenses of the child.

Source: Laws 1941, c. 82, § 4, p. 328; C.S.Supp.,1941, § 79-3004; R.S. 1943, § 43-607; Laws 1949, c. 131, § 4, p. 343; Laws 1967, c. 254, § 1, p. 674; Laws 1967, c. 526, § 2, p. 1747; Laws 1969, c. 345, § 1, p. 1211; Laws 1972, LB 690, § 4; Laws 1974, LB 92, § 1; Laws 1976, LB 761, § 2; Laws 1980, LB 867, § 1; Laws 1981, LB 204, § 65; Laws 1982, LB 942, § 4; R.S.1943, (1984), § 43-607; Laws 1987, LB 367, § 22; Laws 1990, LB 1090, § 41; Laws 1991, LB 700, § 1; Laws 1995, LB 401, § 43; R.S.Supp.,1995, § 79-3322; Laws 1996, LB 900, § 811; Laws 1997, LB 346, § 19; Laws 2019, LB675, § 25.
Effective date May 28, 2019.

Cross References

Option enrollment program, resident school district provide transportation services, see section 79-241.

79-1130 Transportation services; legislative intent; department; duties; cooperative arrangement.

(1) It is the intent of the Legislature that transportation services for children with disabilities prescribed in section 79-1129 shall be provided in the most cost-efficient manner consistent with the goal of providing free appropriate special education to all such children. The Legislature finds that educational service units and special education cooperatives created by school districts and recognized by the department are in a unique position to improve the coordination and efficiency of transportation services in all areas of the state. It is the intent of the Legislature to authorize and encourage school districts, educational service units, and special education cooperatives to jointly plan, coordinate, and, where feasible, provide transportation services for children with disabilities. The department shall review and approve, approve with modifications, or disapprove all transportation applications to ensure the implementation of the most cost-efficient transportation system, consistent with the goal of providing free appropriate special education to all children.

(2) School districts, educational service units, and special education cooperatives created by school districts and recognized by the department are authorized to jointly plan, coordinate, and, where feasible, provide special education transportation services prescribed in section 79-1129. Any educational service unit or special education cooperative may enter into a cooperative arrangement with a school board for the provision of such transportation services. Such arrangement shall be approved by the department, and upon approval of the arrangement the educational service unit or special education cooperative providing the transportation services shall be eligible to receive direct reimbursement for such services pursuant to section 79-1144.

Source: Laws 1986, LB 942, § 4; R.S.Supp.,1986, § 43-607.02; Laws 1987, LB 367, § 23; R.S.1943, (1994), § 79-3323; Laws 1996, LB 900, § 812; Laws 1997, LB 346, § 20; Laws 2019, LB675, § 26.
Effective date May 28, 2019.

79-1132 Special education programs; children less than five years of age; department provide grants.

The department shall provide grants for the costs of the special education programs approved by the department to the school district of residence for children with disabilities who are less than five years of age.

Source: Laws 1978, LB 889, § 3; Laws 1980, LB 765, § 1; Laws 1986, LB 942, § 8; R.S.Supp.,1986, § 43-646.02; Laws 1987, LB 367, § 25; Laws 1995, LB 742, § 5; R.S.Supp.,1995, § 79-3325; Laws 1996, LB 900, § 814; Laws 1997, LB 346, § 22; Laws 1998, Spec. Sess., LB 1, § 47; Laws 2001, LB 797, § 44; Laws 2019, LB675, § 27. Effective date May 28, 2019.

79-1135 Children with disabilities who are less than five years of age; regional plan of services; school district; participation; supplementary amendments.

Each school district shall demonstrate participation in a plan of services for children with disabilities who are less than five years of age. Such plans shall be prepared on a regional basis as determined by the department and updated annually.

The content of plans shall be prescribed by the department.

Supplementary amendments to any program plans may be submitted on dates specified by the department during the same school year and shall be subject to the same review as the initial plans.

Source: Laws 1978, LB 889, § 9; Laws 1986, LB 942, § 9; R.S.Supp.,1986, § 43-646.08; Laws 1987, LB 367, § 28; R.S. 1943, (1994), § 79-3328; Laws 1996, LB 900, § 817; Laws 1997, LB 346, § 25; Laws 1999, LB 813, § 40; Laws 2003, LB 67, § 24; Laws 2019, LB675, § 28. Effective date May 28, 2019.

79-1136 Sections, how construed.

Sections 79-1131 to 79-1136 do not prevent funding from sources other than the public schools for the program for children with disabilities who are less than five years of age.

Source: Laws 1978, LB 889, § 10; R.S.1943, (1984), § 43-646.09; Laws 1987, LB 367, § 29; R.S.1943, (1994), § 79-3329; Laws 1996, LB 900, § 818; Laws 1997, LB 346, § 26; Laws 2019, LB675, § 29. Effective date May 28, 2019.

79-1138 Disabilities; assessment, identification, and verification of need for services; Commissioner of Education; duties.

(1) The State Board of Education shall adopt and promulgate rules and regulations establishing criteria for the assessment, identification, and verification of all disabilities defined in section 79-1118.01 to the extent that such disabilities are consistent with federal law and regulation.

(2) The Commissioner of Education shall develop guidelines to assist school districts, educational service units, and approved cooperatives with the assess-

ment, identification, and verification of the need for related services defined in section 79-1121.

Source: Laws 1986, LB 942, § 2; R.S.Supp.,1986, § 43-605.01; Laws 1987, LB 367, § 17; R.S.1943, (1994), § 79-3317; Laws 1996, LB 900, § 820; Laws 1997, LB 346, § 28; Laws 1997, LB 865, § 7; Laws 1999, LB 813, § 41; Laws 2019, LB675, § 30.
Effective date May 28, 2019.

79-1139 Special education programs and services; children eligible.

Each school district shall include only students identified and verified pursuant to sections 79-1137 and 79-1138 in special education programs and shall not provide special education services pursuant to the Special Education Act to any child who has not been so identified and verified.

Source: Laws 1986, LB 942, § 3; R.S.Supp.,1986, § 43-605.02; Laws 1987, LB 367, § 18; R.S.1943, (1994), § 79-3318; Laws 1996, LB 900, § 821; Laws 2019, LB675, § 31.
Effective date May 28, 2019.

79-1142 Department; reimbursement for special education programs and support services; to whom; manner; limitations.

(1) Level I services refers to services provided to children with disabilities who require an aggregate of not more than three hours per week of special education services and support services and includes all administrative, diagnostic, consultative, and vocational-adjustment counselor services.

(2) The total allowable reimbursable cost for support services shall not exceed a percentage, established by the State Board of Education, of the school district's or approved cooperative's total allowable reimbursable cost for all special education programs and support services. The percentage established by the board for support services shall not exceed the difference of ten percent minus the percentage of the appropriations for special education approved by the Legislature set aside for reimbursements for support services pursuant to subsection (5) of this section.

(3) For special education and support services provided in each school fiscal year, the department shall reimburse each school district in the following school fiscal year a pro rata amount determined by the department. The reimbursement percentage shall be the ratio of the difference of the appropriations for special education approved by the Legislature minus the amounts set aside pursuant to subsection (5) of this section divided by the total allowable excess costs for all special education programs and support services.

(4) Cooperatives of school districts or educational service units shall also be eligible for reimbursement for cooperative programs pursuant to this section if such cooperatives or educational service units have complied with the reporting and approval requirements of section 79-1155 for cooperative programs which were offered the preceding year. The payments shall be made by the department to the school district of residence, cooperative of school districts, or educational service unit each year in a minimum of seven payments between the fifth and twentieth day of each month beginning in December. Additional payments may be made based upon additional valid claims submitted. The State Treasurer shall, between the fifth and twentieth day of each month, notify the Director of Administrative Services of the amount of funds available in the

General Fund for payment purposes. The director shall, upon receiving such certification, draw warrants against funds appropriated.

(5) Residential settings described in subdivision (10)(c) of section 79-215 shall be reimbursed for the educational services, including special education services and support services in an amount determined pursuant to the average per pupil cost of the service agency. Reimbursements pursuant to this section shall be made from funds set aside for such purpose within sixty days after receipt of a reimbursement request submitted in the manner required by the department and including any documentation required by the department for educational services that have been provided, except that if there are not any funds available for the remainder of the state fiscal year for such reimbursements, the reimbursement shall occur within thirty days after the beginning of the immediately following state fiscal year. The department may audit any required documentation and subtract any payments made in error from future reimbursements. The department shall set aside separate amounts from the appropriations for special education approved by the Legislature for reimbursements pursuant to this subsection for students receiving special education services and for students receiving support services for each state fiscal year. The amounts set aside for each purpose shall be based on estimates of the reimbursements to be requested during the state fiscal year and shall not be less than the total amount of reimbursements requested in the prior state fiscal year plus any unpaid requests from the prior state fiscal year.

Source: Laws 1973, LB 403, § 8; Laws 1975, LB 555, § 4; Laws 1975, Spec. Sess., LB 3, § 1; Laws 1976, LB 903, § 1; Laws 1986, LB 929, § 1; Laws 1986, LB 942, § 10; Laws 1986, Fourth Spec. Sess., LB 2, § 2; R.S.Supp., 1986, § 43-648; Laws 1987, LB 367, § 32; Laws 1987, LB 413, § 1; Laws 1995, LB 742, § 6; R.S.Supp., 1995, § 79-3332; Laws 1996, LB 900, § 824; Laws 1997, LB 346, § 30; Laws 1997, LB 865, § 8; Laws 1998, Spec. Sess., LB 1, § 48; Laws 1999, LB 813, § 43; Laws 2000, LB 1243, § 7; Laws 2001, LB 797, § 45; Laws 2010, LB1087, § 7; Laws 2019, LB675, § 32.

Effective date May 28, 2019.

Cross References

Option enrollment program, determination of reimbursement, see section 79-246.

79-1144 Children with disabilities; education; funds; department; expenditures authorized.

(1) Funds shall be appropriated by the Legislature to carry out sections 79-1142 to 79-1144 and 79-1147 and included in the budget of the department. The department is authorized to expend such funds upon proper vouchers approved by the department and warrants issued by the Director of Administrative Services for financial reimbursement to school districts, educational service units, special education cooperatives created by school districts, agencies, and parents or guardians, including (a) reimbursement pursuant to section 79-1129 for actual transportation expenses per year for children with disabilities a pro rata amount which shall be determined by the department from appropriations for special education approved by the Legislature based on all actual allowable transportation costs, (b) reimbursement for instructional aids and consultative, supervisory, research, and testing services to school districts,

and (c) reimbursement for salaries, wages, maintenance, supplies, travel, and other expenses essential to carrying out the provisions for special education programs. Minor building modifications shall not be eligible for state reimbursement as an allowable expense. Applications for state reimbursement for actual transportation expenses shall be submitted to the department annually on a date and on forms prescribed by the department. Amendments to applications for actual transportation expenses shall be submitted on dates prescribed by the department.

(2) Any adjustment of payments pursuant to section 79-1065 caused by the failure of a school district to meet federal spending requirements under the federal Individuals with Disabilities Education Act as such act existed on January 1, 2019, may be used by the department to reimburse the United States Department of Education in the amount of the federal funds awarded to such school district or the amount of such adjustment, whichever is less.

Source: Laws 1949, c. 131, § 8, p. 345; Laws 1963, c. 256, § 1, p. 777; Laws 1967, c. 526, § 4, p. 1749; Laws 1971, LB 178, § 1; Laws 1971, LB 977, § 2; Laws 1972, LB 690, § 5; Laws 1973, LB 102, § 2; Laws 1974, LB 92, § 2; Laws 1986, LB 1093, § 1; Laws 1986, LB 942, § 6; Laws 1986, LB 1177, § 20; R.S.Supp.,1986, § 43-611; Laws 1987, LB 367, § 33; Laws 1992, Third Spec. Sess., LB 15, § 1; Laws 1993, LB 597, § 1; Laws 1994, LB 858, § 12; Laws 1995, LB 742, § 7; R.S.Supp.,1995, § 79-3333; Laws 1996, LB 900, § 826; Laws 1997, LB 346, § 32; Laws 1999, LB 813, § 44; Laws 2017, LB512, § 20; Laws 2019, LB675, § 33. Effective date May 28, 2019.

79-1145 Appropriation of General Funds; limitation.

For each fiscal year, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections for the previous fiscal year, increased by ten percent.

Source: Laws 1995, LB 742, § 8; R.S.Supp.,1995, § 79-3333.01; Laws 1996, LB 900, § 827; Laws 1999, LB 813, § 45; Laws 2000, LB 1243, § 8; Laws 2014, LB276, § 7; Laws 2014, LB974, § 3; Laws 2019, LB675, § 34. Effective date May 28, 2019.

79-1147 Temporary residential care; payment by state; when.

Whenever a child with a disability must temporarily reside in a residential facility, boarding home, or foster home in order to receive an appropriate special education program, the State of Nebraska shall provide for the ordinary and reasonable cost of the residential care during the duration of the special education program. The state shall not be required to pay such cost unless placement of the child in a special education program requiring residential care was made by the school district of residence with the prior approval of the department or was made pursuant to sections 79-1162 to 79-1167.

Source: Laws 1987, LB 367, § 34; R.S.1943, (1994), § 79-3335; Laws 1996, LB 900, § 829; Laws 1997, LB 346, § 33; Laws 2019, LB675, § 35. Effective date May 28, 2019.

79-1148 Children with disabilities; regional networks, schools, or centers; authorized.

The department is authorized to set up one or more statewide regional networks, approved schools, or centers for children with disabilities. Any such regional network, school, or center may offer residential facilities or services for such children, and such services shall be under the control and supervision of the department.

Source: Laws 1957, c. 388, § 1, p. 1347; R.R.S.1943, § 83-246; Laws 1961, c. 209, § 1, p. 624; Laws 1972, LB 690, § 9; Laws 1978, LB 871, § 28; R.S.1943, (1984), § 43-617; Laws 1987, LB 367, § 37; R.S.1943, (1994), § 79-3337; Laws 1996, LB 900, § 830; Laws 1997, LB 346, § 34; Laws 1999, LB 813, § 46; Laws 2009, LB549, § 41; Laws 2019, LB675, § 36.
Effective date May 28, 2019.

79-1149 Regional network, school, or center; admission; rules and regulations.

The admission to any regional network, school, or center, as provided by section 79-1148, shall be by rules and regulations adopted and promulgated by the State Board of Education.

Source: Laws 1957, c. 388, § 2, p. 1347; R.R.S.1943, § 83-247; Laws 1961, c. 209, § 2, p. 624; R.S.1943, (1984), § 43-618; Laws 1987, LB 367, § 38; R.S.1943, (1994), § 79-3338; Laws 1996, LB 900, § 831; Laws 2009, LB549, § 42; Laws 2019, LB675, § 37.
Effective date May 28, 2019.

79-1152 Repealed. Laws 2019, LB675, § 57.

79-1153 Repealed. Laws 2019, LB675, § 57.

79-1154 Department; review special training and educational programs.

The department shall review special training and educational programs offered by or in conjunction with any public school district, combination of public school districts, educational service unit, or combination of educational service units subject to the following:

- (1) Each teacher in any such special program shall be qualified;
- (2) Teacher aides working with any such program shall have such qualifications as the governing body of the school district, educational service unit, or combination shall prescribe and shall participate in appropriate inservice activities; and
- (3) Each qualified teacher shall be responsible for the direct supervision of teacher aides, whose duties shall be limited to those prescribed in section 79-802.

For purposes of this section, qualified teacher means an individual holding a valid State of Nebraska teaching or special services certificate with an endorsement appropriate to the disabilities served. If such teacher is serving children with more than one disability, qualified teacher means an individual holding a

valid State of Nebraska teaching or special services certificate with an endorsement in at least one of the disabilities served.

Source: Laws 1967, c. 246, § 1, p. 650; Laws 1972, LB 690, § 12; Laws 1973, LB 403, § 15; Laws 1974, LB 863, § 4; Laws 1976, LB 761, § 4; R.S.1943, (1984), § 43-625; Laws 1987, LB 367, § 40; R.S. 1943, (1994), § 79-3340; Laws 1996, LB 900, § 836; Laws 1997, LB 346, § 37; Laws 2019, LB675, § 38.
Effective date May 28, 2019.

Cross References

Special education course work, requirements for entry-level certificate, see section 79-809.

79-1155 Special education programs; reports; special education program application; review and approval.

All school districts shall, on a date prescribed by the department, file with the department application information for special education programs and support services. Cooperatives of school districts or educational service units applying for grants or reimbursement for programs pursuant to section 79-1132, 79-1142, or 79-1144 shall also file application information pursuant to this section. The application forms shall conform to reporting requirements provided in section 79-1156. The department shall review and take action to approve, approve with modifications, or disapprove the application for special education programs of the school district, cooperative of school districts, or educational service unit. Supplementary amendments to any program application previously approved by the department may be submitted on dates specified by the department during the same school year and shall be subject to the same review and approval as the initial application. The department shall approve, approve with modifications, or disapprove all supplementary amendments to the program application. All final financial reports on special education and support services costs shall be reported to the department by October 31 of each year for the preceding school year on forms prescribed by the department. Any program that provides residential care shall show the costs of such care separately from the costs of the education program.

Source: Laws 1973, LB 403, § 3; Laws 1976, LB 761, § 6; Laws 1986, LB 942, § 7; R.S.Supp.,1986, § 43-643; Laws 1987, LB 367, § 43; R.S.1943, (1994), § 79-3343; Laws 1996, LB 900, § 837; Laws 1997, LB 346, § 38; Laws 1997, LB 710, § 25; Laws 1997, LB 865, § 9; Laws 1999, LB 813, § 47; Laws 2001, LB 797, § 46; Laws 2003, LB 67, § 25; Laws 2019, LB675, § 39.
Effective date May 28, 2019.

79-1156 Special education and support services programs; coordination; application required.

The department shall coordinate information reporting requirements for special education and support services programs with other educational data reporting requirements of the department to the extent possible. The application for programs shall contain the information required by the department.

Source: Laws 1973, LB 403, § 9; Laws 1985, LB 518, § 4; Laws 1986, LB 942, § 11; R.S.Supp.,1986, § 43-649; Laws 1987, LB 367, § 44; R.S.1943, (1994), § 79-3344; Laws 1996, LB 900, § 838; Laws

1997, LB 346, § 39; Laws 1997, LB 865, § 10; Laws 1999, LB 813, § 48; Laws 2003, LB 67, § 26; Laws 2019, LB675, § 40.
Effective date May 28, 2019.

79-1157 Special education programs; review; evaluation.

All special education programs shall be reviewed by the department.

To determine the effectiveness of the programs and services being provided, the department shall conduct a program of continuing evaluations of the different types of programs and services being provided for each of the service groups. In conducting these evaluations, the department shall take into account such factors as numbers and types of children with disabilities, class sizes, qualifications of staff, and other factors which the department deems appropriate. The department shall conduct evaluations of all programs and services and shall conduct these evaluations in such a manner as to enable the department to compare the relative effectiveness of the same or similar programs or services provided in different locations.

Evaluation studies shall be designed to provide the Legislature, the department, the school districts, and other service agencies with the following information:

- (1) A detailed description of groups served;
- (2) A detailed description of the kind of programs or services provided and their cost per unit of service as well as the cost of each service; and
- (3) A detailed description of the effectiveness of the programs or services.

Source: Laws 1973, LB 403, § 12; R.S.1943, (1984), § 43-650; Laws 1987, LB 367, § 45; Laws 1990, LB 1090, § 42; R.S.1943, (1994), § 79-3345; Laws 1996, LB 900, § 839; Laws 1997, LB 346, § 40; Laws 1999, LB 813, § 49; Laws 2019, LB675, § 41.
Effective date May 28, 2019.

79-1158 Special education and support services programs; reimbursement; when.

No reimbursement for special education and support services programs shall be allowed unless the program meets the standards established by the department.

Source: Laws 1973, LB 403, § 13; Laws 1976, LB 761, § 9; R.S.1943, (1984), § 43-651; Laws 1987, LB 367, § 46; R.S.1943, (1994), § 79-3346; Laws 1996, LB 900, § 840; Laws 1997, LB 865, § 11; Laws 2019, LB675, § 42.
Effective date May 28, 2019.

79-1159 Department; school district; technical assistance; advisory capacity.

The department, upon the request of any school district, shall provide technical assistance in the promulgation of any plan, program, or report required by the Special Education Act. Such assistance shall be given only in an advisory capacity and shall not be designed or construed to transfer, either in

whole or in part, the responsibility for or actual development or implementation of such plan, program, or report.

Source: Laws 1973, LB 403, § 22; R.S.1943, (1984), § 43-653; Laws 1987, LB 367, § 47; R.S.1943, (1994), § 79-3347; Laws 1996, LB 900, § 841; Laws 2019, LB675, § 43.
Effective date May 28, 2019.

79-1159.01 Department; assistive technology devices registry.

The department shall establish a registry for assistive technology devices to encourage and facilitate cooperation and shared usage of assistive technology devices. Participation by school districts, educational service units, and approved cooperatives shall be voluntary.

Source: Laws 1997, LB 865, § 13; Laws 2019, LB675, § 44.
Effective date May 28, 2019.

79-1160 State Board of Education; rules and regulations.

The State Board of Education may adopt, promulgate, and publish rules and regulations necessary to carry out the Special Education Act.

Source: Laws 1973, LB 403, § 29; R.S.1943, (1984), § 43-660; Laws 1987, LB 367, § 48; R.S.1943, (1994), § 79-3348; Laws 1996, LB 900, § 842; Laws 1996, LB 1044, § 825; Laws 1997, LB 346, § 41; Laws 2019, LB675, § 45.
Effective date May 28, 2019.

79-1161 Child with a disability; school district; protect rights of child; assignment of surrogate parent.

(1) School districts shall establish and maintain procedures to protect the rights of a child with a disability whenever (a) no parents of the child can be identified, (b) the school district cannot, after reasonable efforts, locate a parent of the child, (c) the child is a ward of the state, or (d) the child is an unaccompanied or homeless youth as defined in 42 U.S.C. 11434a, as such section existed on January 1, 2019. Such procedures shall include the assignment of an individual to act as a surrogate for the parents. The school district shall make reasonable efforts to ensure the assignment of a surrogate not more than thirty days after there is a determination by the district that the child needs a surrogate. In the case of a child who is a ward of the state, such surrogate may alternatively be appointed by the judge overseeing the child's care if the surrogate meets the requirements of subdivision (2)(c) of this section.

(2) The surrogate parent shall (a) have no interest which conflicts with the interest of the child, (b) have knowledge and skills that insure adequate representation, and (c) not be an employee of any agency involved in the care or education of the child. A person otherwise qualified to be a surrogate parent under this subsection is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent. The surrogate parent appointed under this section may represent the child in all matters relating to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child.

(3) The services of the surrogate parent shall be terminated when (a) the child is no longer eligible under subsection (1) of this section, (b) a conflict of interest

develops between the interest of the child and the interest of the surrogate parent, or (c) the surrogate parent fails to fulfill his or her duties as a surrogate parent. Issues arising from the selection, appointment, or removal of a surrogate parent by a school district shall be resolved through hearings established under sections 79-1162 to 79-1167. The surrogate parent and the school district which appointed the surrogate parent shall not be liable in civil actions for damages for acts of the surrogate parent unless such acts constitute willful and wanton misconduct.

Source: Laws 1988, LB 165, § 1; R.S.1943, (1994), § 79-4,147; Laws 1996, LB 900, § 843; Laws 1997, LB 346, § 42; Laws 2009, LB549, § 44; Laws 2019, LB675, § 46.
Effective date May 28, 2019.

79-1162 Identification, evaluation, or educational placement; hearing; copy of procedures provided; reimbursement.

A parent, guardian, competent student of the age of majority, or school district may initiate a hearing on matters related to the initiation, change, or termination or the refusal to initiate, change, or terminate the identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education or records relating thereto. A copy of the procedures specified in rules and regulations of the department for complaints and hearings under this section shall be provided by school districts to all parents and guardians of children with disabilities upon initial consideration of the provision of services for their children with disabilities. Such hearing shall be initiated by filing a petition with the department.

Source: Laws 1978, LB 871, § 4; Laws 1985, LB 518, § 5; R.S.Supp.,1986, § 43-661; Laws 1987, LB 367, § 49; R.S.1943, (1994), § 79-3349; Laws 1996, LB 900, § 844; Laws 1997, LB 346, § 43; Laws 2001, LB 797, § 47; Laws 2019, LB675, § 47.
Effective date May 28, 2019.

79-1163 Department; conduct hearings; hearing officers; employed; qualifications; jurisdiction.

The department shall conduct hearings initiated under section 79-1162 using hearing officers and may employ, retain, or approve such qualified hearing officers as are necessary to conduct hearings provided by sections 79-1162 to 79-1167. The hearing officers shall not be persons who are employees or officers of a state or local public agency which is involved in the education or care of the child with a disability on whose behalf the hearing is being held. A person who otherwise qualifies to conduct a hearing under such sections is not an employee of the agency solely because the person is paid by the agency to serve as a hearing officer. No hearing officer shall participate in any way in any hearing or matter in which the hearing officer may have a conflict of interest. Hearing officers appointed and assigned by the department shall have exclusive original jurisdiction over cases arising under such sections, and juvenile courts shall not in any event have jurisdiction over such matters.

Source: Laws 1978, LB 871, § 5; Laws 1980, LB 855, § 1; Laws 1985, LB 518, § 6; R.S.Supp.,1986, § 43-662; Laws 1987, LB 367, § 50;

R.S.1943, (1994), § 79-3350; Laws 1996, LB 900, § 845; Laws 1997, LB 346, § 44; Laws 2019, LB675, § 48.
Effective date May 28, 2019.

79-1164 Hearing; hearing officer; duties.

Upon the receipt of a petition filed under section 79-1162, the department shall assign it to a hearing officer. The hearing officer shall receive all subsequent pleadings and shall conduct the hearing. At the hearing the parties shall present evidence on the issues raised in the pleadings. At the completion of the proceedings, the hearing officer shall prepare a report based on the evidence presented containing findings of fact and conclusions of law. Within forty-five days after the receipt of a request for a hearing, the hearing officer shall prepare a final decision and order directing such action as may be necessary. At the request of either party for good cause shown, the hearing officer may grant specific extensions of time beyond this period. The report and the final decision and order shall be delivered via certified mail to each party or attorney of record and to the Commissioner of Education.

Source: Laws 1980, LB 855, § 2; Laws 1985, LB 518, § 7; R.S.Supp.,1986, § 43-662.01; Laws 1987, LB 367, § 51; R.S. 1943, (1994), § 79-3351; Laws 1996, LB 900, § 846; Laws 2019, LB675, § 49.
Effective date May 28, 2019.

79-1167 Hearing officer; findings, decision, or order; judicial review.

(1) Any party to a hearing conducted under sections 79-1162 to 79-1166 aggrieved by the findings, conclusions, or final decision and order of the hearing officer is entitled to judicial review under this section. Any party of record also may seek enforcement of the final decision and order of the hearing officer pursuant to this section.

(2) Proceedings for judicial review shall be instituted by filing a petition in the district court of the county in which the main administrative offices of the school district are located within two years after service of the final decision and order on the party seeking such review. All parties of record shall be made parties to the proceedings. The court, in its discretion, may permit other interested parties to intervene.

(3) The filing of a petition for judicial review shall operate to stay the enforcement of the final decision and order of the hearing officer. While judicial proceedings are pending and unless the school district and the parent or guardian otherwise agree, the child with a disability shall remain in his or her current educational placement or if applying for initial admission to a public school such child shall, with the consent of the parent or guardian, be placed in the public school program until all such proceedings have been completed. If the decision of the hearing officer agrees with the parent or guardian of the child that a change in placement is appropriate, then that placement shall be treated as an agreement between the parties for purposes of this subsection.

(4) Within fifteen days after receiving notification that a petition for judicial review has been filed or if good cause is shown within such further time as the court may allow, the department shall prepare and transmit to the court a certified transcript of the proceedings before the hearing officer.

(5) Judicial review shall be conducted by the court without a jury. The court shall receive the records of the administrative proceedings, hear additional evidence at the request of a party, base its decision on the preponderance of the evidence, and grant such relief as the court determines is appropriate.

(6) An aggrieved party may secure a review of any final judgment of the district court under this section by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals in civil cases and shall be heard de novo on the record.

(7) Proceedings for enforcement of a hearing officer's final decision and order shall be instituted by filing a petition for appropriate relief in the district court of the county in which the main administrative offices of the school district are located within one year after the date of the hearing officer's final decision and order.

Source: Laws 1978, LB 871, § 9; Laws 1980, LB 855, § 3; Laws 1983, LB 511, § 1; R.S.1943, (1984), § 43-666; Laws 1987, LB 367, § 54; Laws 1991, LB 732, § 147; Laws 1993, LB 348, § 63; R.S.1943, (1994), § 79-3354; Laws 1996, LB 900, § 849; Laws 1997, LB 346, § 46; Laws 1999, LB 813, § 50; Laws 2003, LB 67, § 27; Laws 2019, LB675, § 50.
Effective date May 28, 2019.

SUBPART (ii)—DEPARTMENT DUTIES

79-1188 Repealed. Laws 2019, LB675, § 57.

ARTICLE 13

EDUCATIONAL TECHNOLOGY AND TELECOMMUNICATIONS

(a) EDUCATIONAL TECHNOLOGY

Section

79-1302. Educational technology; legislative findings.

79-1304. Educational Technology Center; duties.

(a) EDUCATIONAL TECHNOLOGY

79-1302 Educational technology; legislative findings.

The Legislature finds that the utilization of appropriate technologies can provide enhanced educational services and broadened educational opportunities for Nebraska learners. It is the intent of the Legislature: (1) To utilize technology to provide effective and efficient digital learning; (2) to provide assistance and direction in the training of Nebraska teachers in uses of technology for instruction through electronic means; (3) to establish and support an electronic data network and data bases for Nebraska educators and learners; (4) to support the evaluation and dissemination of models of successful technologies which improve instruction or learning; (5) to provide support for cooperative education-technology ventures in partnership with public or private entities; and (6) to provide support for cooperative purchase or leasing of administrative or instructional software or software licenses in partnership with schools, educational service units, and other states.

Source: Laws 1988, LB 1117, § 1; R.S.1943, (1994), § 79-4,140.09; Laws 1996, LB 900, § 958; Laws 2006, LB 1208, § 14; Laws 2019, LB675, § 51.
Effective date May 28, 2019.

79-1304 Educational Technology Center; duties.

The Educational Technology Center has, but is not limited to, the following specific duties:

(1) To evaluate Internet-based digital education courses and open education resources;

(2) To provide clearinghouse services for information concerning current technology projects as well as software and hardware development;

(3) To serve as a demonstration site for state-of-the-art hardware appropriate to an educational setting;

(4) To provide technical assistance to educators in working with software and Internet-based resources;

(5) To provide inservice and preservice training for educators, in conjunction with other educational entities as defined in section 79-1201.01, in the use of digital devices, communication systems, and other electronic technologies appropriate to an educational setting;

(6) To sponsor activities which promote the use of technology in the classroom;

(7) To serve as a liaison between business and education interests in technology communication;

(8) To support research and recommendations for digital applications and technology in education;

(9) To assist schools in planning for and selecting appropriate technologies;

(10) To design, implement, and evaluate pilot projects to assess the usefulness of technologies in school management, curriculum, instruction, and learning;

(11) To seek partnerships with the Nebraska Educational Telecommunications Commission, the University of Nebraska, the state colleges, community colleges, educational service units, the Nebraska Library Commission, the office of the Chief Information Officer, Network Nebraska, and other public and private entities in order to make effective use of limited resources;

(12) To encourage sharing among school districts to deliver cost-efficient and effective digital learning; and

(13) To identify, evaluate, and disseminate information on school projects which have the potential to enhance the quality of instruction or learning.

Source: Laws 1988, LB 1117, § 3; R.S.1943, (1994), § 79-4,140.11; Laws 1996, LB 900, § 960; Laws 2006, LB 1208, § 16; Laws 2007, LB603, § 28; Laws 2019, LB675, § 52.

Effective date May 28, 2019.

ARTICLE 19**NEBRASKA READ, EDUCATE, AND DEVELOP YOUTH ACT**

Section

79-1902. State Department of Education; cooperation with Department of Health and Human Services; develop educational packet; contents.

79-1902 State Department of Education; cooperation with Department of Health and Human Services; develop educational packet; contents.

(1) The State Department of Education, in cooperation with the Department of Health and Human Services, shall develop a packet entitled "Learning

Begins at Birth” to be given to the parents of each child born in this state on and after January 1, 2003.

(2) The packet shall contain information about child development, child care, how children learn, children’s health including, on and after July 14, 2006, information on decreasing the risk of sudden unexplained infant death syndrome and abusive head trauma in infants and children, services available to children and parents, and any other information deemed relevant by the Department of Health and Human Services or the State Department of Education. The State Department of Education shall indicate which information in the packet is appropriate for the parents of infants, for the parents of toddlers, and for the parents of preschoolers.

(3) The State Department of Education shall develop a variety of types of the packet, based on the needs of parents. The information in the packets may be in the form of printed material or in the form of video tapes, audio cassettes, or other appropriate media.

Source: Laws 2002, LB 326, § 2; Laws 2006, LB 994, § 109; Laws 2007, LB296, § 714; Laws 2019, LB60, § 5.
Effective date September 1, 2019.

ARTICLE 22

INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

Section

79-2202. Terms, defined.

79-2206. Repealed. Laws 2019, LB675, § 57.

79-2202 Terms, defined.

For purposes of the Interstate Compact on Educational Opportunity for Military Children and sections 79-2202 to 79-2205:

(1) Council means the State Council on Educational Opportunity for Military Children;

(2) Department means the State Department of Education;

(3) Local education agency means a school district as defined in section 79-101; and

(4) State superintendent of education means the Commissioner of Education.

Source: Laws 2011, LB575, § 2; Laws 2019, LB675, § 53.
Effective date May 28, 2019.

79-2206 Repealed. Laws 2019, LB675, § 57.

ARTICLE 27

SCHOOL RESOURCE OFFICERS AND SECURITY GUARDS

Section

79-2701. Legislative findings and declarations.

79-2702. Terms, defined.

79-2703. Model memorandum of understanding; department; develop and distribute; school district; superintendent; duties.

79-2704. Memorandum of understanding; contents.

79-2701 Legislative findings and declarations.

The Legislature finds and declares that:

(1) Our public school children, faculty, and staff are entitled to be safe in schools when they attend school and study or work;

(2) Schools have an interest in keeping students safe;

(3) The interest of schools in keeping students safe may include the presence of school resource officers or security guards if a school district determines such resources are necessary to keep schools safe;

(4) Parents and guardians of students have a vested interest in being informed of school discipline matters involving their children and to be notified as soon as possible if their children are contacted in response to a possible law violation, questioned, searched, cited, or arrested by a peace officer working with school officials;

(5) A comprehensive and clear memorandum of understanding between law enforcement and school officials will delineate the roles and responsibilities of school resource officers, security guards, and school officials to balance the interests of safety for students and school staff in relation to parental rights, student success, and family integrity, with the goal that an increased law enforcement presence at schools will not result in a disparate impact on students in federally identified demographic categories; and

(6) Schools have a duty to respond to and manage disciplinary issues. The primary role of school resource officers and security officers should be to enhance safety with the understanding that school resource officers also work to prevent and respond to law violations and serve as a community resource for students, parents, and school staff.

Source: Laws 2019, LB390, § 1.

Effective date September 1, 2019.

79-2702 Terms, defined.

For purposes of sections 79-2701 to 79-2704, unless the context otherwise requires:

(1) Department means the State Department of Education;

(2) Law enforcement agency means an agency or department of this state or of any political subdivision of this state that is responsible for the prevention and detection of crime, the enforcement of the penal, traffic, or highway laws of this state or any political subdivision of this state, and the enforcement of arrest warrants. Law enforcement agency includes a police department, an office of a town marshal, an office of a county sheriff, the Nebraska State Patrol, and any department to which a deputy state sheriff is assigned as provided in section 84-106;

(3) Peace officer has the same meaning as in section 28-109;

(4) School resource officer means any peace officer who is assigned, as his or her primary duty, to any school district to provide law enforcement and security services to any public elementary or secondary school and does not mean a peace officer responding to a call for service, providing proactive enforcement, providing law enforcement or traffic direction for a school-related

event, or providing temporary services as a school resource officer when the assigned school resource officer is not available;

(5) Security agency means a contractor that employs security guards used by a school district; and

(6) Security guard means a person who is contracted or employed by a security agency to protect buildings and people and who does not have law enforcement authority or the power to arrest under any apparent authority in the jurisdiction where such person is contracted or employed as a security guard. A security guard may be an off-duty peace officer.

Source: Laws 2019, LB390, § 2.

Effective date September 1, 2019.

79-2703 Model memorandum of understanding; department; develop and distribute; school district; superintendent; duties.

(1) On or before December 1, 2019, the department shall develop and distribute a model memorandum of understanding that includes the policies required by section 79-2704. Any law enforcement agency or security agency required to adopt a memorandum of understanding with a school district pursuant to this section that has not developed and adopted a different written memorandum of understanding shall adopt the model memorandum of understanding developed by the department.

(2) On and after January 1, 2021, any law enforcement agency which provides school resource officers and any security agency which provides security guards to schools in a school district shall have in effect the model memorandum of understanding or a different written memorandum of understanding with such school district as adopted by such law enforcement agency or security agency. Such different written memorandum of understanding shall be substantially similar to the model memorandum of understanding, shall include provisions in conformance with the minimum standards set forth in the model memorandum of understanding, and may include any other procedures and provisions the school district and the law enforcement agency or security agency mutually deem appropriate.

(3) The superintendent of a school district required to adopt a memorandum of understanding under this section shall, within three months after its adoption, provide a copy of such memorandum of understanding to the department or publicly post such memorandum of understanding on the school district web site.

(4) On or before January 1, 2021, and each January 1 thereafter, when any school district required to adopt a memorandum of understanding under this section has made any change to its memorandum of understanding, in conjunction with the law enforcement agency or security agency, in the preceding year, the superintendent of such school district shall provide an updated copy of such memorandum of understanding to the department or publicly post such memorandum of understanding on the school district web site.

Source: Laws 2019, LB390, § 3.

Effective date September 1, 2019.

79-2704 Memorandum of understanding; contents.

Each memorandum of understanding required by section 79-2703 shall govern the use of school resource officers or security guards and shall include, but not be limited to, policies that:

(1) Require each school resource officer or security guard to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;

(2) Require a minimum of one administrator in each elementary or secondary school where a school resource officer or security guard is assigned to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers and security guards, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;

(3) Ensure records are kept on each student referral for prosecution from a school resource officer in response to an incident occurring at school, on school grounds, or at a school-sponsored event and ensure that such records allow for analysis of related data and delineate:

(a) The reason for such referral; and

(b) Federally identified demographic characteristics of such student;

(4) Identify school policies that address when a parent or guardian will be notified or present, in a language that such parent or guardian understands, if a student is subjected to questioning or interrogation by a school official or by a school resource officer or security guard operating in conjunction with a school official;

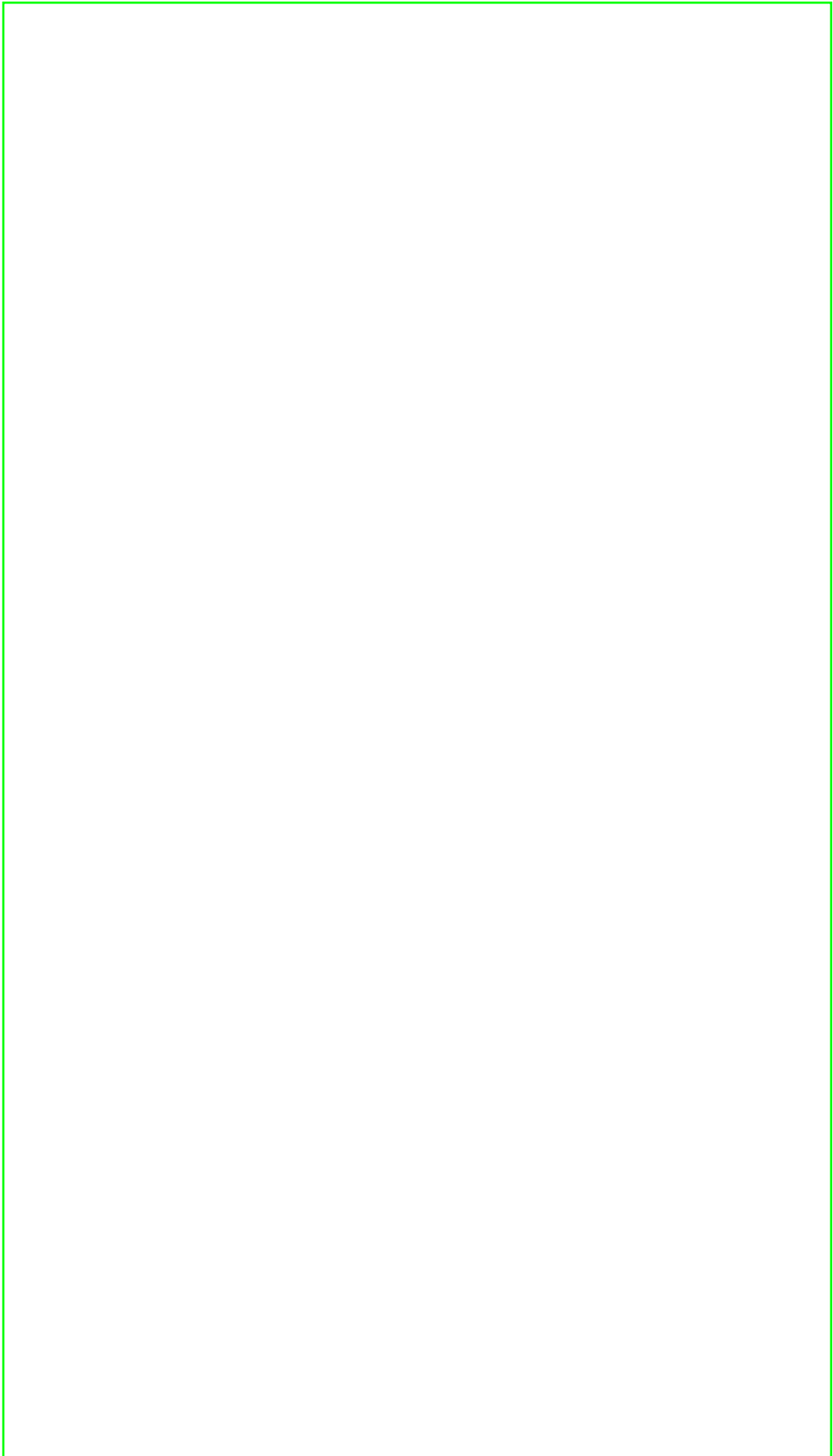
(5) Identify the school or law enforcement agency policies that address under what circumstances a student will be advised of constitutional rights prior to being questioned or interrogated by a school official or by a school resource officer or security guard operating in conjunction with a school official;

(6) Identify the school policy required by section 79-262 that addresses the type or category of student conduct or actions that will be referred to law enforcement for prosecution and the type of student conduct or actions that will be resolved as a disciplinary matter by a school official and not subject to referral to law enforcement; and

(7) Identify a student and parent complaint process to express a concern or file a complaint about a school resource officer or security guard and the practices of such school resource officer or security guard with the law enforcement agency or security agency.

Source: Laws 2019, LB390, § 4.

Effective date September 1, 2019.



CHAPTER 80

SERVICEMEMBERS AND VETERANS

Article.

4. Veterans Aid. 80-414, 80-415.

ARTICLE 4

VETERANS AID

Section

- 80-414. Department of Veterans' Affairs; create and maintain registry; contents; veteran designation on operator's license or state identification card; eligibility.
- 80-415. Veterans Employment Program Fund; created; use; investment.

80-414 Department of Veterans' Affairs; create and maintain registry; contents; veteran designation on operator's license or state identification card; eligibility.

(1) The Department of Veterans' Affairs shall create and maintain a registry of residents of Nebraska who meet the requirements of subsection (1) of section 60-3,122.04 or subsection (1) of section 60-4,189. The Department of Veterans' Affairs may adopt and promulgate rules and regulations governing the establishment and maintenance of the registry. The registry may be used to assist the department in carrying out the duties of the department and shall provide for the collection of sufficient information to identify an individual who qualifies for Military Honor Plates or a veteran designation on his or her operator's license or state identification card issued by the Department of Motor Vehicles. The registry may include information such as identifying information on an individual, an individual's records on active duty or reserve duty in the armed forces of the United States, or an individual's status of active duty, reserve duty, retired, discharged, or other.

(2) Any resident of Nebraska who meets the requirements of subsection (1) of section 60-3,122.04 or subsection (1) of section 60-4,189 shall register with the Department of Veterans' Affairs using the registry created by this section before being eligible for Military Honor Plates or a veteran designation on his or her operator's license or state identification card issued by the Department of Motor Vehicles. No person shall be deemed eligible until his or her status has been verified on the registry.

(3) The Department of Motor Vehicles may adopt and promulgate rules and regulations governing use of the registry of the Department of Veterans' Affairs for determination of eligibility for the issuance of Military Honor Plates or a veteran designation on operators' licenses and state identification cards.

(4) The eligibility requirements described in section 60-4,189 that are used in determining eligibility for a veteran designation on an operator's license or a state identification card shall apply only for purposes of such section and shall not apply in determining veteran status for any other purpose.

Source: Laws 2013, LB93, § 6; Laws 2014, LB383, § 11; Laws 2017, LB45, § 3; Laws 2019, LB192, § 5.
Operative date January 1, 2021.

80-415 Veterans Employment Program Fund; created; use; investment.

The Veterans Employment Program Fund is created. The fund shall consist of money credited pursuant to section 60-3,244 and any other money as appropriated by the Legislature. The fund shall be administered by the Department of Veterans' Affairs, which shall use the fund for recruiting and education to attract veterans recently released from service to live and work in Nebraska, including the development and implementation of a web site as required by section 48-203. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2019, LB138, § 19.

Effective date September 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

CHAPTER 81

STATE ADMINISTRATIVE DEPARTMENTS

Article.

2. Department of Agriculture.
 - (n) Commercial Fertilizer and Soil Conditioner. 81-2,162.27.
 - (x) Nebraska Pure Food Act. 81-2,239 to 81-2,280.
 - (z) Zoning. 81-2,294.
4. Department of Labor. 81-401, 81-405.
5. State Fire Marshal.
 - (b) General Provisions. 81-502.04 to 81-530.
 - (k) Boiler Inspection Act. 81-5,165 to 81-5,189.
 - (l) Nebraska Amusement Ride Act. 81-5,190 to 81-5,209.
 - (m) Conveyance Safety Act. 81-5,210 to 81-5,243.
 - (n) Appropriations. 81-5,244.
6. Health and Human Services.
 - (a) Powers and Duties. 81-604.
 - (q) Persons with Disabilities. 81-6,121, 81-6,122.
8. Independent Boards and Commissions.
 - (c) Emergency Management. 81-829.42.
 - (g) Real Estate Commission. 81-885.01 to 81-885.17.
 - (p) Tort Claims, State Claims Board, and Risk Management Program. 81-8,219 to 81-8,239.02.
 - (q) Public Counsel. 81-8,244.
10. State-Owned Motor Vehicles. 81-1021.
11. Department of Administrative Services.
 - (a) General Provisions. 81-1108.55.
 - (j) Public Funds. 81-11,106.
12. Department of Economic Development.
 - (a) General Provisions. 81-1201.21.
 - (s) Site and Building Development Act. 81-12,149.
 - (t) Business Innovation Act. 81-12,152 to 81-12,167.
13. Personnel.
 - (a) State Personnel Service. 81-1316, 81-1327.
 - (d) State Employees. 81-1392.
14. Law Enforcement.
 - (b) Commission on Law Enforcement and Criminal Justice. 81-1426.01.
15. Environment and Energy.
 - (a) Environmental Protection Act. 81-1502 to 81-1506.
 - (b) Litter Reduction and Recycling Act. 81-1537 to 81-1561.
 - (g) Petroleum Products and Hazardous Substances Storage and Handling. 81-15,118 to 81-15,127.
 - (h) Wastewater Treatment Operator Certification Act. 81-15,129.
 - (k) Wastewater Treatment Facilities Construction Assistance Act. 81-15,149, 81-15,151.
 - (l) Waste Reduction and Recycling. 81-15,159 to 81-15,160.
 - (m) Solid Waste Management Plan. 81-15,166.
 - (n) Nebraska Environmental Trust Act. 81-15,170, 81-15,175.
 - (o) Solid Waste Landfill Closure Assistance Fund. 81-15,177 to 81-15,179.
 - (p) Superfund Cost Share Cash Fund. 81-15,180.
 - (q) Remedial Action Plan Monitoring Act. 81-15,183 to 81-15,186.
 - (s) Nebraska Emergency Planning and Community Right to Know Act. 81-15,196 to 81-15,235.
 - (t) Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act. 81-15,242 to 81-15,245.

Article.

- (u) Merger of State Energy Office and Department of Environmental Quality. 81-15,254 to 81-15,259.
- (v) Volkswagen Settlement Cash Fund. 81-15,260.
- 16. State Energy Office.
 - (a) State Energy Office. 81-1601 to 81-1607.01.
 - (b) Lighting and Thermal Efficiency Standards. 81-1608 to 81-1625.
 - (c) Petroleum Overcharges. 81-1635 to 81-1641.
- 17. Nebraska Consultants' Competitive Negotiation Act. 81-1701.
- 20. Nebraska State Patrol.
 - (a) General Provisions. 81-2013.01.
- 21. State Electrical Division. 81-2101 to 81-2144.
- 34. Engineers and Architects Regulation Act. 81-3449, 81-3453.
- 37. Nebraska Visitors Development Act. 81-3701 to 81-3730.

ARTICLE 2

DEPARTMENT OF AGRICULTURE

(n) COMMERCIAL FERTILIZER AND SOIL CONDITIONER

Section

- 81-2,162.27. Fertilizers and Soil Conditioners Administrative Fund; created; use; transfers; investment.
 - (x) NEBRASKA PURE FOOD ACT
- 81-2,239. Nebraska Pure Food Act; provisions included; how cited.
- 81-2,245.01. Food establishment, defined.
- 81-2,280. Certain sales direct to consumer; producer; registration; contents.
 - (z) ZONING
- 81-2,294. Conditional use permit or special exception application; department; develop assessment matrix; criteria; committee; advise department; use.

(n) COMMERCIAL FERTILIZER AND SOIL CONDITIONER

81-2,162.27 Fertilizers and Soil Conditioners Administrative Fund; created; use; transfers; investment.

(1) All money received under the Nebraska Commercial Fertilizer and Soil Conditioner Act and the Agricultural Liming Materials Act shall be remitted to the State Treasurer for credit to the Fertilizers and Soil Conditioners Administrative Fund, which fund is hereby created. Money so received shall be used by the department for defraying the expenses of administering the Nebraska Commercial Fertilizer and Soil Conditioner Act and the Agricultural Liming Materials Act. The fund may also be used to defray costs incurred by the department directly related to administrative and budgetary support of the Healthy Soils Task Force pursuant to sections 2-401 to 2-404, except that no more than ten thousand dollars may be expended by the department from the fund for such purpose. Until January 1, 2020, the fund may also be used to defray all reasonable and necessary costs related to the implementation of the Nebraska Hemp Farming Act. The Department of Agriculture shall document all costs incurred for such purpose. The budget administrator of the budget division of the Department of Administrative Services may transfer a like amount from the Nebraska Hemp Program Fund to the Fertilizers and Soil Conditioners Administrative Fund no later than October 1, 2022. Transfers may be made from the fund to the General Fund at the direction of the Legislature. The State Treasurer shall transfer two hundred seventy-five thousand dollars from the Fertilizers and Soil Conditioners Administrative Fund to the General

Fund on or before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(2) Any unexpended balance in the Fertilizers and Soil Conditioners Administrative Fund at the close of any biennium shall, when reappropriated, be available for the uses and purposes of the fund for the succeeding biennium. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1975, LB 333, § 22; Laws 1986, LB 258, § 32; Laws 1995, LB 7, § 99; Laws 2001, LB 329, § 14; Laws 2003, LB 157, § 4; Laws 2015, LB93, § 9; Laws 2018, LB945, § 18; Laws 2019, LB243, § 5; Laws 2019, LB657, § 23.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB243, section 5, with LB657, section 23, to reflect all amendments.

Note: Changes made by LB243 became effective April 18, 2019. Changes made by LB657 became operative May 31, 2019.

Cross References

Agricultural Liming Materials Act, see section 2-4301.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska Hemp Farming Act, see section 2-501.

Nebraska State Funds Investment Act, see section 72-1260.

(x) NEBRASKA PURE FOOD ACT

81-2,239 Nebraska Pure Food Act; provisions included; how cited.

Sections 81-2,239 to 81-2,292 and the provisions of the Food Code and the Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food adopted by reference in sections 81-2,257.01 and 81-2,259, shall be known and may be cited as the Nebraska Pure Food Act.

Source: Laws 1981, LB 487, § 5; Laws 1989, LB 548, § 3; R.S.Supp.,1990, § 81-216.01; Laws 1991, LB 358, § 8; Laws 1992, LB 366, § 55; Laws 1997, LB 199, § 3; Laws 1999, LB 474, § 1; Laws 2003, LB 250, § 3; Laws 2004, LB 1045, § 1; Laws 2005, LB 131, § 1; Laws 2007, LB74, § 1; Laws 2012, LB771, § 1; Laws 2016, LB798, § 1; Laws 2017, LB134, § 1; Laws 2019, LB304, § 1.
Effective date September 1, 2019.

81-2,245.01 Food establishment, defined.

Food establishment shall mean an operation that stores, prepares, packages, serves, sells, vends, delivers, or otherwise provides food for human consumption. The term does not include:

(1) An establishment or vending machine operation that offers only prepackaged soft drinks, carbonated or noncarbonated; canned or bottled fruit and vegetable juices; prepackaged ice; candy; chewing gum; potato or corn chips; pretzels; cheese puffs and curls; crackers; popped popcorn; nuts and edible seeds; and cookies, cakes, pies, and other pastries, that are not time/temperature control for safety foods;

(2) A produce stand that only offers whole, uncut fresh fruits and vegetables;

(3) A food processing plant;

(4) A salvage operation;

(5) A private home where food is prepared or served for personal use, a small day care in the home, or a hunting lodge, guest ranch, or other operation where no more than ten paying guests eat meals in the home;

(6) A private home or other area where food that is not time/temperature control for safety food is prepared for sale or service at a religious, charitable, or fraternal organization's bake sale or similar function;

(7) A private home or other area where food that is not time/temperature control for safety food is prepared for sale directly to the consumer including, but not limited to, at a farmers market, fair, festival, craft show, or other public event or for pick up at or delivery from such private home or other area, if:

(a) The consumer is informed by a clearly visible notification that the food was prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority and may contain allergens. For sales conducted at a farmers market, fair, festival, craft show, or other public event, such notification shall be at the sale location. For sales conducted for pick up at or delivery from a private home or other area, such notification shall be at such private home or other area, on the producer's web site if one exists, and in any print, radio, television, or Internet advertisement for such sales;

(b) The name and address of the producer is provided to the consumer on the package or container label;

(c) Product delivery is made directly from the producer to the actual customer in a person-to-person transaction or by United States mail or a commercial mail delivery service;

(d) The producer follows any food safety and handling guidelines for sale at a farmers market, fair, festival, craft show, or other public event required by the county, city, or village where the food is sold;

(e) Prior to conducting any food sales, the producer, other than one selling directly to the consumer at a farmers market, has successfully completed (i) a nationally accredited food safety and handling education course that covers topics such as food safety issues, regulations, and techniques to maintain a food-safe environment or (ii) a certified food safety and handling training course offered at a culinary school or as required by a county, city, or village to obtain a food handler permit;

(f) The producer, if using private well water to produce food sold under this subdivision (7), has had such well water tested for contamination by nitrates or bacteria prior to conducting any food production and sales; and

(g) The producer complies with section 81-2,280;

(8) A private home or other area where food is prepared for distribution at a fundraising event for a charitable purpose if the consumer is informed by a clearly visible placard at the serving location that the food was prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority. This subdivision does not apply to a caterer or other establishment providing food for the event if the caterer or establishment receives compensation for providing the food;

(9) The location where food prepared by a caterer is served so long as the caterer only minimally handles the food at the serving location;

(10) Educational institutions, health care facilities, nursing homes, and governmental organizations which are inspected by a state agency or a political

subdivision other than the regulatory authority for sanitation in the food preparation areas;

(11) A pharmacy as defined in section 71-425 if the pharmacy only sells prepackaged pharmaceutical, medicinal, or health supplement foods that are not time/temperature control for safety or foods described in subdivision (1) of this section; and

(12) An establishment which is not a commercial food establishment and which sells only commercially packaged foods that are not time/temperature control for safety foods.

Source: Laws 1997, LB 199, § 9; Laws 1999, LB 474, § 4; Laws 2003, LB 250, § 5; Laws 2005, LB 131, § 4; Laws 2016, LB798, § 4; Laws 2019, LB304, § 2.

Effective date September 1, 2019.

81-2,280 Certain sales direct to consumer; producer; registration; contents.

A producer of food described in subdivision (7) of section 81-2,245.01 shall register with the department prior to conducting any sales of food. The registration shall be made on forms prescribed by the department and include (1) the name, address, and telephone number of the producer, (2) the type of food safety and handling education or training course taken and the date of its successful completion, and (3) proof of private well water testing pursuant to subdivision (7)(f) of section 81-2,245.01, if applicable. This section shall not apply to a producer of food selling directly to the consumer at a farmers market.

Source: Laws 2019, LB304, § 3.

Effective date September 1, 2019.

(z) ZONING

81-2,294 Conditional use permit or special exception application; department; develop assessment matrix; criteria; committee; advise department; use.

(1) The Director of Agriculture shall appoint a committee of experts, not to exceed ten persons, to advise the Department of Agriculture on the development of the assessment matrix described in subsection (2) of this section. Experts shall include representation from county board members, county zoning administrators, livestock production agriculture, the University of Nebraska, and other experts as may be determined by the director. The committee shall review the matrix annually and recommend to the department changes as needed.

(2) The Department of Agriculture shall, in consultation with the committee created under subsection (1) of this section, develop an assessment matrix which may be used by county officials to determine whether to approve or disapprove a conditional use permit or special exception application. The matrix shall be developed within one year after August 30, 2015. In the development of the assessment matrix, the department shall:

(a) Consider matrices already developed by the counties and other states;

(b) Design the matrix to produce quantifiable results based on the scoring of objective criteria according to an established value scale. Each criterion shall be assigned points corresponding to the value scale. The matrix shall consider

risks and factors mitigating risks if the livestock operation were constructed according to the application;

(c) Assure the matrix is a practical tool for use by persons when completing permit applications and by county officials when scoring conditional use permit or special exception applications. To every extent feasible, the matrix shall include criteria that may be readily scored according to ascertainable data and upon which reasonable persons familiar with the location of a proposed construction site would not ordinarily disagree; and

(d) Provide for definite point selections for all criteria included in the matrix and provide for a minimum threshold total score required to receive approval by county officials.

(3) The Department of Agriculture may develop criteria in the matrix which include factors referencing the following:

(a) Size of operation;

(b) Type of operation;

(c) Whether the operation has received or is in the process of applying for a permit from the Department of Environment and Energy, if required by law;

(d) Environmental practices adopted by the operation operator which may exceed those required by the Department of Environment and Energy;

(e) Odor control practices;

(f) Consideration of proximity of a livestock operation to neighboring residences, public use areas, and critical public areas;

(g) Community support and communication with neighbors and other community members;

(h) Manure storage and land application sites and practices;

(i) Traffic;

(j) Economic impact to the community; and

(k) Landscape and aesthetic appearance.

(4) In developing the matrix, the Department of Agriculture shall consider whether the proposed criteria are:

(a) Protective of public health or safety;

(b) Practical and workable;

(c) Cost effective;

(d) Objective;

(e) Based on available scientific information that has been subjected to peer review;

(f) Designed to promote the growth and viability of animal agriculture in this state;

(g) Designed to balance the economic viability of farm operations with protecting natural resources and other community interests; and

(h) Usable by county officials.

Source: Laws 2015, LB106, § 1; Laws 2019, LB302, § 103.

Operative date July 1, 2019.

ARTICLE 4
DEPARTMENT OF LABOR

Section

81-401. Department of Labor; general powers.

81-405. Transferred to section 81-530.

81-401 Department of Labor; general powers.

The Governor, through the agency of the Department of Labor created by section 81-101, shall have power:

- (1) To foster, promote, and develop the welfare of wage earners;
- (2) To improve working conditions;
- (3) To advance opportunities for profitable employment;
- (4) To collect, collate, assort, systematize, and report statistical details relating to all departments of labor, especially in its relation to commercial, industrial, social, economic, and educational conditions and to the permanent prosperity of the manufacturing and productive industries;
- (5) To acquire and distribute useful information on subjects connected with labor in the most general and comprehensive sense of the word;
- (6) To acquire and distribute useful information concerning the means of promoting the material, social, intellectual, and moral prosperity of laboring men and women;
- (7) To acquire and distribute information as to the conditions of employment and such other facts as may be deemed of value to the industrial interests of the state;
- (8) To acquire and distribute information in relation to the prevention of accidents, occupational diseases, and other related subjects;
- (9) To acquire and distribute useful information regarding the role of the part-time labor force and the manner in which such labor force affects the economy and citizens of the state; and
- (10) To administer and enforce all of the provisions of the Employment Security Law, the Farm Labor Contractors Act, and the Wage and Hour Act and Chapter 48, articles 2, 3, 4, and 5, and for that purpose there is imposed upon the Commissioner of Labor the duty of executing all of the provisions of such acts, law, and articles.

Source: Laws 1919, c. 190, tit. IV, art. I, § 1, p. 545; C.S.1922, § 7654; C.S.1929, § 81-2901; Laws 1935, c. 57, § 37, p. 207; C.S.Supp.,1941, § 81-2901; R.S.1943, § 81-401; Laws 1993, LB 334, § 1; Laws 2001, LB 193, § 13; Laws 2015, LB334, § 1; Laws 2019, LB301, § 83.

Operative date July 1, 2019.

Cross References

Employment Security Law, see section 48-601.

Farm Labor Contractors Act, see section 48-1701.

Wage and Hour Act, see section 48-1209.

81-405 Transferred to section 81-530.

STATE ADMINISTRATIVE DEPARTMENTS

ARTICLE 5

STATE FIRE MARSHAL

(b) GENERAL PROVISIONS

Section

- 81-502.04. Rules and regulations; enforcement; procedure.
- 81-505.01. State Fire Marshal; establish and assess fees; procedures.
- 81-530. Mechanical Safety Inspection Fund; created; use; investment.

(k) BOILER INSPECTION ACT

- 81-5,165. Act, how cited.
- 81-5,166. Terms, defined.
- 81-5,167. State boiler inspector; deputy inspectors; qualifications; bond or insurance.
- 81-5,168. State boiler inspector; inspection; exception; contract with authorized inspection agency; certification.
- 81-5,169. State Fire Marshal and boiler inspectors; right of entry.
- 81-5,170. Certificate of inspection; certificate of registration; fees.
- 81-5,171. Excessive pressure prohibited.
- 81-5,172. Boilers and vessels to which act does not apply.
- 81-5,173. State Fire Marshal; adopt rules and regulations; adopt schedule of fees; incorporation of codes.
- 81-5,174. Boiler explosion; investigation; report.
- 81-5,175. State boiler inspector; record of equipment.
- 81-5,176. Equipment; installation; notice to State Fire Marshal; reinspection.
- 81-5,177. Special inspector commission; requirements; inspection under provision of a city ordinance; inspection under the act not required; when; insurance coverage required.
- 81-5,178. Defective boiler; notice to user.
- 81-5,179. Boiler; inspection; fees.
- 81-5,180. Boiler Inspection Cash Fund; created; use; investment.
- 81-5,181. Violation; penalty.
- 81-5,182. Defective boiler; State Fire Marshal; state boiler inspector; powers.
- 81-5,183. Petition for injunction; notice to owner or user; procedure.
- 81-5,184. Boiler Safety Code Advisory Board; created; members; terms.
- 81-5,185. Board; members; qualifications.
- 81-5,186. Board; meetings; chairperson; quorum.
- 81-5,187. Board member; compensation; expenses.
- 81-5,188. Board; duties.
- 81-5,189. Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.

(l) NEBRASKA AMUSEMENT RIDE ACT

- 81-5,190. Act, how cited.
- 81-5,191. Terms, defined.
- 81-5,192. State Fire Marshal; adopt rules and regulations; administer act.
- 81-5,193. Amusement ride; permit required; inspection.
- 81-5,194. Reverse bungee jumping rides; prohibited.
- 81-5,195. Permit; issuance; conditions; fee; waiver of inspection.
- 81-5,196. Liability insurance required.
- 81-5,197. Amusement ride; inspection; suspend permit; when.
- 81-5,198. Accident; report; suspend permit; inspection.
- 81-5,199. Permit fees.
- 81-5,200. State Fire Marshal; certify inspectors.
- 81-5,201. Inspection fees.
- 81-5,202. Owner; maintain records.
- 81-5,203. Owner; provide schedule.
- 81-5,204. Operator; requirements.
- 81-5,205. Violation; penalty.
- 81-5,206. Application for injunction.
- 81-5,207. Act, how construed.
- 81-5,208. Local safety standards; authorized.

Section

- 81-5,209. Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.
(m) CONVEYANCE SAFETY ACT
- 81-5,210. Act, how cited.
81-5,211. Terms, defined.
81-5,212. Conveyance Advisory Committee; created; members; terms; expenses; meetings.
81-5,213. Committee; powers and duties.
81-5,214. State Fire Marshal; establish fee schedules; administer act.
81-5,215. Applicability of act.
81-5,216. Exemptions from act.
81-5,217. Rules and regulations; State Fire Marshal; variance authorized; appeal.
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81-5,228. Defective or unsafe condition; notice to owner or user; temporary certificate; when issued.
81-5,229. Accident involving conveyance; notification required; when; state elevator inspector; duties.
81-5,230. Elevator mechanic license; elevator contractor license; application; form; contents.
81-5,231. Standards for licensure of elevator mechanics; State Fire Marshal; duties.
81-5,232. Elevator contractor license; work experience required.
81-5,233. Reciprocity.
81-5,234. License; issuance; renewal.
81-5,235. Continuing education; extension; when granted; approved providers; records.
81-5,236. Insurance policy; requirements; delivery; notice of alteration or cancellation.
81-5,237. Elevator contractor license; revocation; grounds; elevator mechanic license; disciplinary actions; grounds; procedure; decision; appeal.
81-5,238. Temporary and emergency elevator mechanic thirty-day licenses.
81-5,239. Request for investigation of alleged violation; preliminary inquiry; formal investigation; procedure.
81-5,240. Act; how construed; liability.
81-5,241. Compliance with code at time of installation; notification of dangerous condition.
81-5,242. Violations; penalty.
81-5,243. Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.
(n) APPROPRIATIONS
- 81-5,244. Certain appropriations to Department of Labor; how treated.

(b) GENERAL PROVISIONS

81-502.04 Rules and regulations; enforcement; procedure.

The enforcement of rules and regulations adopted and promulgated by the State Fire Marshal under section 81-503.01 shall be as follows:

(1) Any order of the State Fire Marshal under the authority granted to him or her by sections 81-502 and 81-503.01 shall be in writing addressed to the owner or person in charge of the premises affected by such order;

(2) If the affected party or organization does not comply with the final order, the State Fire Marshal shall apply to the district court of the county in which the premises are located to obtain court enforcement of the order. The county attorney of the county in which the action is brought shall represent the State Fire Marshal and the action shall be brought in the name of the State of Nebraska and be tried the same as any action in equity; and

(3) If the affected party or organization feels that the order of the State Fire Marshal is not necessary for the safety and welfare of the persons using or to use the premises regarding which the order is made, the party or organization may appeal such order, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1973, LB 180, § 2; Laws 1988, LB 893, § 7; Laws 1988, LB 352, § 167; Laws 2018, LB889, § 2; Laws 2019, LB195, § 2.
Effective date September 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

81-505.01 State Fire Marshal; establish and assess fees; procedures.

(1) The State Fire Marshal shall establish and assess fees not to exceed the actual costs for the performance of services by the State Fire Marshal or by qualified local fire prevention personnel to whom the State Fire Marshal has delegated authority to perform such services. Prior to establishing or altering such fees, the State Fire Marshal shall hold a public hearing on the question of the adoption of or change in fees. Notice of such hearing shall be given at least thirty days prior thereto (a) by publication in a newspaper having general circulation in the state and (b) by notifying in writing the head of any agency or department having jurisdiction over facilities that would be subject to the fees. Fees for services performed by the State Fire Marshal shall be paid to the State Fire Marshal and shall be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund. Fees for services performed by local fire prevention personnel shall be paid directly to the office of the local fire prevention personnel.

(2) The fee for inspection for fire safety of any premises or facility pursuant to section 81-502 or 81-503.01 shall be not less than twenty-five nor more than one hundred fifty dollars and shall be paid by the licensee or applicant for a license. The fee for inspection for fire safety of the same premises or facility made within twelve months after the last prior inspection shall be not less than twenty-five nor more than one hundred fifty dollars and shall be paid by the licensee or applicant for a license. The fees for inspection for fire safety of foster family homes as defined in section 71-1901 may be paid by the Department of Health and Human Services.

(3) The fee for providing investigation reports to insurance companies shall not exceed three dollars for each report provided. The State Fire Marshal may charge an amount not to exceed the actual cost of preparation for any other approved information release.

(4)(a) Except as provided in subdivision (b) of this subsection, the fee for reviewing plans, blueprints, and shop drawings to determine compliance with rules and regulations adopted and promulgated pursuant to section 81-503.01 shall be assessed according to the following schedule:

TOTAL VALUE OF PROPOSED STRUCTURE OR IMPROVEMENT	FEE
\$1 - \$5,000	\$5.00
\$5,001 - \$25,000	\$5.00 for the first \$5,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.
\$25,001 - \$50,000	\$15.00 for the first \$25,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.
\$50,001 - \$100,000	\$25.00 for the first \$50,000.00 plus \$1.00 for each additional \$5,000.00 or fraction thereof.
\$100,001 - \$200,000	\$35.00 for the first \$100,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof.
\$200,001 or more	\$50.00 for the first \$200,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof, except that the total fee shall not exceed \$500.00.

(b) The fees set out in subdivision (a) of this subsection shall not be assessed or collected by any political subdivision to which the State Fire Marshal has delegated the authority to conduct such review and which reviews plans, blueprints, or shop drawings to determine compliance with such political subdivision's own fire safety regulations. Nothing in this subdivision shall be construed to prohibit such political subdivision from assessing or collecting a fee set by its governing board for such review.

(c) An additional fee equal to fifty percent of the fee charged pursuant to subdivision (a) of this subsection shall be assessed for reviewing plans, blueprints, and shop drawings to determine compliance with the accessibility standards and specifications adopted pursuant to section 81-5,147, except that the additional fee assessed pursuant to this subdivision shall not exceed two hundred fifty dollars.

Source: Laws 1983, LB 498, § 7; Laws 1986, LB 471, § 1; Laws 1988, LB 893, § 10; Laws 1988, LB 930, § 3; Laws 1993, LB 251, § 6; Laws 1993, LB 377, § 8; Laws 1996, LB 1044, § 839; Laws 1997, LB 307, § 216; Laws 2013, LB265, § 48; Laws 2019, LB195, § 3. Effective date September 1, 2019.

81-530 Mechanical Safety Inspection Fund; created; use; investment.

The Mechanical Safety Inspection Fund is created. All fees collected by the State Fire Marshal pursuant to the Nebraska Amusement Ride Act and the Conveyance Safety Act shall be remitted to the State Treasurer for credit to the Mechanical Safety Inspection Fund. Fees so collected shall be used for administering the provisions of the Nebraska Amusement Ride Act and the Conveyance Safety Act. Any money in the Mechanical Safety Inspection Fund available for investment shall be invested by the state investment officer pursuant to the

Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Money in the Mechanical Safety Inspection Fund may be transferred to the General Fund at the direction of the Legislature.

Source: Laws 2007, LB265, § 24; Laws 2017, LB331, § 46; R.S.Supp.,2018, § 81-405; Laws 2019, LB301, § 81.
Operative date July 1, 2019.

Cross References

Conveyance Safety Act, see section 81-5,210.

Nebraska Amusement Ride Act, see section 81-5,190.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

(k) BOILER INSPECTION ACT

81-5,165 Act, how cited.

Sections 81-5,165 to 81-5,189 shall be known and may be cited as the Boiler Inspection Act.

Source: Laws 1987, LB 462, § 1; Laws 1988, LB 863, § 1; Laws 1995, LB 438, § 1; R.S.1943, (2010), § 48-719; Laws 2019, LB301, § 1.
Operative date July 1, 2019.

81-5,166 Terms, defined.

As used in the Boiler Inspection Act, unless the context otherwise requires:

(1) Authorized inspection agency means an authorized inspection agency as defined in NB-369, National Board Qualifications and Duties for Authorized Inspection Agencies (AIAs) Performing Inservice Inspection Activities and Qualifications for Inspectors of Boilers and Pressure Vessels;

(2) Board means the Boiler Safety Code Advisory Board; and

(3) Boiler means a closed vessel in which water or other liquid is heated, steam or vapor is generated, steam or vapor is superheated, or any combination thereof, under pressure, for internal or external use to itself, by the direct application of heat and an unfired pressure vessel in which the pressure is obtained from an external source or by the application of heat from a direct source. Boiler includes a fired unit for heating or vaporizing liquids other than water only when such unit is separate from processing systems and complete within itself.

Source: Laws 1987, LB 462, § 2; Laws 1988, LB 863, § 2; Laws 1997, LB 641, § 1; Laws 2007, LB226, § 1; R.S.1943, (2010), § 48-720; Laws 2019, LB301, § 2.
Operative date July 1, 2019.

81-5,167 State boiler inspector; deputy inspectors; qualifications; bond or insurance.

(1) The State Fire Marshal shall employ a state boiler inspector who shall work under the direct supervision of the State Fire Marshal or his or her designee. The state boiler inspector shall:

(a) Be a practical boilermaker, technical engineer, operating engineer, or boiler inspector;

(b) Hold an "AI" or "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors. The state boiler inspector shall also either hold "B" and "R" endorsements to his or her commission at the time of hire or acquire such endorsements within eighteen months of employment;

(c) Be qualified by not less than ten years' experience in the construction, installation, repair, inspection, or operation of boilers, steam generators, and superheaters;

(d) Have a knowledge of the operation and use of boilers, steam generators, and superheaters for the generating of steam for power, heating, or other purposes; and

(e) Neither directly nor indirectly be interested in the manufacture, ownership, or agency of boilers, steam generators, and superheaters.

(2) The State Fire Marshal may hire deputy inspectors as necessary to carry out the Boiler Inspection Act. Deputy inspectors shall hold an "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors or acquire the same within twelve months of hire. Such deputy inspectors shall otherwise be subject to and governed by the same rules and regulations applicable to and governing the acts and conduct of the state boiler inspector.

(3) Before entering upon his or her duties under the Boiler Inspection Act, the state boiler inspector and each deputy inspector shall be bonded or insured as required by section 11-201.

Source: Laws 1943, c. 112, § 1, p. 392; R.S.1943, § 48-701; Laws 1978, LB 653, § 12; R.S.1943, (1984), § 48-701; Laws 1987, LB 462, § 3; Laws 1998, LB 395, § 12; Laws 1999, LB 66, § 1; Laws 2004, LB 884, § 23; Laws 2017, LB264, § 1; R.S.Supp.,2018, § 48-721; Laws 2019, LB301, § 3.
Operative date July 1, 2019.

81-5,168 State boiler inspector; inspection; exception; contract with authorized inspection agency; certification.

(1) Except as provided in subsections (3) and (4) of this section, the state boiler inspector shall inspect or cause to be inspected at least once every twelve months all boilers required to be inspected by the Boiler Inspection Act to determine whether the boilers are in a safe and satisfactory condition and properly constructed and maintained for the purpose for which the boiler is used, except that (a) hobby boilers, steam farm traction engines, portable and stationary show engines, and portable and stationary show boilers, which are not otherwise exempted from the act pursuant to section 81-5,172, shall be subject to inspection at least once every twenty-four months and (b) the State Fire Marshal may, by rule and regulation, establish inspection periods for pressure vessels of more than twelve months, but not to exceed the inspection period recommended in the National Board Inspection Code or the American Petroleum Institute Pressure Vessel Inspection Code API-510 for pressure vessels being used for similar purposes. In order to ensure that inspections are performed in a timely manner, the State Fire Marshal may contract with an authorized inspection agency to perform any inspection authorized under the Boiler Inspection Act. If the State Fire Marshal contracts with an authorized inspection agency to perform inspections, such contract shall be in writing and shall contain an indemnification clause wherein the authorized inspection agency agrees to indemnify and defend the State Fire Marshal for loss occa-

sioned by negligent or tortious acts committed by special inspectors employed by such authorized inspection agency when performing inspections on behalf of the State Fire Marshal.

(2) No boilers required to be inspected by the act shall be operated without valid and current certification pursuant to rules and regulations adopted and promulgated by the State Fire Marshal in accordance with the requirements of the Administrative Procedure Act. The owner of any boiler installed after September 2, 1973, shall file a manufacturer's data report covering the construction of such boiler with the state boiler inspector. Such reports shall be used to assist the state boiler inspector in the certification of boilers. No boiler required to be inspected by the Boiler Inspection Act shall be operated at any type of public gathering or show without first being inspected and certified as to its safety by the state boiler inspector or a special inspector commissioned pursuant to section 81-5,177. Antique engines with boilers may be brought into the state from other states without inspection, but inspection as provided in this section shall be made and the boiler certified as safe before being operated.

(3) The State Fire Marshal may, by rule and regulation, waive the inspection of unfired pressure vessels registered with the State of Nebraska if the State Fire Marshal finds that the owner or user of the unfired pressure vessel follows a safety inspection and repair program that is based upon nationally recognized standards.

(4) A boiler that is used as a water heater to supply potable hot water and that is not otherwise exempt from inspection under the act pursuant to section 81-5,172 shall be subject to inspection at least once every twenty-four months in accordance with a schedule of inspection established by the State Fire Marshal by rule and regulation.

Source: Laws 1943, c. 112, § 2(1), p. 392; R.S.1943, § 48-702; Laws 1961, c. 235, § 5, p. 698; Laws 1971, LB 886, § 1; Laws 1973, LB 481, § 1; R.S.1943, (1984), § 48-702; Laws 1987, LB 462, § 4; Laws 1995, LB 438, § 2; Laws 1997, LB 641, § 2; Laws 1998, LB 395, § 13; Laws 1999, LB 66, § 2; Laws 2007, LB226, § 2; Laws 2009, LB627, § 1; R.S.1943, (2010), § 48-722; Laws 2019, LB301, § 4. Operative date July 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

81-5,169 State Fire Marshal and boiler inspectors; right of entry.

The State Fire Marshal and the boiler inspectors shall have the right and power to enter any building or structure, public or private, for the purpose of inspecting any boilers required to be inspected by the Boiler Inspection Act or gathering information relating to such boilers.

Source: Laws 1943, c. 112, § 2(2), p. 393; R.S.1943, § 48-703; R.S.1943, (1984), § 48-703; Laws 1987, LB 462, § 5; Laws 1995, LB 438, § 3; R.S.1943, (2010), § 48-723; Laws 2019, LB301, § 5. Operative date July 1, 2019.

81-5,170 Certificate of inspection; certificate of registration; fees.

(1) Upon making an inspection of any boilers required to be inspected by the Boiler Inspection Act and upon receipt of the inspection fee and certificate fee

or registration fee, the boiler inspector shall give to the owner or user of the boilers a certificate of inspection or certificate of registration upon forms prescribed by the State Fire Marshal. The certificate shall be posted in a place near the location of such boiler.

(2) The State Fire Marshal shall establish the amount of the inspection fee, certificate fee, and registration fee by rule or regulation at the level necessary to meet the costs of administering the act.

Source: Laws 1943, c. 112, § 2(3), p. 393; R.S.1943, § 48-704; Laws 1965, c. 288, § 1, p. 824; Laws 1980, LB 959, § 1; R.S.1943, (1984), § 48-704; Laws 1987, LB 462, § 6; Laws 1995, LB 438, § 4; Laws 1996, LB 1047, § 2; Laws 1998, LB 395, § 14; R.S.1943, (2010), § 48-724; Laws 2019, LB301, § 6.
Operative date July 1, 2019.

81-5,171 Excessive pressure prohibited.

The owner, user, or person or persons in charge of any boiler required to be inspected by the Boiler Inspection Act shall not allow or permit a greater pressure in any unit than is stated in the certificate of inspection issued by the inspector.

Source: Laws 1943, c. 112, § 2(4), p. 393; R.S.1943, § 48-705; R.S.1943, (1984), § 48-705; Laws 1987, LB 462, § 7; Laws 1995, LB 438, § 5; R.S.1943, (2010), § 48-725; Laws 2019, LB301, § 7.
Operative date July 1, 2019.

81-5,172 Boilers and vessels to which act does not apply.

The Boiler Inspection Act shall not apply to:

- (1) Boilers of railway locomotives subject to federal inspection;
- (2) Boilers operated and regularly inspected by railway companies operating in interstate commerce;
- (3) Boilers under the jurisdiction and subject to regular periodic inspection by the United States Government;
- (4) Boilers used exclusively for agricultural purposes;
- (5) Steam heating boilers in single-family residences and apartment houses with four or less units using a pressure of less than fifteen pounds per square inch and having a safety valve set at not higher than fifteen pounds pressure per square inch;
- (6) Heating boilers using water in single-family residences and apartment houses with four or less units using a pressure of less than thirty pounds per square inch and having a safety valve set at not higher than thirty pounds pressure per square inch;
- (7) Fire engine boilers brought into the state for temporary use in times of emergency;
- (8) Boilers of a miniature model locomotive or boat or tractor or stationary engine constructed and maintained as a hobby and not for commercial use and having a diameter of less than ten inches inside diameter and a grate area not in excess of one and one-half square feet and that are properly equipped with a safety valve;

(9) Hot water supply boilers if none of the following limitations is exceeded: (a) Two hundred thousand British thermal units of input; (b) one hundred twenty gallons of nominal capacity; or (c) two hundred ten degrees Fahrenheit output;

(10) Unfired pressure vessels not exceeding (a) five cubic feet in volume or (b) a pressure of two hundred fifty pounds per square inch;

(11) Unfired pressure vessels owned and maintained by a district or corporation organized under the provisions of Chapter 70, article 6; and

(12) Unfired pressure vessels (a) not exceeding a maximum allowable working pressure of five hundred pounds per square inch, (b) that contain carbon dioxide, helium, oxygen, nitrogen, argon, hydrofluorocarbon refrigerant, or any other nonflammable gas determined by the State Fire Marshal not to be a risk to the public, (c) that are manufactured and repaired in accordance with applicable American Society of Mechanical Engineers standards, and (d) that are installed in accordance with the manufacturer's specifications.

Source: Laws 1943, c. 112, § 3, p. 393; R.S.1943, § 48-706; Laws 1965, c. 288, § 2, p. 825; Laws 1969, c. 406, § 1, p. 1404; R.S.1943, (1984), § 48-706; Laws 1987, LB 462, § 8; Laws 1995, LB 438, § 6; Laws 1997, LB 641, § 3; Laws 1998, LB 395, § 15; Laws 1999, LB 66, § 3; Laws 2005, LB 122, § 1; R.S.1943, (2010), § 48-726; Laws 2019, LB301, § 8.

Operative date July 1, 2019.

81-5,173 State Fire Marshal; adopt rules and regulations; adopt schedule of fees; incorporation of codes.

The State Fire Marshal may adopt and promulgate rules and regulations for the purpose of effectuating the Boiler Inspection Act, including rules and regulations for the methods of testing equipment, the construction and installation of new boilers, and a schedule of inspection and certificate fees for boilers required to be inspected by the act. Such rules and regulations may incorporate by reference any portion of (1) the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, as amended, (2) the National Board Inspection Code, as amended, (3) the American Society of Mechanical Engineers Code for Controls and Safety Devices for Automatically Fired Boilers, as amended, concerning controls and safety devices for automatically fired boilers, (4) the American Petroleum Institute Pressure Vessel Inspection Code API-510, and (5) the National Fire Protection Association pamphlet 85, Boiler and Combustion Systems Hazards Code, including codes referenced in such code. A copy of all rules and regulations adopted and promulgated under the Boiler Inspection Act, including copies of all codes incorporated by reference, shall be kept on file in the office of the State Fire Marshal and shall be known as the Boiler Safety Code.

Source: Laws 1943, c. 112, § 4(1), p. 393; R.S.1943, § 48-707; R.S.1943, (1984), § 48-707; Laws 1987, LB 462, § 9; Laws 1995, LB 438, § 7; Laws 1999, LB 66, § 4; R.S.1943, (2010), § 48-727; Laws 2019, LB301, § 9.

Operative date July 1, 2019.

81-5,174 Boiler explosion; investigation; report.

The state boiler inspector shall investigate and report to the State Fire Marshal the cause of any boiler explosion that may occur in the state, the loss of life, the injuries sustained, the estimated loss of property, if any, and such other data as may be of benefit in preventing other similar explosions.

Source: Laws 1943, c. 112, § 4(2), p. 394; R.S.1943, § 48-708; R.S.1943, (1984), § 48-708; Laws 1987, LB 462, § 10; R.S.1943, (2010), § 48-728; Laws 2019, LB301, § 10.
Operative date July 1, 2019.

81-5,175 State boiler inspector; record of equipment.

The state boiler inspector shall keep in the office of the State Fire Marshal a complete and accurate record of the name of the owner or user of any boiler required to be inspected by the Boiler Inspection Act and a full description of the equipment including the type, dimensions, age, condition, amount of pressure allowed, and date when last inspected.

Source: Laws 1943, c. 112, § 4(3), p. 394; R.S.1943, § 48-709; R.S.1943, (1984), § 48-709; Laws 1987, LB 462, § 11; Laws 1995, LB 438, § 8; R.S.1943, (2010), § 48-729; Laws 2019, LB301, § 11.
Operative date July 1, 2019.

81-5,176 Equipment; installation; notice to State Fire Marshal; reinspection.

Before any boiler required to be inspected by the Boiler Inspection Act is installed, a ten days' written notice of intention to install the boiler shall be given to the State Fire Marshal, except that the State Fire Marshal may, upon application and good cause shown, waive the ten-day prior notice requirement. The notice shall designate the proposed place of installation, the type and capacity of the boiler, the use to be made of the boiler, the name of the company which manufactured the boiler, and whether the boiler is new or used. A boiler moved from one location to another shall be reinspected prior to being placed back into use.

Source: Laws 1943, c. 112, § 5, p. 394; R.S.1943, § 48-710; R.S.1943, (1984), § 48-710; Laws 1987, LB 462, § 12; Laws 1995, LB 438, § 9; Laws 1998, LB 395, § 16; Laws 2007, LB226, § 3; R.S.1943, (2010), § 48-730; Laws 2019, LB301, § 12.
Operative date July 1, 2019.

81-5,177 Special inspector commission; requirements; inspection under provision of a city ordinance; inspection under the act not required; when; insurance coverage required.

(1)(a) The State Fire Marshal may issue a special inspector commission to an inspector in the employ of a company if the inspector has previously passed the examination prescribed by the National Board of Boiler and Pressure Vessel Inspectors and the company is an insurance company authorized to insure boilers in this state against loss from explosion or is an authorized inspection agency.

(b) Each special inspector employed by an insurance company or authorized inspection agency who has been issued a special inspector commission under this section shall submit to the state boiler inspector complete data of each boiler required to be inspected by the Boiler Inspection Act which is insured or

inspected by such insurance company or authorized inspection agency on forms approved by the State Fire Marshal.

(c) Insurance companies shall notify the State Fire Marshal of new, canceled, or suspended risks relating to insured boilers. Insurance companies shall notify the State Fire Marshal of all boilers which the company insures, or any boiler for which insurance has been canceled, not renewed, or suspended within thirty days after such action. Authorized inspection agencies shall notify the State Fire Marshal of any new or canceled agreements relating to the inspection of boilers or pressure vessels within thirty days after such action.

(d) Insurance companies and authorized inspection agencies shall immediately notify the State Fire Marshal of defective boilers. If a special inspector employed by an insurance company, upon the first inspection of new risk, finds that the boiler or any of the appurtenances are in such condition that the inspector's company refuses insurance, the company shall immediately submit a report of the defects to the state boiler inspector.

(2) The inspection required by the act shall not be required if (a) an annual inspection is made under a city ordinance which meets the standards set forth in the act, (b) a certificate of inspection of the boiler is filed with the State Fire Marshal with a certificate fee, and (c) the inspector for the city making such inspection is required by such ordinance to either hold a commission from the National Board of Boiler and Pressure Vessel Inspectors commensurate with the type of inspections performed by the inspector for the city or acquire the commission within twelve months after appointment.

(3) The State Fire Marshal may, by rule and regulation, provide for the issuance of a special inspector commission to an inspector in the employ of a company using or operating an unfired pressure vessel subject to the act for the limited purpose of inspecting unfired pressure vessels used or operated by such company.

(4) All inspections made by a special inspector shall be performed in accordance with the act, and a complete report of such inspection shall be filed with the State Fire Marshal in the time, manner, and form prescribed by the State Fire Marshal.

(5) The state boiler inspector may, at his or her discretion, inspect any boiler to which a special inspector commission applies.

(6) The State Fire Marshal may, for cause, suspend or revoke any special inspector commission.

(7) No authorized inspection agency shall perform inspections of boilers in the State of Nebraska unless the authorized inspection agency has insurance coverage for professional errors and omissions and comprehensive and general liability under a policy or policies written by an insurance company authorized to do business in this state in effect at the time of such inspection. Such insurance policy or policies shall be in an amount not less than the minimum amount as established by the State Fire Marshal. Such minimum amount shall be established with due regard to the protection of the general public and the availability of insurance coverage, but such minimum insurance coverage shall not be less than one million dollars for professional errors and omissions and one million dollars for comprehensive and general liability.

Source: Laws 1943, c. 112, § 6(2), p. 394; R.S.1943, § 48-712; Laws 1947, c. 176, § 1, p. 584; Laws 1980, LB 959, § 2; R.S.1943, (1984),

§ 48-712; Laws 1987, LB 462, § 13; Laws 1995, LB 438, § 10; Laws 1998, LB 395, § 17; Laws 2007, LB226, § 4; R.S.1943, (2010), § 48-731; Laws 2019, LB301, § 13.

Operative date July 1, 2019.

81-5,178 Defective boiler; notice to user.

The state boiler inspector shall notify the user in writing of any boiler found to be unsafe or unfit for operation setting forth the nature and extent of such defects and condition. The notice shall indicate whether or not the boiler may be used without making repair or replacement of defective parts or may be used in a limited capacity before repairs or replacements are made. The state boiler inspector may permit the user a reasonable time to make such repairs or replacements.

Source: Laws 1943, c. 112, § 6(3), p. 395; R.S.1943, § 48-713; R.S.1943, (1984), § 48-713; Laws 1987, LB 462, § 14; Laws 1995, LB 438, § 11; R.S.1943, (2010), § 48-732; Laws 2019, LB301, § 14.
Operative date July 1, 2019.

81-5,179 Boiler; inspection; fees.

The owner or user of a boiler required to be inspected under the Boiler Inspection Act or inspected by request of the boiler owner shall pay a fee for such inspection or inspections in accordance with the rules and regulations adopted and promulgated by the State Fire Marshal. Any boiler required to be inspected by the act may be inspected by the state boiler inspector if the owner or his or her agent makes written request to the state boiler inspector. Fees will be imposed as required for services in support of the act in accordance with rules and regulations adopted and promulgated by the State Fire Marshal.

Source: Laws 1943, c. 112, § 7, p. 395; R.S.1943, § 48-714; Laws 1963, c. 294, § 1, p. 880; Laws 1980, LB 959, § 3; R.S.1943, (1984), § 48-714; Laws 1987, LB 462, § 15; Laws 1995, LB 438, § 12; R.S.1943, (2010), § 48-733; Laws 2019, LB301, § 15.
Operative date July 1, 2019.

81-5,180 Boiler Inspection Cash Fund; created; use; investment.

The Boiler Inspection Cash Fund is created. The State Fire Marshal shall use the fund for the administration of the boiler inspection program pursuant to the Boiler Inspection Act. The fund shall consist of money appropriated to it by the Legislature and fees collected in the administration of the act. Fees so collected shall be remitted to the State Treasurer with an itemized statement showing the source of collection. The State Treasurer shall credit the fees to the fund and the money in the fund shall not lapse into the General Fund, except that money in the Boiler Inspection Cash Fund may be transferred to the General Fund at the direction of the Legislature. Any money in the Boiler Inspection Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1995, LB 438, § 13; Laws 2017, LB331, § 25; R.S.Supp.,2018, § 48-735.01; Laws 2019, LB301, § 16.
Operative date July 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

81-5,181 Violation; penalty.

Any person, persons, corporations, and the directors, managers, superintendents, and officers of such corporations violating the Boiler Inspection Act shall be guilty of a Class III misdemeanor.

Source: Laws 1943, c. 112, § 9, p. 396; R.S.1943, § 48-716; Laws 1977, LB 40, § 297; R.S.1943, (1984), § 48-716; Laws 1987, LB 462, § 18; Laws 2007, LB226, § 5; R.S.1943, (2010), § 48-736; Laws 2019, LB301, § 17.

Operative date July 1, 2019.

81-5,182 Defective boiler; State Fire Marshal; state boiler inspector; powers.

In addition to any and all other remedies, if any owner, user, or person in charge of any boiler required to be inspected by the Boiler Inspection Act continues to use the same after receiving a notice of defect as provided by the act, without first correcting the defects or making replacements, the State Fire Marshal may apply to the district court or any judge thereof by petition in equity, in an action brought in the name of the state, for a writ of injunction to restrain the use of the alleged defective boiler or if the continued operation of the boiler poses serious risk or harm to the general public, the state boiler inspector may take those actions required to immediately shut down and cause to be inoperable any boiler required to be inspected by the act.

Source: Laws 1943, c. 112, § 10, p. 396; R.S.1943, § 48-717; R.S.1943, (1984), § 48-717; Laws 1987, LB 462, § 19; Laws 1995, LB 438, § 14; R.S.1943, (2010), § 48-737; Laws 2019, LB301, § 18.

Operative date July 1, 2019.

81-5,183 Petition for injunction; notice to owner or user; procedure.

The State Fire Marshal shall notify the owner or user of the equipment in writing of the time and place of hearing of the petition, as fixed by the court or judge, and serve the notice on the defendant at least five days prior to the hearing in the same manner as original notices are served. The general provisions relating to civil practice and procedure, insofar as the same may be applicable, shall govern such proceedings except as otherwise provided in the Boiler Inspection Act. In the event the defendant does not appear or plead to such action, default shall be entered against the defendant. The action shall be tried in equity, and the court or judge shall make such order or decree as the evidence warrants.

Source: Laws 1943, c. 112, § 11, p. 396; R.S.1943, § 48-718; R.S.1943, (1984), § 48-718; Laws 1987, LB 462, § 20; R.S.1943, (2010), § 48-738; Laws 2019, LB301, § 19.

Operative date July 1, 2019.

81-5,184 Boiler Safety Code Advisory Board; created; members; terms.

There is hereby created the Boiler Safety Code Advisory Board. The board shall consist of seven members appointed by the Governor with the approval of the Legislature. Within thirty days after July 9, 1988, the Governor shall

appoint three members for terms of two years and four members for terms of four years. Each succeeding member of the board shall be appointed for a term of four years, except that a member appointed to fill a vacancy shall serve for the unexpired term. If the Legislature is not in session when members of the board are appointed, such members shall take office and act as appointees until the next session of the Legislature.

Source: Laws 1988, LB 863, § 3; R.S.1943, (2010), § 48-739; Laws 2019, LB301, § 20.

Operative date July 1, 2019.

81-5,185 Board; members; qualifications.

The membership of the board shall consist of one member who represents owners and users of boilers and has experience with boilers, one member who represents sellers of boilers, one member who represents the crafts involved in the construction, repair, or operation of boilers, one member who represents the insurance industry, one member who is a licensed professional engineer with experience with boilers, one member who represents the interest of public safety, and one member who represents the public. The state boiler inspector shall be a nonvoting member of the board.

Source: Laws 1988, LB 863, § 4; R.S.1943, (2010), § 48-740; Laws 2019, LB301, § 21.

Operative date July 1, 2019.

81-5,186 Board; meetings; chairperson; quorum.

The members of the board shall conduct an annual meeting in July of each year, or at such other time as the board determines, and shall elect a chairperson from their members at the annual meeting. Other meetings of the board shall be held when called with at least seven days' notice to all members by the chairperson of the board or pursuant to a call signed by four other members. Four members of the board shall constitute a quorum for the transaction of business.

Source: Laws 1988, LB 863, § 5; Laws 1998, LB 395, § 18; R.S.1943, (2010), § 48-741; Laws 2019, LB301, § 22.

Operative date July 1, 2019.

81-5,187 Board member; compensation; expenses.

Each board member shall be paid the sum of fifty dollars per day while actually engaged in the business of the board. The members of the board shall be paid their mileage and expenses in attending meetings of the board and carrying out their official duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1988, LB 863, § 6; R.S.1943, (2010), § 48-742; Laws 2019, LB301, § 23.

Operative date July 1, 2019.

81-5,188 Board; duties.

The board shall hold hearings and advise the State Fire Marshal on rules and regulations for methods of testing equipment and construction and installation

of new boilers required to be inspected by the Boiler Inspection Act and for inspection and certificate fees for such boilers.

Source: Laws 1988, LB 863, § 7; Laws 1995, LB 438, § 15; R.S.1943, (2010), § 48-743; Laws 2019, LB301, § 24.

Operative date July 1, 2019.

81-5,189 Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.

(1) Effective July 1, 2019, all duties and functions of the Department of Labor under the Boiler Inspection Act shall be transferred to the State Fire Marshal.

(2) On July 1, 2019, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Labor pertaining to the duties and functions transferred to the State Fire Marshal pursuant to this section shall become the property of the State Fire Marshal.

(3) On and after July 1, 2019, whenever the Department of Labor is referred to or designated by any contract or other document in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section, such reference or designation shall apply to the State Fire Marshal. All contracts entered into by the Department of Labor prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal are hereby recognized, with the State Fire Marshal succeeding to all rights and obligations under such contracts.

(4) All rules and regulations of the Department of Labor adopted prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

(5) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2019, or which could have been commenced prior to that date, by or against the Department of Labor, or any employee thereof in such employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Department of Labor to the State Fire Marshal.

(6) On and after July 1, 2019, positions of employment in the Department of Labor related to the duties and functions transferred pursuant to this section are transferred to the State Fire Marshal. The affected employees shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the State Fire Marshal from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2019, LB301, § 25.

Operative date July 1, 2019.

(I) NEBRASKA AMUSEMENT RIDE ACT

81-5,190 Act, how cited.

Sections 81-5,190 to 81-5,209 shall be known and may be cited as the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 1; Laws 1994, LB 608, § 1; R.S.1943, (2010), § 48-1801; Laws 2019, LB301, § 26.
Operative date July 1, 2019.

81-5,191 Terms, defined.

For purposes of the Nebraska Amusement Ride Act, unless the context otherwise requires:

(1) Amusement ride shall mean any mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, or excitement, but such term shall not include (a) any single-passenger coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator or (b) nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, and physical fitness devices. Bungee jumping is specifically designated as an amusement ride for purposes of the act and shall mean the sport, activity, or other practice of jumping, diving, stepping out, dropping, or otherwise being released into the air while attached to a bungee cord, whereby the cord stretches, stops the fall, lengthens, and shortens allowing the person to bounce up and down, and is intended to finally bring the person to a stop at a point above a surface or the ground;

(2) Bungee cord shall mean a cord made of rubber, latex, or other elastic-type material, whether natural or synthetic;

(3) Operator shall mean a person actually engaged in or directly controlling the operations of an amusement ride;

(4) Owner shall mean a person who owns, leases, controls, or manages the operations of an amusement ride and may include the state or any political subdivision of the state;

(5) Qualified inspector shall mean any person who is (a) found by the State Fire Marshal to possess the requisite training and experience to perform competently the inspections required by the Nebraska Amusement Ride Act and (b) certified by the State Fire Marshal to perform inspections of amusement rides; and

(6) Reverse bungee jumping shall mean the sport, activity, or practice whereby a person is attached to a bungee cord, the bungee cord is stretched down so that such person is on a fixed catapult, launch, or release position, and such person is catapulted or otherwise launched or released into the air from such fixed position, while attached to a bungee cord, whereby the cord stretches, stops the fall, lengthens, and shortens allowing the person to bounce up and down, and is intended to finally bring the person to a stop at a point above a surface or the ground.

Source: Laws 1987, LB 226, § 2; Laws 1994, LB 608, § 2; R.S.1943, (2010), § 48-1802; Laws 2019, LB301, § 27.
Operative date July 1, 2019.

81-5,192 State Fire Marshal; adopt rules and regulations; administer act.

The State Fire Marshal shall adopt and promulgate rules and regulations (1) for the safe installation, repair, maintenance, use, operation, and inspection of amusement rides as the State Fire Marshal may find necessary for the protection of the general public and (2) necessary to carry out the provisions of the Nebraska Amusement Ride Act. Such rules and regulations shall be of a reasonable nature, based upon generally accepted engineering standards, formulas, and practices, and, insofar as practicable and consistent with the Nebraska Amusement Ride Act, uniform with rules and regulations of other states. Whenever such standards are available in suitable form they may be incorporated by reference by the State Fire Marshal. The State Fire Marshal shall administer and enforce the Nebraska Amusement Ride Act and all rules and regulations adopted and promulgated pursuant to such act. The State Fire Marshal shall coordinate all regulatory and investigative activities with the appropriate state agencies.

Source: Laws 1987, LB 226, § 3; R.S.1943, (2010), § 48-1803; Laws 2019, LB301, § 28.

Operative date July 1, 2019.

81-5,193 Amusement ride; permit required; inspection.

Except for purposes of testing and inspection, no amusement ride shall be operated without a valid permit for the operation issued by the State Fire Marshal to the owner of such amusement ride. The owner of an amusement ride shall apply for a permit under section 81-5,195 to the State Fire Marshal on an application furnished by the State Fire Marshal and shall include such information as the State Fire Marshal may require. Every amusement ride shall be inspected before it is originally put into operation for public use and at least once every year after such ride is put into operation for public use.

Source: Laws 1987, LB 226, § 4; R.S.1943, (2010), § 48-1804; Laws 2019, LB301, § 29.

Operative date July 1, 2019.

81-5,194 Reverse bungee jumping rides; prohibited.

No person shall operate a reverse bungee jumping ride in this state.

Source: Laws 1994, LB 608, § 5; R.S.1943, (2010), § 48-1804.01; Laws 2019, LB301, § 30.

Operative date July 1, 2019.

81-5,195 Permit; issuance; conditions; fee; waiver of inspection.

(1) The State Fire Marshal shall issue a permit to operate an amusement ride to the owner of such amusement ride upon presentation by the owner of (a) an application for a permit, (b) a certificate of inspection by a qualified inspector, (c) proof of liability insurance as required in section 81-5,196, and (d) the permit fee. Such permit shall be valid through December 31 of the year in which the inspection is performed.

(2) The State Fire Marshal may waive the requirement of subdivision (1)(b) of this section if the owner of the amusement ride gives satisfactory proof to the State Fire Marshal that such amusement ride has passed an inspection conducted or required by a federal agency, any other state, or a governmental

subdivision of this or of any other state which has standards for the inspection of such an amusement ride at least as stringent as those adopted and promulgated pursuant to the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 5; Laws 2004, LB 947, § 1; R.S.1943, (2010), § 48-1805; Laws 2019, LB301, § 31.
Operative date July 1, 2019.

81-5,196 Liability insurance required.

No amusement ride shall be operated unless at the time of operation the owner has an insurance policy in effect written by an insurance company authorized to do business in this state insuring the owner and operator against liability for injury to persons arising out of the operation of such amusement ride. Such insurance policy shall be in amounts not less than the minimum amounts established by the State Fire Marshal. Such minimum amounts shall be established with due regard to the protection of the general public and the availability of insurance coverage, but such minimum amounts shall not be less than one million dollars per occurrence and three million dollars aggregate. The State Fire Marshal may require a separate insurance policy from the owner of any equipment used in an amusement ride, subject to the minimums and limitations provided in this section.

Source: Laws 1987, LB 226, § 6; Laws 1994, LB 608, § 3; R.S.1943, (2010), § 48-1806; Laws 2019, LB301, § 32.
Operative date July 1, 2019.

81-5,197 Amusement ride; inspection; suspend permit; when.

The State Fire Marshal may inspect any amusement ride without notice at any time while such amusement ride is operating in this state. The State Fire Marshal may temporarily suspend a permit to operate an amusement ride if it has been determined after inspection to be hazardous or unsafe. An amusement ride shall not be operated while the permit for its operation is suspended. Operation of such an amusement ride shall not resume until the hazardous or unsafe condition is corrected to the satisfaction of the State Fire Marshal.

Source: Laws 1987, LB 226, § 7; R.S.1943, (2010), § 48-1807; Laws 2019, LB301, § 33.
Operative date July 1, 2019.

81-5,198 Accident; report; suspend permit; inspection.

The owner of an amusement ride shall send a copy of any accident report required by his or her insurer to the State Fire Marshal. The State Fire Marshal may provide for the suspension of the permit of operation for any amusement ride the breakdown or malfunction of which directly caused serious injury or death of any person. The State Fire Marshal may also require an inspection of any amusement ride, whose operation has resulted in any serious injury or death, before operation of such amusement ride may be resumed.

Source: Laws 1987, LB 226, § 8; R.S.1943, (2010), § 48-1808; Laws 2019, LB301, § 34.
Operative date July 1, 2019.

81-5,199 Permit fees.

The State Fire Marshal shall establish by rules and regulations a schedule of permit fees not to exceed fifty dollars for each amusement ride. Such permit fees shall be established with due regard for the costs of administering the Nebraska Amusement Ride Act and shall be remitted to the State Treasurer for credit to the Mechanical Safety Inspection Fund.

Source: Laws 1987, LB 226, § 9; Laws 2007, LB265, § 25; R.S.1943, (2010), § 48-1809; Laws 2019, LB301, § 35.
Operative date July 1, 2019.

81-5,200 State Fire Marshal; certify inspectors.

The State Fire Marshal may certify such qualified inspectors as may be necessary to carry out the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 11; R.S.1943, (2010), § 48-1811; Laws 2019, LB301, § 36.
Operative date July 1, 2019.

81-5,201 Inspection fees.

(1) The State Fire Marshal may establish by rules and regulations a schedule of reasonable inspections fees for each amusement ride. The cost of obtaining the certificate of inspection from a qualified inspector shall be borne by the owner of the amusement ride.

(2) A separate schedule of fees shall be established for the inspection of bungee jumping operations, including the inspection of cranes used for bungee jumping. The fees shall be established taking into consideration the cost of such inspections.

Source: Laws 1987, LB 226, § 12; Laws 1994, LB 608, § 4; R.S.1943, (2010), § 48-1812; Laws 2019, LB301, § 37.
Operative date July 1, 2019.

81-5,202 Owner; maintain records.

Each owner shall retain at all times up-to-date maintenance and inspection records for each amusement ride as prescribed by the State Fire Marshal. The owner shall make such records available to the State Fire Marshal on request.

Source: Laws 1987, LB 226, § 13; R.S.1943, (2010), § 48-1813; Laws 2019, LB301, § 38.
Operative date July 1, 2019.

81-5,203 Owner; provide schedule.

The State Fire Marshal may require the owner of an amusement ride to provide the State Fire Marshal with a tentative schedule of events at which the amusement ride will be operated within this state. The State Fire Marshal shall establish timetables and procedures for providing and updating such schedules.

Source: Laws 1987, LB 226, § 14; R.S.1943, (2010), § 48-1814; Laws 2019, LB301, § 39.
Operative date July 1, 2019.

81-5,204 Operator; requirements.

No person shall operate an amusement ride unless he or she is at least sixteen years of age. An operator shall be in attendance at all times that an amusement ride is in operation.

Source: Laws 1987, LB 226, § 15; R.S.1943, (2010), § 48-1815; Laws 2019, LB301, § 40.
Operative date July 1, 2019.

81-5,205 Violation; penalty.

Any person who knowingly operates or causes to be operated an amusement ride in violation of the Nebraska Amusement Ride Act shall be guilty of a Class II misdemeanor. Each day a violation continues shall constitute a separate offense.

Source: Laws 1987, LB 226, § 16; R.S.1943, (2010), § 48-1816; Laws 2019, LB301, § 41.
Operative date July 1, 2019.

81-5,206 Application for injunction.

The Attorney General, acting on behalf of the State Fire Marshal, or the county attorney in a county in which an amusement ride is located or operated may apply to the district court, pursuant to the rules of civil procedure, for an order enjoining operation of any amusement ride operated in violation of the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 17; R.S.1943, (2010), § 48-1817; Laws 2019, LB301, § 42.
Operative date July 1, 2019.

81-5,207 Act, how construed.

The Nebraska Amusement Ride Act shall not be construed to alter the duty of care or the liability of an owner of an amusement ride for injuries or death of any person or damage to any property arising out of an accident involving an amusement ride. The state and its officers and employees shall not be construed to assume liability arising out of an accident involving an amusement ride by reason of administration of the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 18; R.S.1943, (2010), § 48-1818; Laws 2019, LB301, § 43.
Operative date July 1, 2019.

81-5,208 Local safety standards; authorized.

The governing board of any city, county, or village may establish and enforce safety standards for amusement rides in addition to, but not in conflict with, the standards established by the State Fire Marshal pursuant to the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 19; R.S.1943, (2010), § 48-1819; Laws 2019, LB301, § 44.
Operative date July 1, 2019.

81-5,209 Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.

(1) Effective July 1, 2019, all duties and functions of the Department of Labor under the Nebraska Amusement Ride Act shall be transferred to the State Fire Marshal.

(2) On July 1, 2019, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Labor pertaining to the duties and functions transferred to the State Fire Marshal pursuant to this section shall become the property of the State Fire Marshal.

(3) On and after July 1, 2019, whenever the Department of Labor is referred to or designated by any contract or other document in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section, such reference or designation shall apply to the State Fire Marshal. All contracts entered into by the Department of Labor prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal are hereby recognized, with the State Fire Marshal succeeding to all rights and obligations under such contracts.

(4) All rules and regulations of the Department of Labor adopted prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

(5) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2019, or which could have been commenced prior to that date, by or against the Department of Labor, or any employee thereof in such employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Department of Labor to the State Fire Marshal.

(6) On and after July 1, 2019, positions of employment in the Department of Labor related to the duties and functions transferred pursuant to this section are transferred to the State Fire Marshal. The affected employees shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the State Fire Marshal from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2019, LB301, § 45.

Operative date July 1, 2019.

(m) CONVEYANCE SAFETY ACT

81-5,210 Act, how cited.

Sections 81-5,210 to 81-5,243 shall be known and may be cited as the Conveyance Safety Act.

Source: Laws 2006, LB 489, § 1; Laws 2007, LB265, § 26; R.S.1943, (2010), § 48-2501; Laws 2019, LB301, § 46.

Operative date July 1, 2019.

81-5,211 Terms, defined.

For purposes of the Conveyance Safety Act:

(1) Certificate of inspection means a document issued by the State Fire Marshal that indicates that the conveyance has had the required safety inspection and tests and that the required fees have been paid;

(2) Committee means the Conveyance Advisory Committee;

(3) Conveyance means any elevator, dumbwaiter, vertical reciprocating conveyor, escalator, moving sidewalk, automated people mover, and other equipment enumerated in section 81-5,215 and not exempted under section 81-5,216;

(4) Elevator contractor means any person who is engaged in the business of contracting services for erecting, constructing, installing, altering, servicing, testing, repairing, or maintaining conveyances;

(5) Elevator mechanic means any person who is engaged in erecting, constructing, installing, altering, servicing, repairing, testing, or maintaining conveyances; and

(6) Person means an individual, a partnership, a limited liability company, a corporation, and any other business firm or company and includes a director, an officer, a member, a manager, and a superintendent of such an entity.

Source: Laws 2006, LB 489, § 2; R.S.1943, (2010), § 48-2502; Laws 2019, LB301, § 47.

Operative date July 1, 2019.

81-5,212 Conveyance Advisory Committee; created; members; terms; expenses; meetings.

(1) The Conveyance Advisory Committee is created. One member shall be the state elevator inspector employed pursuant to section 81-5,221. The Governor shall appoint the other members of the committee as follows: One representative from a major elevator manufacturing company; one representative from an elevator servicing company; one representative who is a building manager; one representative who is an elevator mechanic; and one representative of the general public from each county that has a population of more than one hundred thousand inhabitants.

(2) The members of the committee appointed by the Governor shall serve for terms of three years, except that of the initial members appointed, two shall serve for terms of one year and three shall serve for terms of two years. The state elevator inspector shall serve continuously. The appointed members shall be reimbursed for their actual and necessary expenses for service on the committee as provided in sections 81-1174 to 81-1177. The members of the committee shall elect a chairperson who shall be the deciding vote in the event of a tie vote.

(3) The committee shall meet and organize within thirty days after the appointment of the members. The committee shall meet quarterly at a time and place to be fixed by the committee for the consideration of code regulations and for the transaction of such other business as properly comes before it. Special meetings may be called by the chairperson or at the request of two or more members of the committee. Any appointed committee member absent from three consecutive meetings shall be dismissed.

Source: Laws 2006, LB 489, § 3; Laws 2007, LB265, § 28; R.S.1943, (2010), § 48-2503; Laws 2019, LB301, § 48.

Operative date July 1, 2019.

81-5,213 Committee; powers and duties.

The committee:

(1) May consult with engineering authorities and organizations concerned with standard safety codes;

(2) Shall recommend to the State Fire Marshal rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation, and inspection of conveyances;

(3) Shall recommend to the State Fire Marshal qualifications for licensure as an elevator mechanic or elevator contractor and conditions for disciplinary actions, including suspension or revocation of a license;

(4) Shall recommend to the State Fire Marshal rules and regulations for temporary and emergency elevator mechanic thirty-day licenses;

(5) Shall recommend to the State Fire Marshal an enforcement program which will ensure compliance with the Conveyance Safety Act and the rules and regulations adopted and promulgated pursuant to the act. The enforcement program shall include the identification of property locations which are subject to the act, issuing notifications to violating property owners or operators, random onsite inspections and tests on existing installations, and assisting in development of public awareness programs; and

(6) Shall make recommendations to the State Fire Marshal regarding variances under section 81-5,217, continuing education providers under section 81-5,235, and license disciplinary actions under section 81-5,237.

Source: Laws 2006, LB 489, § 4; R.S.1943, (2010), § 48-2504; Laws 2019, LB301, § 49.

Operative date July 1, 2019.

81-5,214 State Fire Marshal; establish fee schedules; administer act.

(1) The State Fire Marshal shall, after a public hearing conducted by the State Fire Marshal or his or her designee, establish a reasonable schedule of fees for licenses, permits, certificates, and inspections authorized under the Conveyance Safety Act. The State Fire Marshal shall establish the fees at a level necessary to meet the costs of administering the act. Inspection fee schedules relating to the inspection of conveyances adopted prior to January 1, 2008, shall continue to be effective until they are amended or repealed by the State Fire Marshal.

(2) The State Fire Marshal shall administer the Conveyance Safety Act. It is the intent of the Legislature that the funding for the administration of the act shall be entirely from cash funds remitted to the Mechanical Safety Inspection Fund that are fees collected in the administration of the act.

Source: Laws 2006, LB 489, § 6; Laws 2007, LB265, § 29; R.S.1943, (2010), § 48-2506; Laws 2019, LB301, § 50.

Operative date July 1, 2019.

81-5,215 Applicability of act.

(1) The Conveyance Safety Act applies to the construction, operation, inspection, testing, maintenance, alteration, and repair of conveyances. Conveyances include the following equipment, associated parts, and hoistways which are not exempted under section 81-5,216:

(a) Hoisting and lowering mechanisms equipped with a car which moves between two or more landings. This equipment includes elevators;

(b) Power driven stairways and walkways for carrying persons between landings. This equipment includes:

(i) Escalators; and

(ii) Moving sidewalks; and

(c) Hoisting and lowering mechanisms equipped with a car, which serves two or more landings and is restricted to the carrying of material by its limited size or limited access to the car. This equipment includes:

(i) Dumbwaiters;

(ii) Material lifts and dumbwaiters with automatic transfer devices; and

(iii) Conveyors and related equipment within the scope of American Society of Mechanical Engineers B20.1.

(2) The act applies to the construction, operation, inspection, maintenance, alteration, and repair of automatic guided transit vehicles on guideways with an exclusive right-of-way. This equipment includes automated people movers.

(3) The act applies to conveyances in private residences located in counties that have a population of more than one hundred thousand inhabitants at the time of installation. Such conveyances are subject to inspection at installation but are not subject to periodic inspections.

Source: Laws 2006, LB 489, § 7; Laws 2007, LB265, § 30; R.S.1943, (2010), § 48-2507; Laws 2019, LB301, § 51.
Operative date July 1, 2019.

81-5,216 Exemptions from act.

The Conveyance Safety Act does not apply to:

(1) Conveyances under the jurisdiction and subject to inspection by the United States Government;

(2) Conveyances used exclusively for agricultural purposes;

(3) Personnel hoists within the scope of American National Standards Institute A10.4;

(4) Material hoists within the scope of American National Standards Institute A10.5;

(5) Manlifts within the scope of American Society of Mechanical Engineers A90.1;

(6) Mobile scaffolds, towers, and platforms within the scope of American National Standards Institute A92;

(7) Powered platforms and equipment for exterior and interior maintenance within the scope of American National Standards Institute 120.1;

(8) Cranes, derricks, hoists, hooks, jacks, and slings within the scope of American Society of Mechanical Engineers B30;

(9) Industrial trucks within the scope of American Society of Mechanical Engineers B56;

(10) Portable equipment, except for portable escalators which are covered by American National Standards Institute A17.1;

(11) Tiering or piling machines used to move materials to and from storage located and operating entirely within one story;

(12) Equipment for feeding or positioning materials at machine tools, printing presses, and similar equipment;

(13) Skip or furnace hoists;

(14) Wharf ramps;

(15) Railroad car lifts or dumpers;

(16) Line jacks, false cars, shafters, moving platforms, and similar equipment used for installing a conveyance by an elevator contractor;

(17) Manlifts, hoists, or conveyances used in grain elevators or feed mills;

(18) Dock levelators;

(19) Stairway chair lifts and platform lifts; and

(20) Conveyances in residences located in counties that have a population of one hundred thousand or less inhabitants.

Source: Laws 2006, LB 489, § 8; Laws 2007, LB265, § 31; R.S.1943, (2010), § 48-2508; Laws 2019, LB301, § 52.
Operative date July 1, 2019.

81-5,217 Rules and regulations; State Fire Marshal; variance authorized; appeal.

(1) The State Fire Marshal shall adopt and promulgate rules and regulations which establish the regulations for conveyances under the Conveyance Safety Act. The rules and regulations may include the Safety Code for Elevators and Escalators, American Society of Mechanical Engineers A17.1 except those parts exempted under section 81-5,216; the standards for conveyors and related equipment, American Society of Mechanical Engineers B20.1; and the Automated People Mover Standards, American Society of Civil Engineers 21. The State Fire Marshal shall annually review to determine if the most current form of such standards should be adopted.

(2) The State Fire Marshal may grant a variance from the rules and regulations adopted in subsection (1) of this section in individual situations upon good cause shown if the safety of those riding or using the conveyance is not compromised by the variance. The State Fire Marshal shall adopt and promulgate rules and regulations for the procedure to obtain a variance. The committee shall make recommendations to the State Fire Marshal regarding each variance requested. The decision of the State Fire Marshal in granting or refusing to grant a variance may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 2006, LB 489, § 9; R.S.1943, (2010), § 48-2509; Laws 2019, LB301, § 53.
Operative date July 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

81-5,218 Registration of conveyances; when required.

Conveyances upon which construction is started subsequent to January 1, 2008, shall be registered at the time they are completed and placed in service.

Source: Laws 2006, LB 489, § 10; R.S.1943, (2010), § 48-2510; Laws 2019, LB301, § 54.

Operative date July 1, 2019.

81-5,219 Certificate of inspection; when required; display of certificate.

On and after January 1, 2008: Prior to any newly installed conveyance being used for the first time, the property owner or lessee shall obtain a certificate of inspection from the State Fire Marshal. A fee established under section 81-5,214 shall be paid for the certificate of inspection. A licensed elevator contractor shall complete and submit first-time registrations for new installations to the state elevator inspector for the inspector's approval. A certificate of inspection shall be clearly displayed in an elevator car and on or in each other conveyance.

Source: Laws 2006, LB 489, § 11; R.S.1943, (2010), § 48-2511; Laws 2019, LB301, § 55.

Operative date July 1, 2019.

81-5,220 Existing conveyance; prohibited acts; licensed elevator mechanic; licensed elevator contractor; when required; new conveyance installation; requirements.

(1) No person shall wire, alter, replace, remove, or dismantle an existing conveyance contained within a building or structure located in a county that has a population of more than one hundred thousand inhabitants unless such person is a licensed elevator mechanic or he or she is working under the direct supervision of a person who is a licensed elevator mechanic. Neither a licensed elevator mechanic nor a licensed elevator contractor is required to perform nonmechanical maintenance of a conveyance. Neither a licensed elevator contractor nor a licensed elevator mechanic is required for removing or dismantling conveyances which are destroyed as a result of a complete demolition of a secured building.

(2) It shall be the responsibility of licensed elevator mechanics and licensed elevator contractors to ensure that installation and service of a conveyance is performed in compliance with applicable fire and safety codes. It shall be the responsibility of the owner of the conveyance to ensure that the conveyance is maintained in compliance with applicable fire and safety codes.

(3) All new conveyance installations shall be performed by a licensed elevator mechanic under the control of a licensed elevator contractor or by a licensed elevator contractor. Subsequent to installation, a licensed elevator contractor shall certify compliance with the Conveyance Safety Act.

Source: Laws 2006, LB 489, § 12; Laws 2007, LB265, § 32; R.S.1943, (2010), § 48-2512; Laws 2019, LB301, § 56.

Operative date July 1, 2019.

81-5,221 State elevator inspector; qualifications; deputy inspectors; employment; qualifications.

(1) The State Fire Marshal shall employ a state elevator inspector who shall work under the direct supervision of the State Fire Marshal.

(2) The person so employed shall be qualified by (a) not less than five years' experience in the installation, maintenance, and repair of elevators as determined by the State Fire Marshal, (b) certification as a qualified elevator inspector by an association accredited by the American Society of Mechanical Engineers, or (c) not less than five years' journeyman experience in elevator installation, maintenance, and inspection as determined by the State Fire Marshal and shall be familiar with the inspection process and rules and regulations adopted and promulgated under the Conveyance Safety Act.

(3) The State Fire Marshal may employ deputy inspectors possessing the same qualifications as the state elevator inspector as necessary to carry out the Conveyance Safety Act.

Source: Laws 1919, c. 190, tit. IV, art. IV, § 14, p. 561; C.S.1922, § 7695; C.S.1929, § 48-414; R.S.1943, § 48-418; Laws 1965, c. 283, § 1, p. 810; Laws 1967, c. 297, § 1, p. 810; Laws 1973, LB 320, § 1; Laws 1982, LB 659, § 2; Laws 1987, LB 36, § 1; Laws 1997, LB 752, § 126; Laws 2006, LB 489, § 35; R.S.Supp.,2006, § 48-418; Laws 2007, LB265, § 27; R.S.1943, (2010), § 48-2512.01; Laws 2019, LB301, § 57.

Operative date July 1, 2019.

81-5,222 State elevator inspector; inspections required; written report.

(1) Except as provided otherwise in the Conveyance Safety Act, the state elevator inspector shall inspect or cause to be inspected conveyances which are located in a building or structure, other than a private residence, at least once every twelve months in order to determine whether such conveyances are in a safe and satisfactory condition and are properly constructed and maintained for their intended use.

(2) Subsequent to inspection of a conveyance, the inspector shall supply owners or lessees with a written inspection report describing any and all violations. An owner has thirty days after the date of the published inspection report to correct the violations.

(3) All tests done for the conveyance inspection shall be performed by a licensed elevator mechanic.

Source: Laws 2006, LB 489, § 13; R.S.1943, (2010), § 48-2513; Laws 2019, LB301, § 58.

Operative date July 1, 2019.

81-5,223 Alternative inspections; requirements.

(1) No inspection shall be required under the Conveyance Safety Act when an owner or user of a conveyance obtains an inspection by a representative of a reputable insurance company licensed to do business in Nebraska, obtains a policy of insurance from such company upon the conveyance and files with the State Fire Marshal a certificate of inspection by such insurance company, files a statement that such conveyance is insured, and pays an administrative fee established pursuant to section 81-5,214.

(2) No inspection shall be required under the act when there has been an annual inspection under a city ordinance which meets the standards of the act.

Source: Laws 2006, LB 489, § 14; R.S.1943, (2010), § 48-2514; Laws 2019, LB301, § 59.

Operative date July 1, 2019.

81-5,224 Special inspection; expenses; fee; report.

If at any time the owner or user of a conveyance desires a special inspection of a conveyance, it shall be made by the state elevator inspector after due request therefor and the inspector making the inspection shall collect his or her expenses in connection therewith and a fee established pursuant to section 81-5,214. A report of the inspection shall be provided to the owner or user who requested the inspection upon their request.

Source: Laws 2006, LB 489, § 15; R.S.1943, (2010), § 48-2515; Laws 2019, LB301, § 60.
Operative date July 1, 2019.

81-5,225 Certificate of inspection; issuance; form.

Upon a conveyance passing an inspection under section 81-5,222, 81-5,223, or 81-5,224 and receipt of the inspection fee, the State Fire Marshal shall issue the owner or user of the conveyance a certificate of inspection, upon forms prescribed by the State Fire Marshal.

Source: Laws 2006, LB 489, § 16; R.S.1943, (2010), § 48-2516; Laws 2019, LB301, § 61.
Operative date July 1, 2019.

81-5,226 State elevator inspector; records required.

The state elevator inspector shall maintain a complete and accurate record of the name of the owner or user of each conveyance subject to sections 81-5,222 and 81-5,223 and a full description of the conveyance and the date when last inspected.

Source: Laws 2006, LB 489, § 17; R.S.1943, (2010), § 48-2517; Laws 2019, LB301, § 62.
Operative date July 1, 2019.

81-5,227 Entry upon property for purpose of inspection.

The State Fire Marshal, the state elevator inspector, and the deputy inspectors shall have the right and power to enter any public building or structure for the purpose of inspecting any conveyance subject to the Conveyance Safety Act or gathering information with reference thereto.

Source: Laws 2006, LB 489, § 18; R.S.1943, (2010), § 48-2518; Laws 2019, LB301, § 63.
Operative date July 1, 2019.

81-5,228 Defective or unsafe condition; notice to owner or user; temporary certificate; when issued.

The state elevator inspector shall notify the owner or user in writing of any conveyance found to be unsafe or unfit for operation setting forth the nature and extent of any defect or other unsafe condition. If the conveyance can be used without making repair or replacement of defective parts or may be used in a limited capacity before repairs or replacements are made, the state elevator inspector may issue a temporary certificate of inspection which shall state the terms and conditions of operation under the temporary certificate. The tempo-

rary certificate shall be valid for no longer than thirty days unless an extension is granted by the state elevator inspector for good cause shown.

Source: Laws 2006, LB 489, § 19; R.S.1943, (2010), § 48-2519; Laws 2019, LB301, § 64.

Operative date July 1, 2019.

81-5,229 Accident involving conveyance; notification required; when; state elevator inspector; duties.

The owner of a conveyance shall notify the state elevator inspector of any accident causing personal injury or property damage in excess of one thousand dollars involving a conveyance on or before the close of business the next business day following the accident, and the conveyance involved shall not operate until the state elevator inspector has conducted an investigation of the accident and has approved the operation of the conveyance. The state elevator inspector shall investigate and report to the State Fire Marshal the cause of any conveyance accident that may occur in the state, the loss of life, the injuries sustained, and such other data as may be of benefit in preventing other similar accidents.

Source: Laws 2006, LB 489, § 20; R.S.1943, (2010), § 48-2520; Laws 2019, LB301, § 65.

Operative date July 1, 2019.

81-5,230 Elevator mechanic license; elevator contractor license; application; form; contents.

(1) Any person wishing to engage in the work of an elevator mechanic shall apply for and obtain an elevator mechanic license from the State Fire Marshal. The application shall be on a form provided by the State Fire Marshal.

(2) Any person wishing to engage in the business of an elevator contractor shall apply for and obtain an elevator contractor license from the State Fire Marshal. The application shall be on a form provided by the State Fire Marshal.

(3) Each application shall contain:

(a) If an individual, the name, residence and business address, and social security number of the applicant;

(b) If a partnership, the name, residence and business address, and social security number of each partner;

(c) If a domestic corporation, the name and business address of the corporation and the name, residence address, and social security number of the principal officer of the corporation; and if a corporation other than a domestic corporation, the name and address of an agent located locally who is authorized to accept service of process and official notices;

(d) The number of years the applicant has engaged in the business of installing, inspecting, maintaining, or servicing conveyances;

(e) The approximate number of individuals to be employed by the applicant and, if applicable, satisfactory evidence that the employees are or will be covered by workers' compensation insurance;

(f) Satisfactory evidence that the applicant is or will be covered by general liability, personal injury, and property damage insurance;

(g) Permission for the State Fire Marshal to access the criminal history record information of individuals, partners, or officers maintained by the Federal Bureau of Investigation through the Nebraska State Patrol;

(h) A description of all accidents causing personal injury or property damage in excess of one thousand dollars involving conveyances installed, inspected, maintained, or serviced by the applicant; and

(i) Such other information as the State Fire Marshal may by rule and regulation require.

(4) Social security numbers on applications shall not be made public or be considered a part of a public record.

Source: Laws 2006, LB 489, § 21; R.S.1943, (2010), § 48-2521; Laws 2019, LB301, § 66.

Operative date July 1, 2019.

81-5,231 Standards for licensure of elevator mechanics; State Fire Marshal; duties.

The State Fire Marshal shall adopt and promulgate rules and regulations establishing standards for licensure of elevator mechanics. An applicant for an elevator mechanic license shall demonstrate the following qualifications before being granted an elevator mechanic license:

(1) Not less than three years' work experience in the conveyance industry, in construction, maintenance, and service or repair, as verified by current and previous employers;

(2) One of the following:

(a) Satisfactory completion of a written examination administered by the committee on the most recent referenced codes and standards;

(b) Acceptable proof that the applicant has worked as a conveyance constructor, maintenance, or repair person. Such person shall have worked as an elevator mechanic without the direct and immediate supervision of a licensed elevator contractor and have passed a written examination approved by the State Fire Marshal. This employment shall not be less than three years immediately prior to the effective date of the license;

(c) Certificates of completion and successfully passing an elevator mechanic examination of a nationally recognized training program for the conveyance industry as provided by the National Elevator Industry Educational Program or its equivalent; or

(d) Certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of the Conveyance Safety Act and registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or a state apprenticeship council; and

(3) Any additional qualifications adopted and promulgated in rule and regulation by the State Fire Marshal.

Source: Laws 2006, LB 489, § 22; R.S.1943, (2010), § 48-2522; Laws 2019, LB301, § 67.

Operative date July 1, 2019.

81-5,232 Elevator contractor license; work experience required.

An applicant for an elevator contractor license shall demonstrate five years' work experience in the conveyance industry in construction, maintenance, and service or repair, as verified by current or previous employers.

Source: Laws 2006, LB 489, § 23; R.S.1943, (2010), § 48-2523; Laws 2019, LB301, § 68.
Operative date July 1, 2019.

81-5,233 Reciprocity.

Upon application, an elevator mechanic license or an elevator contractor license may be issued to a person holding a valid license from a state having standards substantially equal to those of the Conveyance Safety Act.

Source: Laws 2006, LB 489, § 24; R.S.1943, (2010), § 48-2524; Laws 2019, LB301, § 69.
Operative date July 1, 2019.

81-5,234 License; issuance; renewal.

Upon approval of an application for licensure as an elevator mechanic, the State Fire Marshal may issue a license which shall be renewable biennially if the continuing education requirements are met. The fee for licenses and for license renewal for elevator mechanic licenses and elevator contractor licenses shall be set by the State Fire Marshal under section 81-5,214.

Source: Laws 2006, LB 489, § 25; R.S.1943, (2010), § 48-2525; Laws 2019, LB301, § 70.
Operative date July 1, 2019.

81-5,235 Continuing education; extension; when granted; approved providers; records.

(1) The renewal of elevator mechanic licenses granted under the Conveyance Safety Act shall be conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education on new and existing rules and regulations adopted and promulgated by the State Fire Marshal. Such course shall consist of not less than eight hours of instruction that shall be attended and completed within one year immediately preceding any license renewal. The individual holding the elevator mechanic license shall pay the cost of such course.

(2) The courses shall be taught by instructors through continuing education providers that may include association seminars and labor training programs. The committee shall make recommendations to the State Fire Marshal about approval of continuing education providers.

(3) An elevator mechanic licensee who is unable to complete the continuing education course required under this section prior to the expiration of the license due to a temporary disability may apply for an extension from the state elevator inspector. The extension shall be on a form provided by the state elevator inspector which shall be signed by the applicant and accompanied by a certified statement from a competent physician attesting to such temporary disability. Upon the termination of such temporary disability, the elevator mechanic licensee shall submit to the state elevator inspector a certified statement from the same physician, if practicable, attesting to the termination of such temporary disability. At such time an extension sticker, valid for ninety

days, shall be issued to the licensed elevator mechanic and affixed to the license. Such extension shall be renewable for periods of ninety days upon a showing that the disability continues.

(4) Approved continuing education providers shall keep uniform records, for a period of ten years, of attendance of elevator mechanic licensees following a format approved by the state elevator inspector, and such records shall be available for inspection by the state elevator inspector upon request. Approved continuing education providers are responsible for the security of all attendance records and certificates of completion. Falsifying or knowingly allowing another to falsify such attendance records or certificates of completion shall constitute grounds for suspension or revocation of the approval required under this section.

Source: Laws 2006, LB 489, § 26; R.S.1943, (2010), § 48-2526; Laws 2019, LB301, § 71.

Operative date July 1, 2019.

81-5,236 Insurance policy; requirements; delivery; notice of alteration or cancellation.

(1) An elevator contractor shall submit to the State Fire Marshal an insurance policy, or certified copy thereof, issued by an insurance company authorized to do business in the state to provide general liability coverage of at least one million dollars for injury or death of any one person and one million dollars for injury or death of any number of persons in any one occurrence and to provide coverage of at least five hundred thousand dollars for property damage in any one occurrence and workers' compensation insurance coverage as required under the Nebraska Workers' Compensation Act.

(2) Such policies, or certified copies thereof, shall be delivered to the State Fire Marshal before or at the time of the issuance of a license. In the event of any material alteration or cancellation of any policy, at least ten days' notice thereof shall be given to the State Fire Marshal.

Source: Laws 2006, LB 489, § 27; R.S.1943, (2010), § 48-2527; Laws 2019, LB301, § 72.

Operative date July 1, 2019.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

81-5,237 Elevator contractor license; revocation; grounds; elevator mechanic license; disciplinary actions; grounds; procedure; decision; appeal.

(1) An elevator contractor license issued under the Conveyance Safety Act may be revoked by the State Fire Marshal upon verification that the elevator contractor licensee lacks the insurance coverage required by section 81-5,236.

(2) An elevator mechanic license or an elevator contractor license issued under the act may be suspended, revoked, or subject to a civil penalty not to exceed five thousand dollars by the State Fire Marshal, after notice and hearing, if the licensee:

- (a) Makes a false statement as to material matter in the license application;
- (b) Commits fraud, misrepresentation, or bribery in obtaining the license; or
- (c) Violates any other provision of the act.

(3) No license shall be suspended, revoked, or subject to civil penalty until after a hearing is held before the committee and the State Fire Marshal or his or her designee. The hearing shall be held within sixty days after notice of the violation is received and all interested parties shall receive written notice of the hearing at least fifteen days prior to the hearing. Within fifteen days after the hearing, the committee shall make recommendations to the State Fire Marshal or his or her designee of appropriate penalties, if any, warranted under the circumstances of the case. The committee does not have the power to suspend or revoke licenses or impose civil penalties. Within thirty days after the hearing, the State Fire Marshal shall issue a decision which may include license suspension, license revocation, and civil penalties. The decision of the State Fire Marshal may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 2006, LB 489, § 28; R.S.1943, (2010), § 48-2528; Laws 2019, LB301, § 73.
Operative date July 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

81-5,238 Temporary and emergency elevator mechanic thirty-day licenses.

The State Fire Marshal shall adopt and promulgate rules and regulations establishing standards and procedures for the issuance of temporary and emergency elevator mechanic thirty-day licenses and for the extension of such licenses for good cause shown.

Source: Laws 2006, LB 489, § 29; R.S.1943, (2010), § 48-2529; Laws 2019, LB301, § 74.
Operative date July 1, 2019.

81-5,239 Request for investigation of alleged violation; preliminary inquiry; formal investigation; procedure.

(1) Any person may make a request for an investigation into an alleged violation of the Conveyance Safety Act by giving notice to the State Fire Marshal or state elevator inspector of such violation or danger.

(2) Upon receipt of a request for an investigation, the State Fire Marshal or state elevator inspector shall perform a preliminary inquiry into the charges contained in the request for investigation. A request for an investigation may be made in person or by telephone call and shall set forth with reasonable particularity the grounds for the request for an investigation. During the preliminary inquiry, the name, address, and telephone number of the person making the request for an investigation shall be available only to the State Fire Marshal, state elevator inspector, or other person carrying out the preliminary inquiry on behalf of the State Fire Marshal or state elevator inspector. The State Fire Marshal or state elevator inspector shall keep a record of each request for an investigation received under this section for three years after such request is made.

(3) If after the preliminary inquiry the State Fire Marshal or state elevator inspector determines that there are reasonable grounds to believe that such violation or danger exists and is likely to continue to exist such that the operation of the conveyance endangers the public, the State Fire Marshal or

state elevator inspector shall cause a formal investigation to be made. During the formal investigation, a statement shall be taken from the person who made the request for an investigation and the person's name, address, and telephone number shall be made available to any opposing parties upon request.

(4) If the State Fire Marshal or state elevator inspector determines that there are no reasonable grounds to believe that a violation or danger exists under either subsection (2) or (3) of this section, the State Fire Marshal shall notify the person requesting the investigation in writing of such determination.

Source: Laws 2006, LB 489, § 30; R.S.1943, (2010), § 48-2530; Laws 2019, LB301, § 75.
Operative date July 1, 2019.

81-5,240 Act; how construed; liability.

The Conveyance Safety Act shall not be construed to relieve or lessen the responsibility or liability of any person owning, operating, controlling, maintaining, erecting, constructing, installing, altering, testing, or repairing any conveyance covered by the act for damages to person or property caused by any defect therein. By administering the Conveyance Safety Act, the state and its officers and employees assume no liability for accidents involving a conveyance.

Source: Laws 2006, LB 489, § 31; R.S.1943, (2010), § 48-2531; Laws 2019, LB301, § 76.
Operative date July 1, 2019.

81-5,241 Compliance with code at time of installation; notification of dangerous condition.

Under the Conveyance Safety Act, conveyances shall be required to comply with the code standards applicable at the time such conveyance was or is installed. However, if, upon the inspection of any conveyance, (1) the conveyance is found to be in a dangerous condition or there is an immediate hazard to those using such conveyance or (2) the design or the method of operation in combination with devices used is inherently dangerous, the state elevator inspector shall notify the owner of the conveyance of such condition and shall order such alterations or additions as may be deemed necessary to eliminate the dangerous condition.

Source: Laws 2006, LB 489, § 32; R.S.1943, (2010), § 48-2532; Laws 2019, LB301, § 77.
Operative date July 1, 2019.

81-5,242 Violations; penalty.

(1) Any person who knowingly violates the Conveyance Safety Act is guilty of a Class V misdemeanor. Each violation shall be a separate offense.

(2) Any person who installs a conveyance in violation of the Conveyance Safety Act is guilty of a Class II misdemeanor.

Source: Laws 2006, LB 489, § 33; R.S.1943, (2010), § 48-2533; Laws 2019, LB301, § 78.
Operative date July 1, 2019.

81-5,243 Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.

(1) Effective July 1, 2019, all duties and functions of the Department of Labor under the Conveyance Safety Act shall be transferred to the State Fire Marshal.

(2) On July 1, 2019, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Labor pertaining to the duties and functions transferred to the State Fire Marshal pursuant to this section shall become the property of the State Fire Marshal.

(3) On and after July 1, 2019, whenever the Department of Labor is referred to or designated by any contract or other document in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section, such reference or designation shall apply to the State Fire Marshal. All contracts entered into by the Department of Labor prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal are hereby recognized, with the State Fire Marshal succeeding to all rights and obligations under such contracts.

(4) All rules and regulations of the Department of Labor adopted prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

(5) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2019, or which could have been commenced prior to that date, by or against the Department of Labor, or any employee thereof in such employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Department of Labor to the State Fire Marshal.

(6) On and after July 1, 2019, positions of employment in the Department of Labor related to the duties and functions transferred pursuant to this section are transferred to the State Fire Marshal. The affected employees shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the State Fire Marshal from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2019, LB301, § 79.

Operative date July 1, 2019.

(n) APPROPRIATIONS**81-5,244 Certain appropriations to Department of Labor; how treated.**

Any appropriation and salary limit provided in any legislative bill enacted by the One Hundred Sixth Legislature, First Session, to Agency No. 23 — Department of Labor, in any of the following program classifications, shall be null and void, and any such amounts are hereby appropriated to Agency No. 21, State Fire Marshal: Program No. 230 — Safety Inspection Program; Program No. 194, Division for Protection of People and Property, Subprogram 009 —

Conveyance; and Program No. 194, Division for Protection of People and Property, Subprogram 010 — Boiler Inspection. Any financial obligations of the Department of Labor that remain unpaid as of June 30, 2019, and that are subsequently certified as valid encumbrances to the accounting division of the Department of Administrative Services pursuant to sections 81-138.01 to 81-138.04, shall be paid by the State Fire Marshal, Program No. 230 — Safety Inspection Program, from the unexpended balance of appropriations existing in such program classification on June 30, 2019.

Source: Laws 2019, LB301, § 80.
Operative date July 1, 2019.

ARTICLE 6

HEALTH AND HUMAN SERVICES

(a) POWERS AND DUTIES

Section

81-604. Notice to Health and Human Services Committee of the Legislature; hearing.

(q) PERSONS WITH DISABILITIES

81-6,121. Persons with disabilities; legislative findings and declarations.

81-6,122. Strategic plan for providing services; department; duties; advisory committee; analysis and report.

(a) POWERS AND DUTIES

81-604 Notice to Health and Human Services Committee of the Legislature; hearing.

The Department of Health and Human Services shall notify the chairperson and members of the Health and Human Services Committee of the Legislature prior to submitting any request or application to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services for a demonstration project waiver under section 1115 of the Social Security Act, 42 U.S.C. 1315. Such notification shall be made electronically and shall include a copy of any documentation presented to the public related to the waiver. The Health and Human Services Committee of the Legislature shall hold a public hearing on such waiver application during the period for public comment required under 42 C.F.R. 431.408.

Source: Laws 2019, LB468, § 3.
Effective date September 1, 2019.

(q) PERSONS WITH DISABILITIES

81-6,121 Persons with disabilities; legislative findings and declarations.

The Legislature finds and declares that:

(1) In 1999 the United States Supreme Court held in the case of *Olmstead v. L.C.*, 527 U.S. 581, that unjustified segregation of persons with disabilities constitutes discrimination in violation of Title II of the federal Americans with Disabilities Act of 1990. The court held that public entities must provide community-based services to persons with disabilities when (a) such services are appropriate, (b) the affected persons do not oppose community-based services, and (c) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of

others who are receiving disability services from the entity. The court stated that institutional placement of persons who can handle and benefit from community-based services perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life and that confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment;

(2) Many Nebraskans with disabilities live in institutional placements and settings where they are segregated and isolated with diminished opportunities to participate in community life; and

(3) The United States Supreme Court further stated in the Olmstead decision that development of (a) a comprehensive, effective working plan for providing services to qualified persons with disabilities in the most integrated community-based settings and (b) a waiting list that moves at a reasonable pace could be important ways for a state to demonstrate its commitment to achieving compliance with the federal Americans with Disabilities Act of 1990.

Source: Laws 2016, LB1033, § 1; Laws 2019, LB570, § 2.
Effective date May 18, 2019.

81-6,122 Strategic plan for providing services; department; duties; advisory committee; analysis and report.

(1) The Department of Health and Human Services shall, in collaboration with the Department of Correctional Services, the Department of Economic Development, the Department of Labor, the Department of Transportation, the Department of Veterans' Affairs, the State Department of Education, the University of Nebraska, and the Equal Opportunity Commission, develop a comprehensive strategic plan for providing services to qualified persons with disabilities in the most integrated community-based settings pursuant to the Olmstead decision.

(2) The chief executive officer of the Department of Health and Human Services shall convene a team to:

(a) Develop the strategic plan described in subsection (1) of this section;

(b) Appoint and convene a stakeholder advisory committee to assist in the review and development of the strategic plan, such committee members to include a representative from the State Advisory Committee on Mental Health Services, the Advisory Committee on Developmental Disabilities, the Nebraska Statewide Independent Living Council, the Nebraska Planning Council on Developmental Disabilities, the Division of Rehabilitation Services in the State Department of Education, the Public Service Commission, the Commission for the Deaf and Hard of Hearing, the Commission for the Blind and Visually Impaired, a housing authority in a city of the first or second class and a housing authority in a city of the primary or metropolitan class, the Assistive Technology Partnership, the protection and advocacy system for Nebraska, an assisted-living organization, the behavioral health regions, mental health practitioners, developmental disability service providers, an organization that advocates for persons with developmental disabilities, an organization that advocates for persons with mental illness, an organization that advocates for persons with brain injuries, and an area agency on aging, and including two persons with disabilities representing self-advocacy organizations, and, at the

department's discretion, other persons with expertise in programs serving persons with disabilities;

(c) Arrange for consultation with an independent consultant to assist with the continued analysis and revision of the strategic plan and determine whether the benchmarks, deadlines, and timeframes are in substantial compliance with the strategic plan;

(d) Provide continuing analysis of the strategic plan and a report on the progress of the strategic plan and changes or revisions to the Legislature by December 15, 2021, and every three years thereafter; and

(e) Provide the completed strategic plan to the Legislature and the Governor by December 15, 2019.

(3) The reports and completed plan shall be submitted electronically to the Legislature.

Source: Laws 2016, LB1033, § 2; Laws 2019, LB570, § 3.
Effective date May 18, 2019.

ARTICLE 8

INDEPENDENT BOARDS AND COMMISSIONS

(c) EMERGENCY MANAGEMENT

Section

81-829.42. Governor's Emergency Program; established.

(g) REAL ESTATE COMMISSION

81-885.01. Terms, defined.

81-885.13. License; conditions for issuance; enumerated; examination; fingerprinting; criminal history record information check; courses of study; duty of licensee.

81-885.14. Fees; license; renewal; procedure.

81-885.17. Nonresident broker's license; nonresident salesperson's license; issuance; requirements; fingerprinting; criminal history record information check; reciprocal agreements.

(p) TORT CLAIMS, STATE CLAIMS BOARD, AND RISK MANAGEMENT PROGRAM

81-8,219. State Tort Claims Act; claims exempt.

81-8,224. Award; certification; payment; review, when.

81-8,239.02. State Insurance Fund; State Self-Insured Property Fund; State Self-Insured Indemnification Fund; State Self-Insured Liability Fund; created; purposes; report.

(q) PUBLIC COUNSEL

81-8,244. Public Counsel; personnel; appointment; compensation; authority; appoint Inspector General of Nebraska Child Welfare; appoint Inspector General of the Nebraska Correctional System.

(c) EMERGENCY MANAGEMENT

81-829.42 Governor's Emergency Program; established.

(1) The Legislature recognizes that, while appropriations are adequate to meet the normal needs, the necessity exists for anticipating and making advance provision to care for the unusual and extraordinary burdens imposed on the state and its political subdivisions by disasters, emergencies, or civil defense emergencies. To meet such situations, it is the intention of the Legislature to confer emergency powers on the Governor, acting through the Adjutant General and the Nebraska Emergency Management Agency, and to vest him or

her with adequate power and authority within the limitation of available funds appropriated to the Governor's Emergency Program to meet any disaster, emergency, or civil defense emergency.

(2) There is hereby established the Governor's Emergency Program. Funds appropriated to the program shall be expended, upon direction of the Governor, for any state of emergency. The state of emergency proclamation shall set forth the emergency and shall state that it requires the expenditure of public funds to furnish immediate aid and relief. The Adjutant General shall administer the funds appropriated to the program.

(3) It is the intent of the Legislature that the first recourse shall be to funds regularly appropriated to state and local agencies. If the Governor finds that the demands placed upon these funds are unreasonably great, he or she may make funds available from the Governor's Emergency Program. Expenditures may be made upon the direction of the Governor for any or all emergency management functions or to meet the intent of the state emergency operations plans as outlined in section 81-829.41. Expenditures may also be made to state and federal agencies to meet the matching requirement of any applicable assistance programs.

(4) Assistance shall be provided from the funds appropriated to the Governor's Emergency Program to political subdivisions of this state which have suffered from a disaster, emergency, or civil defense emergency to such an extent as to impose a severe financial burden exceeding the ordinary capacity of the subdivision affected. Applications for aid under this section shall be made to the Nebraska Emergency Management Agency on such forms as shall be prescribed and furnished by the agency. The forms shall require the furnishing of sufficient information to determine eligibility for aid and the extent of the financial burden incurred. The agency may call upon other agencies of the state in evaluating such applications. The Adjutant General shall review each application for aid under this section and recommend its approval or disapproval, in whole or in part, to the Governor. If the Governor approves, he or she shall determine and certify to the Adjutant General the amount of aid to be furnished. The Adjutant General shall thereupon issue his or her voucher to the Director of Administrative Services who shall issue his or her warrants therefor to the applicant.

(5) When a state of emergency has been proclaimed by the Governor, the Adjutant General, upon order of the Governor, shall have authority to expend funds for purposes including, but not limited to:

(a) The purposes of the Emergency Management Act, including emergency management functions and the responsibilities of the Governor as outlined in the act;

(b) Employing for the duration of the state of emergency additional personnel and contracting or otherwise procuring all necessary appliances, supplies, and equipment;

(c) Performing services for and furnishing materials and supplies to state government agencies and local governments with respect to performance of any duties enjoined by law upon such agencies and local governments which they are unable to perform because of extreme climatic phenomena and receiving reimbursement in whole or in part from such agencies and local governments able to pay therefor under such terms and conditions as may be agreed upon by the Adjutant General and any such agency or local government;

(d) Performing services for and furnishing materials to any individual in connection with alleviating hardship and distress growing out of extreme climatic phenomena and receiving reimbursement in whole or in part from such individual under such terms as may be agreed upon by the Adjutant General and such individual;

(e) Opening up, repairing, and restoring roads and highways;

(f) Repairing and restoring bridges;

(g) Furnishing transportation for supplies to alleviate suffering and distress;

(h) Restoring means of communication;

(i) Furnishing medical services and supplies to prevent the spread of disease and epidemics;

(j) Quelling riots and civil disturbances;

(k) Training individuals or governmental agencies for the purpose of perfecting the performance of emergency management duties as provided in the Nebraska emergency operations plans;

(l) Procurement and storage of special emergency supplies or equipment, determined by the Adjutant General to be required to provide rapid response by state government to assist local governments in impending or actual disasters, emergencies, or civil defense emergencies;

(m) Clearing or removing debris and wreckage which may threaten public health or safety from publicly owned or privately owned land or water; and

(n) Such other measures as are customarily necessary to furnish adequate relief in cases of disaster, emergency, or civil defense emergency.

(6) If response to a disaster or emergency is immediately required, the Adjutant General may make expenditures of up to twenty-five thousand dollars per event without a state of emergency proclamation issued by the Governor. Such expenditures shall be used for the purposes as provided in subsection (5) of this section.

(7) The Governor may receive such voluntary contributions as may be made from any nonfederal source to aid in carrying out the purposes of this section and shall credit the same to the Governor's Emergency Cash Fund.

(8) All obligations and expenses incurred by the Governor in the exercise of the powers and duties vested in the Governor by this section shall be paid by the State Treasurer out of available funds appropriated to the Governor's Emergency Program, and the Director of Administrative Services shall draw his or her warrants upon the State Treasurer for the payment of such sum, or so much thereof as may be required, upon receipt by him or her of proper vouchers duly approved by the Adjutant General.

(9) This section shall be liberally construed in order to accomplish the purposes of the Emergency Management Act and to permit the Governor to adequately cope with any disaster, emergency, or civil defense emergency which may arise, and the powers vested in the Governor by this section shall be construed as being in addition to all other powers presently vested in him or her and not in derogation of any existing powers.

(10) Such funds as may be made available by the government of the United States for the purpose of alleviating distress from disasters, emergencies, and civil defense emergencies may be accepted by the State Treasurer and shall be credited to a separate and distinct fund unless otherwise specifically provided

in the act of Congress making such funds available or as otherwise allowed and provided by state law.

(11) It is the intent of the Legislature that the four million dollars saved due to the elimination of funding for the Angel Investment Tax Credit Act be used to increase the appropriation to the Military Department for the Governor's Emergency Program by four million dollars for fiscal year 2020-21.

Source: Laws 1973, LB 494, § 7; Laws 1975, LB 612, § 2; Laws 1986, LB 258, § 34; Laws 1995, LB 7, § 107; Laws 1996, LB 43, § 23; Laws 2003, LB 403, § 8; Laws 2012, LB766, § 1; Laws 2014, LB390, § 3; Laws 2015, LB55, § 1; Laws 2019, LB334, § 7. Effective date September 1, 2019.

Cross References

Angel Investment Tax Credit Act, see section 77-6301.

(g) REAL ESTATE COMMISSION

81-885.01 Terms, defined.

For purposes of the Nebraska Real Estate License Act, unless the context otherwise requires:

(1) Real estate means and includes condominiums and leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold, and whether the real estate is situated in this state or elsewhere;

(2) Broker means any person who, for any form of compensation or consideration or with the intent or expectation of receiving the same from another, negotiates or attempts to negotiate the listing, sale, purchase, exchange, rent, lease, or option for any real estate or improvements thereon, or assists in procuring prospects or holds himself or herself out as a referral agent for the purpose of securing prospects for the listing, sale, purchase, exchange, renting, leasing, or optioning of any real estate or collects rents or attempts to collect rents, gives a broker's price opinion or comparative market analysis, or holds himself or herself out as engaged in any of the foregoing. Broker also includes any person: (a) Employed, by or on behalf of the owner or owners of lots or other parcels of real estate, for any form of compensation or consideration to sell such real estate or any part thereof in lots or parcels or make other disposition thereof; (b) who auctions, offers, attempts, or agrees to auction real estate; or (c) who buys or offers to buy or sell or otherwise deals in options to buy real estate;

(3) Associate broker means a person who has a broker's license and who is employed by another broker to participate in any activity described in subdivision (2) of this section;

(4) Designated broker means an individual holding a broker's license who has full authority to conduct the real estate activities of a real estate business. In a sole proprietorship, the owner, or broker identified by the owner, shall be the designated broker. In the event the owner identifies the designated broker, the owner shall file a statement with the commission subordinating to the designated broker full authority to conduct the real estate activities of the sole proprietorship. In a partnership, limited liability company, or corporation, the partners, limited liability company members, or board of directors shall identify the designated broker for its real estate business by filing a statement with the

commission subordinating to the designated broker full authority to conduct the real estate activities of the partnership, limited liability company, or corporation. The designated broker shall also be responsible for supervising the real estate activities of any associate brokers or salespersons;

(5) Inactive broker means an associate broker whose license has been returned to the commission by the licensee's broker, a broker who has requested the commission to place the license on inactive status, a new licensee who has failed to designate an employing broker or have the license issued as an individual broker, or a broker whose license has been placed on inactive status under statute, rule, or regulation;

(6) Salesperson means any person, other than an associate broker, who is employed by a broker to participate in any activity described in subdivision (2) of this section;

(7) Inactive salesperson means a salesperson whose license has been returned to the commission by the licensee's broker, a salesperson who has requested the commission to place the license on inactive status, a new licensee who has failed to designate an employing broker, or a salesperson whose license has been placed on inactive status under statute, rule, or regulation;

(8) Person means and includes individuals, corporations, partnerships, and limited liability companies, except that when referring to a person licensed under the act, it means an individual;

(9) Team means two or more persons licensed by the commission who (a) work under the supervision of the same broker, (b) work together on real estate transactions to provide real estate brokerage services, (c) represent themselves to the public as being part of a team, and (d) are designated by a team name;

(10) Team leader means any person licensed by the commission and appointed or recognized by his or her broker as the leader for his or her team;

(11) Subdivision or subdivided land means any real estate offered for sale and which has been registered under the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq., as such act existed on January 1, 1973, or real estate located out of this state which is divided or proposed to be divided into twenty-five or more lots, parcels, or units;

(12) Subdivider means any person who causes land to be subdivided into a subdivision for himself, herself, or others or who undertakes to develop a subdivision but does not include a public agency or officer authorized by law to create subdivisions;

(13) Purchaser means a person who acquires or attempts to acquire or succeeds to an interest in land;

(14) Commission means the State Real Estate Commission;

(15) Broker's price opinion means an analysis, opinion, or conclusion prepared by a person licensed under the Nebraska Real Estate License Act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property for the purpose of (a) listing, purchase, or sale, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;

(16) Comparative market analysis means an analysis, opinion, or conclusion prepared by a person licensed under the act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified

real estate or identified real property by comparison to other real property currently or recently in the marketplace for the purpose of (a) listing, purchase, or sale, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;

(17) Distance education means courses in which instruction does not take place in a traditional classroom setting, but rather through other media by which instructor and student are separated by distance and sometimes by time;

(18) Regulatory jurisdiction means a state, district, or territory of the United States, a province of Canada or a foreign country, or a political subdivision of a foreign country, which has implemented and administers laws regulating the activities of a broker;

(19) Federal financial institution regulatory agency means (a) the Board of Governors of the Federal Reserve System, (b) the Federal Deposit Insurance Corporation, (c) the Office of the Comptroller of the Currency, (d) the Consumer Financial Protection Bureau, (e) the National Credit Union Administration, or (f) the successors of any of those agencies; and

(20) Federally related transaction means a real-estate-related transaction that (a) requires the services of an appraiser and (b) is engaged in, contracted for, or regulated by a federal financial institution regulatory agency.

Source: Laws 1973, LB 68, § 1; Laws 1979, LB 68, § 1; Laws 1983, LB 182, § 1; Laws 1990, LB 350, § 1; Laws 1991, LB 118, § 2; Laws 1993, LB 121, § 529; Laws 1999, LB 618, § 6; Laws 2002, LB 863, § 10; Laws 2007, LB26, § 1; Laws 2010, LB931, § 27; Laws 2015, LB375, § 1; Laws 2016, LB678, § 2; Laws 2019, LB258, § 17.

Effective date March 8, 2019.

81-885.13 License; conditions for issuance; enumerated; examination; fingerprinting; criminal history record information check; courses of study; duty of licensee.

(1)(a) No broker's or salesperson's license shall be issued to any person who has not attained the age of nineteen years.

(b) No broker's or salesperson's license shall be issued to any person who is not a graduate of a public or private high school or the holder of a certificate of high school equivalency. This subdivision does not apply to: (i) A person who is a graduate of a school exempt from the State Department of Education requirements under section 79-1601 or an equivalent exempt school or home school program from another jurisdiction; or (ii) a person who has completed a program of education acceptable to the commission.

(2) Each applicant for a salesperson's license shall furnish evidence that he or she has completed two courses in real estate subjects, approved by the commission, composed of not less than sixty class hours of study or, in lieu thereof, courses delivered in a distance education format approved by the commission.

(3) Each applicant for a broker's license shall either:

(a) Have first served actively for two years as a licensed salesperson or broker and shall furnish evidence of completion of sixty class hours in addition to the hours required by subsection (2) of this section in a course of study approved by the commission or, in lieu thereof, courses delivered in a distance education format approved by the commission; or

(b) Upon special application and hearing before the commission, provide satisfactory evidence of (i) equivalent or sufficiently relevant experience in a real-estate-related industry or (ii) hardship due to an existing brokerage being unable to retain the services of a licensee to act as its designated broker who has the two years' experience required in this subsection. Any applicant so approved must furnish a certificate that he or she has passed a course of at least eighteen credit hours in subjects related to real estate at an accredited university or college, or completed six courses in real estate subjects composed of not less than one hundred eighty class hours in a course of study approved by the commission or, in lieu thereof, courses delivered in a distance education format approved by the commission.

(4) No person issued a broker's license may act as a designated broker for any other licensee until such person has taken additional courses of postlicensure education in the subjects of real estate trust accounting, brokerage finance, business ethics, and risk management, except that the commission may extend, for up to six months, the postlicensure course work requirement under the hardship provision of subdivision (3)(b)(ii) of this section.

(5) Each applicant for a broker's or salesperson's license shall furnish evidence of completion of six class hours of study in a course approved by the commission related to professional practice and standards.

(6) Each applicant for a broker's license must pass a written examination covering generally the matters confronting real estate brokers, and each applicant for a salesperson's license must pass a written examination covering generally the matters confronting real estate salespersons. Such examination may be taken before the commission or any person designated by the commission. Failure to pass the examination shall be grounds for denial of a license without further hearing. Within thirty days after passing the examination the applicant must complete all requirements necessary for the issuance of a license. The commission may prepare and distribute to licensees under the Nebraska Real Estate License Act informational material deemed of assistance in the conduct of their business.

(7) An applicant for an original broker's or salesperson's license shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. After filing application for a license, each applicant shall furnish directly to the Nebraska State Patrol, or to a fingerprint processing service that may be selected by the commission for this purpose, a full set of fingerprints to enable a criminal background investigation to be conducted. The applicant shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The applicant shall authorize release of the national criminal history record check to the commission.

(8) Courses of study, referred to in subsections (2), (3), (4), (5), and (9) of this section, shall include courses offered by private proprietary real estate schools when such courses are prescribed by the commission and are taught by instructors approved by the commission. The commission shall monitor schools offering approved real estate courses and for good cause shall have authority to suspend or withdraw approval of such courses or instructors.

(9) All licensees shall, within one hundred eighty days after license issuance, furnish satisfactory evidence of completion of twelve hours of class study in a commission-approved class related to required knowledge and skills for real estate practice, including, but not limited to, completing contracts and listing agreements and handling of client funds. If a licensee fails to do so, the commission shall place his or her license on inactive status until the commission receives such satisfactory evidence. Transfer to active status pursuant to this subsection shall be subject to the fee provided for in section 81-885.20.

Source: Laws 1973, LB 68, § 13; Laws 1973, LB 580, § 1; Laws 1978, LB 361, § 6; Laws 1980, LB 936, § 1; Laws 1983, LB 182, § 12; Laws 2002, LB 863, § 14; Laws 2003, LB 60, § 1; Laws 2014, LB687, § 2; Laws 2017, LB16, § 1; Laws 2019, LB384, § 1; Laws 2019, LB454, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB384, section 1, with LB454, section 1, to reflect all amendments.

Note: Changes made by LB454 became effective September 1, 2019. Changes made by LB384 became operative July 1, 2020.

81-885.14 Fees; license; renewal; procedure.

(1) To pay the expense of the maintenance and operation of the office of the commission and the enforcement of the Nebraska Real Estate License Act, the commission shall, at the time an application is submitted, collect from an applicant for each broker's or salesperson's examination a fee to be established by the commission of not more than two hundred fifty dollars and an application fee of not more than two hundred fifty dollars. The commission shall also collect a reexamination fee to be established by the commission of not more than two hundred fifty dollars for each reexamination. The commission may direct an applicant to pay the examination or reexamination fee to a third party who has contracted with the commission to administer the examination. Prior to the issuance of an original license, each applicant who has passed the examination required by section 81-885.13 or who has received a license under section 81-885.17 shall pay a license fee to be established by the commission. The license fee established by the commission shall not exceed the following amounts: For a broker's license, not more than two hundred fifty dollars; and for a salesperson's license, not more than two hundred dollars.

(2) Any applicant who is an active duty member of the armed forces of the United States or the spouse of such servicemember shall be exempt from payment of the license fee described in subsection (1) of this section if (a) such servicemember is assigned to a permanent duty station in Nebraska and (b)(i) the applicant is already duly licensed in another regulatory jurisdiction or (ii) the applicant was previously licensed in Nebraska within three years prior to becoming a resident of the State of Nebraska after such duty assignment.

(3) After the original issuance of a license, a renewal application and a renewal fee to be established by the commission of not more than five hundred dollars for each broker, and not more than four hundred dollars for each salesperson, shall be due and payable on or before November 30 of each renewal year. A broker or salesperson who: (a) Is required to submit evidence of completion of continuing education pursuant to section 81-885.51 on or before November 30, 2011, shall renew his or her license on or before such date for two years; (b) is not required to submit evidence of completion of continuing education until November 30, 2012, shall renew his or her license on or before November 30, 2011, for one year and shall renew his or her

license on or before November 30, 2012, for two years; or (c) receives his or her original license on or after January 1, 2011, shall renew his or her license on or before the immediately following November 30 for two years. Each subsequent renewal under subdivisions (a), (b), and (c) of this subsection shall be for a two-year period and shall be due on or before November 30 of each renewal year. Failure to remit renewal fees when due shall automatically cancel such license on December 31 of the renewal year, but otherwise the license shall remain in full force and effect continuously from the date of issuance unless suspended or revoked by the commission for just cause. Any licensee who fails to file an application for the renewal of any license and pay the renewal fee as provided in this section may file a late renewal application and shall pay, in addition to the renewal fee, an amount to be established by the commission of not more than twenty-five dollars for each month or fraction thereof beginning with the first day of December if such late application is filed before July 1 of the ensuing year.

(4) Any check presented to the commission as a fee for either an original or renewal license or for examination for license which is returned to the State Treasurer unpaid or any electronic payment presented to the commission as a fee for either an original or renewal license or for examination for license that is not accepted against the commission shall be cause for revocation or denial of license.

(5) An inactive broker or salesperson may renew his or her license by submitting an application before December 1 prior to the ensuing year. Such broker or salesperson shall submit the renewal fee together with the completed renewal application on which he or she has noted his or her present inactive status. Any broker or salesperson whose license has been renewed on such inactive status shall not be permitted to engage in the real estate business until such time as he or she fulfills the requirements for active status. Any license which has been inactive for a continuous period of more than three years shall be reinstated only if the licensee has met the examination requirement of an original applicant.

Source: Laws 1973, LB 68, § 14; Laws 1976, LB 899, § 1; Laws 1978, LB 361, § 7; Laws 1980, LB 936, § 2; Laws 1983, LB 182, § 13; Laws 1990, LB 350, § 6; Laws 1991, LB 118, § 3; Laws 1991, LB 204, § 2; Laws 2009, LB11, § 1; Laws 2011, LB23, § 1; Laws 2019, LB12, § 1.

Effective date March 7, 2019.

81-885.17 Nonresident broker's license; nonresident salesperson's license; issuance; requirements; fingerprinting; criminal history record information check; reciprocal agreements.

(1)(a) A nonresident of this state who is actively engaged in the real estate business, who maintains a place of business in his or her resident regulatory jurisdiction, and who has been duly licensed in that regulatory jurisdiction to conduct such business in that regulatory jurisdiction may, in the discretion of the commission, be issued a nonresident broker's license.

(b) A nonresident salesperson employed by a broker holding a nonresident broker's license may, in the discretion of the commission, be issued a nonresident salesperson's license under such nonresident broker.

(c) A nonresident who becomes a resident of the State of Nebraska and who holds a broker's or salesperson's license in his or her prior resident regulatory jurisdiction shall be issued a resident broker's or salesperson's license upon filing an application, paying the applicable license fee except as provided in subsection (2) of section 81-885.14, complying with the criminal history record information check under subsection (4) of this section, filing the affidavit required by subsection (7) of this section, and providing to the commission adequate proof of completion of a three-hour class approved by the commission specific to the Nebraska Real Estate License Act and sections 76-2401 to 76-2430.

(2) Obtaining a nonresident broker's license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over the licensee in any action arising out of the licensee's activity in this state.

(3) Prior to the issuance of any license to a nonresident applicant, he or she shall: (a) File with the commission a duly certified copy of the license issued to the applicant by his or her resident regulatory jurisdiction or provide verification of such licensure to the commission; (b) pay to the commission a nonresident license fee equal to the fee for obtaining a broker's or salesperson's license, whichever is applicable, as provided in section 81-885.14; and (c) provide to the commission adequate proof of completion of a three-hour class approved by the commission specific to the Nebraska Real Estate License Act and sections 76-2401 to 76-2430.

(4) An applicant for an original nonresident broker's or salesperson's license shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. After filing application for a license, each applicant shall furnish directly to the Nebraska State Patrol, or to a fingerprint processing service that may be selected by the commission for this purpose, a full set of fingerprints to enable a criminal background investigation to be conducted. The applicant shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The applicant shall authorize release of the national criminal history record check to the commission.

(5) Nothing in this section shall preclude the commission from entering into reciprocal agreements with other regulatory jurisdictions when such agreements are necessary to provide Nebraska residents authority to secure licenses in other regulatory jurisdictions.

(6) Nonresident licenses granted as provided in this section shall remain in force for only as long as the requirements of issuing and maintaining a license are met unless (a) suspended or revoked by the commission for just cause or (b) lapsed for failure to pay the annual renewal fee.

(7) Prior to the issuance of any license to a nonresident applicant, he or she shall file an affidavit with the commission certifying that the applicant has reviewed and is familiar with the Nebraska Real Estate License Act and the rules and regulations of the commission and agrees to be bound by the act, rules, and regulations.

Source: Laws 1973, LB 68, § 17; Laws 1980, LB 936, § 3; Laws 1983, LB 182, § 15; Laws 1983, LB 447, § 95; Laws 1990, LB 350, § 7;

Laws 2002, LB 863, § 15; Laws 2003, LB 60, § 2; Laws 2006, LB 819, § 2; Laws 2008, LB715, § 1; Laws 2011, LB25, § 16; Laws 2014, LB687, § 3; Laws 2017, LB16, § 2; Laws 2019, LB12, § 2.
Effective date March 7, 2019.

(p) TORT CLAIMS, STATE CLAIMS BOARD,
AND RISK MANAGEMENT PROGRAM

81-8,219 State Tort Claims Act; claims exempt.

The State Tort Claims Act shall not apply to:

(1) Any claim based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute, rule, or regulation, whether or not such statute, rule, or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion is abused;

(2) Any claim arising with respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer;

(3) Any claim for damages caused by the imposition or establishment of a quarantine by the state whether such quarantine relates to persons or property;

(4) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, or interference with contract rights, except that this subdivision does not apply to a claim under the Healthy Pregnancies for Incarcerated Women Act;

(5) Any claim arising out of misrepresentation or deceit, except that, in cases of adoption or placement, the State Tort Claims Act shall apply to a claim arising out of misrepresentation or deceit by the Department of Health and Human Services in failing to warn, notify, or inform of a ward's mental and behavioral health history, educational history, and medical history, including any history as a victim or perpetrator of sexual abuse;

(6) Any claim by an employee of the state which is covered by the Nebraska Workers' Compensation Act;

(7) Any claim based on activities of the Nebraska National Guard when such claim is cognizable under the Federal Tort Claims Act, 28 U.S.C. 2674, or the federal National Guard Claims Act, 32 U.S.C. 715, or when such claim accrues as a result of active federal service or state service at the call of the Governor for quelling riots and civil disturbances;

(8) Any claim based upon the failure to make an inspection or making an inadequate or negligent inspection of any property other than property owned by or leased to the state to determine whether the property complies with or violates any statute, ordinance, rule, or regulation or contains a hazard to public health or safety unless the state had reasonable notice of such hazard or the failure to inspect or inadequate or negligent inspection constitutes a reckless disregard for public health or safety;

(9) Any claim based upon the issuance, denial, suspension, or revocation of or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, or order. Such claim shall also not be filed against a state employee acting within the scope of his or her office. Nothing in this subdivision shall be

construed to limit the state's liability for any claim based upon the negligent execution by a state employee in the issuance of a certificate of title under the Motor Vehicle Certificate of Title Act and the State Boat Act except when such title is issued upon an application filed electronically by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507;

(10) Any claim arising out of the malfunction, destruction, or unauthorized removal of any traffic or road sign, signal, or warning device unless it is not corrected by the governmental entity responsible within a reasonable time after actual or constructive notice of such malfunction, destruction, or removal. Nothing in this subdivision shall give rise to liability arising from an act or omission of any governmental entity in placing or removing any traffic or road signs, signals, or warning devices when such placement or removal is the result of a discretionary act of the governmental entity;

(11) Any claim arising out of snow or ice conditions or other temporary conditions caused by nature on any highway as defined in section 60-624, bridge, public thoroughfare, or other state-owned public place due to weather conditions. Nothing in this subdivision shall be construed to limit the state's liability for any claim arising out of the operation of a motor vehicle by an employee of the state while acting within the course and scope of his or her employment by the state;

(12) Any claim arising out of the plan or design for the construction of or an improvement to any highway as defined in such section or bridge, either in original construction or any improvement thereto, if the plan or design is approved in advance of the construction or improvement by the governing body of the governmental entity or some other body or employee exercising discretionary authority to give such approval;

(13) Any claim arising out of the alleged insufficiency or want of repair of any highway as defined in such section, bridge, or other public thoroughfare. Insufficiency or want of repair shall be construed to refer to the general or overall condition and shall not refer to a spot or localized defect. The state shall be deemed to waive its immunity for a claim due to a spot or localized defect only if the state has had actual or constructive notice of the defect within a reasonable time to allow repair prior to the incident giving rise to the claim;

(14)(a) Any claim relating to recreational activities on property leased, owned, or controlled by the state for which no fee is charged (i) resulting from the inherent risk of the recreational activity, (ii) arising out of a spot or localized defect of the premises unless the spot or localized defect is not corrected within a reasonable time after actual or constructive notice of the spot or localized defect, or (iii) arising out of the design of a skatepark or bicycle motocross park constructed for purposes of skateboarding, inline skating, bicycling, or scootering that was constructed or reconstructed, reasonably and in good faith, in accordance with generally recognized engineering or safety standards or design theories in existence at the time of the construction or reconstruction. For purposes of this subdivision, the state shall be charged with constructive notice only when the failure to discover the spot or localized defect of the premises is the result of gross negligence.

(b) For purposes of this subdivision:

(i) Recreational activities include, but are not limited to, whether as a participant or spectator: Hunting, fishing, swimming, boating, camping, pic-

nicking, hiking, walking, running, horseback riding, use of trails, nature study, waterskiing, winter sports, use of playground equipment, biking, roller blading, skateboarding, golfing, athletic contests; visiting, viewing, or enjoying entertainment events, festivals, or historical, archaeological, scenic, or scientific sites; and similar leisure activities;

(ii) Inherent risk of recreational activities means those risks that are characteristic of, intrinsic to, or an integral part of the activity;

(iii) Gross negligence means the absence of even slight care in the performance of a duty involving an unreasonable risk of harm; and

(iv) Fee means a fee to participate in or be a spectator at a recreational activity. A fee shall include payment by the claimant to any person or organization other than the state only to the extent the state retains control over the premises or the activity. A fee shall not include payment of a fee or charge for parking or vehicle entry.

(c) This subdivision, and not subdivision (8) of this section, shall apply to any claim arising from the inspection or failure to make an inspection or negligent inspection of premises owned or leased by the state and used for recreational activities; or

(15) Any claim arising as a result of a special event during a period of time specified in a notice provided by a political subdivision pursuant to subsection (3) of section 39-1359.

Source: Laws 1969, c. 756, § 11, p. 2848; Laws 1971, LB 28, § 5; Laws 1986, LB 811, § 142; Laws 1988, LB 864, § 30; Laws 1992, LB 262, § 11; Laws 1993, LB 370, § 482; Laws 1993, LB 170, § 9; Laws 1999, LB 228, § 2; Laws 2004, LB 560, § 44; Laws 2005, LB 276, § 111; Laws 2007, LB564, § 4; Laws 2011, LB589, § 5; Laws 2017, LB263, § 99; Laws 2018, LB729, § 1; Laws 2019, LB690, § 9.

Effective date September 1, 2019.

Cross References

Healthy Pregnancies for Incarcerated Women Act, see section 47-1001.

Motor Vehicle Certificate of Title Act, see section 60-101.

Nebraska Workers' Compensation Act, see section 48-1,110.

State Boat Act, see section 37-1201.

81-8,224 Award; certification; payment; review, when.

(1) Any award to a claimant and any judgment in favor of a claimant under the State Tort Claims Act shall be certified by the Risk Manager or State Claims Board to the Director of Administrative Services who shall promptly issue a warrant for payment of such award or judgment out of the Tort Claims Fund or State Insurance Fund, as appropriate, if sufficient money is available in the fund, except that no portion in excess of fifty thousand dollars of any award or judgment shall be paid until such award or judgment has been reviewed by the Legislature and specific appropriation made therefor. All awards and judgments which arise out of the same facts and circumstances shall be reported to the Legislature if the aggregated amount exceeds fifty thousand dollars.

(2) Any award, judgment, or associated costs on a claim which is covered by liability insurance or by group self-insurance, the amount of which falls within the applicable policy's self-insured retention, shall be paid from the State Insurance Fund.

(3) Delivery of any warrant in satisfaction of an award or judgment shall be made only upon receipt of a written release by the claimant in a form approved by the State Claims Board.

Source: Laws 1969, c. 756, § 16, p. 2850; Laws 1984, LB 1028, § 3; Laws 1988, LB 864, § 35; Laws 2005, LB 485, § 2; Laws 2008, LB821, § 6; Laws 2019, LB418, § 10.

Effective date September 1, 2019.

81-8,239.02 State Insurance Fund; State Self-Insured Property Fund; State Self-Insured Indemnification Fund; State Self-Insured Liability Fund; created; purposes; report.

The following separate permanent revolving funds are established in the state treasury for use under the Risk Management Program according to the purposes for which each fund is established:

(1) The State Insurance Fund is hereby created for the purpose of purchasing insurance to cover property, fidelity, and liability risks of the state and workers' compensation claims against the state and other risks to which the state or its agencies, officials, or employees are exposed and for paying related expenses, including the costs of administering the Risk Management Program. The fund may receive deposits from assessments against state agencies to provide insurance coverage as directed by the Risk Manager. The Risk Manager may retain in the fund sufficient money to pay for any deductibles, self-insured retentions, or copayments as may be required by such insurance policies and Risk Management Program expenses;

(2) The State Self-Insured Property Fund is hereby created for the purpose of replacing, repairing, or rebuilding state property which has incurred damage or is suffering other loss not fully covered by insurance and for paying related expenses. The fund may receive deposits from assessments against state agencies to provide property coverage as directed by the Risk Manager. The Risk Manager may assess state agencies to provide self-insured property coverage;

(3) The State Self-Insured Indemnification Fund is hereby created for the purpose of paying indemnification claims under section 81-8,239.05. Indemnification claims shall include payments for awards, settlements, and associated costs, including appeal bonds and reasonable costs associated with a required appearance before any tribunal. The fund may receive deposits from assessments against state agencies to pay for the costs associated with providing and supporting indemnification claims. The creation of this fund shall not be interpreted as expanding the liability exposure of the state or its agencies, officials, or employees; and

(4) The State Self-Insured Liability Fund is hereby created for the purpose of paying compensable liability and fidelity claims against the state or its agencies, officials, or employees which are not fully covered by insurance and for which there is insufficient agency funding and for which a legislative appropriation is made under section 81-8,239.11. The fund may be used to pay claims against the state or its agencies, officials, or employees for which there is a specific provision of law for the resolution of such claims but which are not otherwise payable from the State Insurance Fund, State Self-Insured Property Fund, State Self-Insured Indemnification Fund, Workers' Compensation Claims Revolving Fund, or Tort Claims Fund. Such claims shall include payments for awards, settlements, and associated costs, including appeal bonds and reason-

able costs associated with a required appearance before any tribunal. The creation of this fund shall not be interpreted as expanding the liability exposure of the state or its agencies, officials, or employees. The Risk Manager shall report electronically all claims and judgments paid from the State Self-Insured Liability Fund to the Clerk of the Legislature annually. The report shall include the name of the claimant, the amount claimed and paid, and a brief description of the claim, including any agency, program, and activity under which the claim arose. Any member of the Legislature may receive an electronic copy of the report by making a request to the Risk Manager.

Source: Laws 1981, LB 273, § 24; Laws 1986, LB 811, § 144; Laws 1986, LB 1208, § 2; Laws 1989, LB 77, § 2; Laws 1994, LB 1211, § 4; Laws 1996, LB 1248, § 3; Laws 2001, LB 3, § 2; Laws 2005, LB 485, § 4; Laws 2007, LB256, § 8; Laws 2011, LB378, § 25; Laws 2012, LB782, § 175; Laws 2019, LB418, § 11.
Effective date September 1, 2019.

(q) PUBLIC COUNSEL

81-8,244 Public Counsel; personnel; appointment; compensation; authority; appoint Inspector General of Nebraska Child Welfare; appoint Inspector General of the Nebraska Correctional System.

(1)(a) The Public Counsel may select, appoint, and compensate as he or she sees fit, within the amount available by appropriation, such assistants and employees as he or she deems necessary to discharge the responsibilities under sections 81-8,240 to 81-8,254. He or she shall appoint and designate one assistant to be a deputy public counsel, one assistant to be a deputy public counsel for corrections, one assistant to be a deputy public counsel for institutions, and one assistant to be a deputy public counsel for welfare services.

(b) Such deputy public counsels shall be subject to the control and supervision of the Public Counsel.

(c) The authority of the deputy public counsel for corrections shall extend to all facilities and parts of facilities, offices, houses of confinement, and institutions which are operated by the Department of Correctional Services and all county or municipal correctional or jail facilities.

(d) The authority of the deputy public counsel for institutions shall extend to all mental health institutions and facilities operated by the Department of Health and Human Services, to all veterans institutions operated by the Department of Veterans' Affairs, and to all regional behavioral health authorities that provide services and all community-based behavioral health services providers that contract with a regional behavioral health authority to provide services, for any individual who was a patient within the prior twenty-four months of a state-owned and state-operated regional center, and to all complaints pertaining to administrative acts of the department, authority, or provider when those acts are concerned with the rights and interests of individuals placed within those institutions and facilities or receiving community-based behavioral health services.

(e) The authority of the deputy public counsel for welfare services shall extend to all complaints pertaining to administrative acts of administrative agencies when those acts are concerned with the rights and interests of individuals involved in the welfare services system of the State of Nebraska.

(f) The Public Counsel may delegate to members of the staff any authority or duty under sections 81-8,240 to 81-8,254 except the power of delegation and the duty of formally making recommendations to administrative agencies or reports to the Governor or the Legislature.

(2) The Public Counsel shall appoint the Inspector General of Nebraska Child Welfare as provided in section 43-4317. The Inspector General of Nebraska Child Welfare shall have the powers and duties provided in the Office of Inspector General of Nebraska Child Welfare Act.

(3) The Public Counsel shall appoint the Inspector General of the Nebraska Correctional System as provided in section 47-904. The Inspector General of the Nebraska Correctional System shall have the powers and duties provided in the Office of Inspector General of the Nebraska Correctional System Act.

Source: Laws 1969, c. 762, § 5, p. 2880; Laws 1976, LB 687, § 1; Laws 1994, LB 1224, § 87; Laws 2008, LB467, § 2; Laws 2012, LB821, § 43; Laws 2015, LB598, § 20; Laws 2019, LB600, § 20.
Operative date July 1, 2019.

Cross References

Office of Inspector General of Nebraska Child Welfare Act, see section 43-4301.

Office of Inspector General of the Nebraska Correctional System Act, see section 47-901.

ARTICLE 10

STATE-OWNED MOTOR VEHICLES

Section

81-1021. Identification requirements; exceptions.

81-1021 Identification requirements; exceptions.

(1) All motor vehicles acquired by the State of Nebraska except any vehicle rented as a bureau fleet vehicle shall be indelibly and conspicuously lettered, in plain letters of a contrasting color or reflective material:

(a) On each side thereof with the words State of Nebraska and following such words the name of whatever board, department, bureau, division, institution, including the University of Nebraska or state college, office, or other state expending agency of the state to which the motor vehicle belongs; and

(b) On the back thereof with the words State of Nebraska.

(2) This section shall not apply to motor vehicles used or controlled by:

(a) The Nebraska State Patrol, the Public Service Commission, the Game and Parks Commission, deputy state sheriffs employed by the Nebraska Brand Committee and State Fire Marshal for state law enforcement purposes, inspectors employed by the Nebraska Liquor Control Commission, and persons employed by the Tax Commissioner for state revenue enforcement purposes, the exemption for state law enforcement purposes and state revenue enforcement purposes being confined strictly to the seven agencies specifically named;

(b) The Department of Health and Human Services or the Department of Correctional Services for the purpose of apprehending and returning escaped offenders or parole violators to facilities in the Department of Correctional Services and transporting offenders and personnel of the Department of Correctional Services and patients and personnel of the Department of Health and Human Services who are engaged in off-campus program activities;

(c) The Military Department;

(d) Vocational rehabilitation counselors and the Department of Health and Human Services for the purposes of communicable disease control, for the prevention and control of those communicable diseases which endanger the public health, or used by the Department of Health and Human Services in the enforcement of drug control laws or for other investigation purposes;

(e) The Department of Agriculture for special investigative purposes;

(f) The Nebraska Motor Vehicle Industry Licensing Board for investigative purposes;

(g) The Insurance Fraud Prevention Division of the Department of Insurance for investigative purposes; and

(h) The Department of Justice.

Source: Laws 1939, c. 94, § 2, p. 409; C.S.Supp.,1941, § 60-1201; R.S. 1943, § 60-1001; Laws 1951, c. 202, § 1, p. 758; Laws 1951, c. 203, § 1, p. 759; Laws 1957, c. 278, § 1, p. 1008; Laws 1959, c. 300, § 1, p. 1127; Laws 1965, c. 390, § 1, p. 1247; Laws 1969, c. 512, § 1, p. 2099; Laws 1969, c. 513, § 1, p. 2100; Laws 1972, LB 1295, § 1; Laws 1973, LB 201, § 1; Laws 1973, LB 563, § 5; Laws 1975, LB 253, § 1; Laws 1984, LB 933, § 1; R.S.1943, (1988), § 60-1001; Laws 1993, LB 370, § 484; Laws 1993, LB 575, § 47; Laws 1996, LB 1044, § 862; Laws 1996, LB 1155, § 79; Laws 1999, LB 326, § 11; Laws 2007, LB296, § 753; Laws 2012, LB779, § 11; Laws 2019, LB418, § 12.
Effective date September 1, 2019.

ARTICLE 11

DEPARTMENT OF ADMINISTRATIVE SERVICES

(a) GENERAL PROVISIONS

Section

81-1108.55. Competitive bids; award to lowest responsible bidder; elements considered; procurement reports.

(j) PUBLIC FUNDS

81-11,106. Public funds; record in state accounting system; investment; accounting division of Department of Administrative Services; duties.

(a) GENERAL PROVISIONS

81-1108.55 Competitive bids; award to lowest responsible bidder; elements considered; procurement reports.

All purchases, leases, or contracts which by law are required to be based on competitive bids pursuant to section 81-1108.16 shall be made to the lowest responsible bidder, taking into consideration the best interests of the state, the quality or performance of the property proposed to be supplied, its conformity with specifications, the purposes for which required, and the times of delivery. In determining the lowest responsible bidder, in addition to price, the following elements shall be given consideration:

(1) The ability, capacity, and skill of the bidder to perform the contract required;

(2) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

- (3) Whether the bidder can perform the contract within the time specified;
- (4) The quality of performance of previous contracts;
- (5) The previous and existing compliance by the bidder with laws relating to the contract;
- (6) The life-cost of the property in relation to the purchase price and specific use of the item;
- (7) The performance of the property, taking into consideration any commonly accepted tests and standards of product usability and user requirements;
- (8) Energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment;
- (9) The information furnished by each bidder, when deemed applicable by the State Building Administrator, concerning life-cycle costs between alternatives for all classes of equipment, evidence of expected life, repair and maintenance costs, and energy consumption on a per-year basis; and
- (10) Such other information as may be secured having a bearing on the decision to award the contract.

Reports regarding procurements made pursuant to this section shall be provided to the Department of Environment and Energy. Such reports shall be in the form and contain such information as the Department of Environment and Energy may require.

All political subdivisions may follow the procurement principles set forth in this section if they are deemed applicable by the official authorized to make purchases for such political subdivision.

Source: Laws 1992, LB 1241, § 25; Laws 2019, LB302, § 104.
Operative date July 1, 2019.

(j) PUBLIC FUNDS

81-11,106 Public funds; record in state accounting system; investment; accounting division of Department of Administrative Services; duties.

- (1) For purposes of this section:
 - (a) Public funds means money belonging to the state by operation of general state law and collected by virtue of state-imposed taxes, fees, and similar charges;
 - (b) Special purpose funds means money in the state treasury which is received from an outside source, which is held in trust or escrow or segregated for a particular purpose, and which must be used for purposes defined by the source of the funds; and
 - (c) Trust funds means all trust funds identified by Nebraska statutes, all funds pledged for the payment of bonds, all accounts held by a trustee related to a bond issue, and all funds held related to a lease financing or other similar financing.
- (2) The State Treasurer shall have custody in the state treasury of all public funds and all special purpose funds, other than pension and trust funds, of all state officials, state agencies, state boards, state commissions, and other state entities. Each state official, agency, board, commission, or other entity shall remit all public funds and all special purpose funds, other than pension and

trust funds, to the State Treasurer for credit to the appropriate fund as provided in section 84-602.

(3) Each state official, agency, board, commission, or other entity shall record all revenue, fund balances, and expenditures from all public funds and all special purpose funds, other than pension and trust funds, in the state accounting system administered by the accounting division of the Department of Administrative Services pursuant to section 81-1110.01.

(4) As provided in section 72-1243, the state investment officer shall invest all funds available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The accounting division shall notify the budget division of the Department of Administrative Services if any state official, agency, board, commission, or other entity has failed to comply with this section. The budget division shall withhold up to ten percent of any appropriation to such state official, agency, board, commission, or other entity until it complies with this section.

Source: Laws 2019, LB52, § 1.

Effective date September 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 12

DEPARTMENT OF ECONOMIC DEVELOPMENT

(a) GENERAL PROVISIONS

Section

81-1201.21. Job Training Cash Fund; created; use; investment.

(s) SITE AND BUILDING DEVELOPMENT ACT

81-12,149. Department; allocate funds; qualified action plan; contents; powers of department.

(t) BUSINESS INNOVATION ACT

81-12,152. Act, how cited.

81-12,156. Funding; preference.

81-12,163. Appropriations; legislative intent.

81-12,166. Report; contents; department; duties; analysis of programs; certain records confidential.

81-12,167. Repealed. Laws 2019, LB334, § 12.

(a) GENERAL PROVISIONS

81-1201.21 Job Training Cash Fund; created; use; investment.

(1) There is hereby created the Job Training Cash Fund. The fund shall be under the direction of the Department of Economic Development. Money may be transferred to the fund pursuant to subdivision (1)(b)(iii) of section 48-621 and from the Cash Reserve Fund at the direction of the Legislature. The department shall establish a subaccount for all money transferred from the Cash Reserve Fund to the Job Training Cash Fund on or after July 1, 2005.

(2) The money in the Job Training Cash Fund or the subaccount established in subsection (1) of this section shall be used (a) to provide reimbursements for job training activities, including employee assessment, preemployment training,

on-the-job training, training equipment costs, and other reasonable costs related to helping industry and business locate or expand in Nebraska, (b) to provide upgrade skills training of the existing labor force necessary to adapt to new technology or the introduction of new product lines, (c) as provided in section 79-2308, or (d) as provided in section 48-3405. The department shall give a preference to job training activities carried out in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97.

(3) The department shall establish a subaccount within the fund to provide training grants for training employees and potential employees of businesses that (a) employ twenty-five or fewer employees on the application date, (b) employ, or train for potential employment, residents of rural areas of Nebraska, or (c) are located in or employ, or train for potential employment, residents of high-poverty areas as defined in section 81-1203. The department shall calculate the amount of prior year investment income earnings accruing to the fund and allocate such amount to the subaccount for training grants under this subsection. The subaccount shall also be used as provided in the Teleworker Job Creation Act. The department shall give a preference to training grants for businesses located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act.

(4) On April 5, 2018, any funds that were dedicated to carrying out sections 81-1210.01 to 81-1210.03 but were not yet expended shall be transferred to the Intern Nebraska Cash Fund.

(5) Any money in the Job Training Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1989, LB 305, § 3; Laws 1994, LB 1066, § 107; Laws 1995, LB 1, § 15; Laws 2000, LB 953, § 11; Laws 2005, LB 427, § 1; Laws 2007, LB322, § 27; Laws 2008, LB956, § 1; Laws 2009, LB316, § 22; Laws 2009, First Spec. Sess., LB3, § 72; Laws 2010, LB961, § 1; Laws 2010, LB1081, § 12; Laws 2011, LB386, § 4; Laws 2012, LB946, § 11; Laws 2013, LB476, § 1; Laws 2014, LB800, § 6; Laws 2015, LB382, § 3; Laws 2015, LB661, § 34; Laws 2016, LB1110, § 14; Laws 2018, LB945, § 20; Laws 2019, LB87, § 2.

Effective date September 1, 2019.

Cross References

Enterprise Zone Act, see section 13-2101.01.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

Teleworker Job Creation Act, see section 48-3001.

(s) SITE AND BUILDING DEVELOPMENT ACT

81-12,149 Department; allocate funds; qualified action plan; contents; powers of department.

(1) During each calendar year in which funds are available from the Site and Building Development Fund for use by the Department of Economic Development, the department shall allocate a specific amount of funds, not less than forty percent, to nonmetropolitan areas. For purposes of this section, nonmet-

ropolitan areas means counties with fewer than one hundred thousand inhabitants according to the most recent federal decennial census. In selecting projects to receive fund assistance, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall give first priority to financially viable projects that have an agreement with a business that will locate a site within ninety days of the signed agreement and to financially viable projects located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97. The plan shall set forth selection criteria to be used to determine priorities of the fund which are appropriate to local conditions, including the community's immediate need for site and building development, proposed increases in jobs and investment, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund. The Director of Economic Development shall submit the plan to the Governor for approval.

(2) The department shall fund in order of priority as many applications as will utilize available funds less actual administrative costs of the department in administering the program. In administering the program the department may contract for services or directly provide funds to other governmental entities or instrumentalities.

Source: Laws 2011, LB388, § 6; Laws 2013, LB78, § 14; Laws 2014, LB800, § 7; Laws 2019, LB87, § 3.
Effective date September 1, 2019.

Cross References

Enterprise Zone Act, see section 13-2101.01.

(t) **BUSINESS INNOVATION ACT**

81-12,152 Act, how cited.

Sections 81-12,152 to 81-12,166 shall be known and may be cited as the Business Innovation Act.

Source: Laws 2011, LB387, § 1; Laws 2017, LB641, § 3; Laws 2019, LB334, § 8.
Effective date September 1, 2019.

81-12,156 Funding; preference.

When selecting projects for funding under the Business Innovation Act, the department shall give a preference to projects located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97.

Source: Laws 2011, LB387, § 5; Laws 2014, LB800, § 8; Laws 2017, LB217, § 35; Laws 2019, LB87, § 4.
Effective date September 1, 2019.

Cross References

Enterprise Zone Act, see section 13-2101.01.

81-12,163 Appropriations; legislative intent.

(1) It is the intent of the Legislature that (a) the four million dollars saved due to the elimination of funding for the Angel Investment Tax Credit Act be used to increase the appropriation to the department for the Business Innovation Act by four million dollars for fiscal year 2021-22 and each fiscal year thereafter and (b) the one hundred thousand dollars saved due to the reduction in tax credits authorized under the Angel Investment Tax Credit Act for calendar year 2019 be used to increase the appropriation to the Department of Revenue by one hundred thousand dollars for fiscal year 2019-20 to offset the costs incurred by the Department of Revenue to implement Laws 2019, LB334.

(2) Up to five percent of the funds appropriated for the Business Innovation Act may be used by the department, or by a nonprofit entity with which the department contracts, for administrative expenses.

Source: Laws 2011, LB387, § 12; Laws 2015, LB449, § 8; Laws 2019, LB334, § 9.
Effective date September 1, 2019.

Cross References

Angel Investment Tax Credit Act, see section 77-6301.

81-12,166 Report; contents; department; duties; analysis of programs; certain records confidential.

(1) The department shall submit an annual report to the Governor and the Legislature on or before July 1 of each year which includes, but is not limited to, a description of the demand for financial assistance and programs under the Business Innovation Act from all geographic regions in Nebraska, a listing of the recipients and amounts of financial assistance awarded pursuant to the act in the previous fiscal year, the impact of the financial assistance, and an evaluation of the act's performance based on the documented goals of the recipients. The report submitted to the Legislature shall be submitted electronically. The department may require recipients to provide periodic performance reports to enable the department to fulfill the requirements of this subsection. The report shall contain no information that is protected by state or federal confidentiality laws.

(2) Beginning in 2020 and in every even-numbered year thereafter, the department shall assess and evaluate the economic impact of the programs funded under the Business Innovation Act and shall include the findings from such assessment and evaluation in the next annual report it submits under subsection (1) of this section. To carry out this subsection, the department shall contract with an organization or entity pursuant to state agency procurement requirements.

(3) Beginning with the FY2021-23 biennial budget review process, the Appropriations Committee of the Legislature shall conduct a biennial analysis of the financial status and impact of the programs funded under the Business Innovation Act.

(4) Applications for funding and related documentation which may be received, developed, created, or otherwise maintained by the Department of Economic Development in administering the Business Innovation Act may be deemed confidential by the department and not subject to public disclosure.

Source: Laws 2011, LB387, § 15; Laws 2012, LB782, § 196; Laws 2015, LB449, § 9; Laws 2019, LB334, § 10.
Effective date September 1, 2019.

81-12,167 Repealed. Laws 2019, LB334, § 12.**ARTICLE 13****PERSONNEL**

(a) STATE PERSONNEL SERVICE

Section

81-1316. State Personnel System; exemptions.

81-1327. Repealed. Laws 2019, LB298, § 25.

(d) STATE EMPLOYEES

81-1392. Approved youth mentoring program; participation; request; Director of Personnel; powers; state agency; denial; grounds.

(a) STATE PERSONNEL SERVICE

81-1316 State Personnel System; exemptions.

(1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;
- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;
- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;
- (o) All personnel of the University of Nebraska;
- (p) All personnel of the Coordinating Commission for Postsecondary Education;
- (q) All personnel of the Governor's Policy Research Office;
- (r) All personnel of the Commission on Public Advocacy;
- (s) All agency heads;
- (t)(i) The Director of Behavioral Health of the Division of Behavioral Health;
- (ii) the Director of Children and Family Services of the Division of Children and Family Services; (iii) the Director of Developmental Disabilities of the Division of Developmental Disabilities; (iv) the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care; and (v) the Director of Public Health of the Division of Public Health;

(u) The chief medical officer established under section 81-3115, the Administrator of the Office of Juvenile Services, and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska Veterans' Home, Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth Rehabilitation and Treatment Center-Geneva;

(v) The chief executive officers of all facilities operated by the Department of Correctional Services and the medical director for the department appointed pursuant to section 83-4,156;

(w) All personnel employed as pharmacists, physicians, psychiatrists, or psychologists by the Department of Correctional Services;

(x) All personnel employed as pharmacists, physicians, psychiatrists, psychologists, service area administrators, or facility operating officers of the Department of Health and Human Services or the Department of Veterans' Affairs;

(y) Deputies and examiners of the Department of Banking and Finance and the Department of Insurance as set forth in sections 8-105 and 44-119, except for those deputies and examiners who remain in the State Personnel System;

(z) All personnel of the Tax Equalization and Review Commission; and

(aa) The associate director of the Conservation Division of the Nebraska State Historical Society and all personnel employed as a Conservator I or Conservator II of the Conservation Division of the Nebraska State Historical Society.

(2) At each agency head's discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency Employees	Number of Noncovered Positions
less than 25	0
25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
1001 to 2000	5
2001 to 3000	8
3001 to 4000	11
4001 to 5000	40
over 5000	50

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head. An agency with over five thousand employees shall provide notice in writing to the Health and Human Services Committee of the Legislature when forty noncovered positions have been filled by the agency head pursuant to this subsection.

(3) No changes to this section or to the number of noncovered positions within an agency shall affect the status of personnel employed on the date the

changes become operative without their prior written agreement. A state employee's career protections or coverage by personnel rules and regulations shall not be revoked by redesignation of the employee's position as a noncovered position without the prior written agreement of such employee.

Source: Laws 1967, c. 573, § 16, p. 1896; Laws 1969, c. 802, § 8, p. 3025; Laws 1971, LB 637, § 1; Laws 1987, LB 491, § 13; Laws 1988, LB 1106, § 1; Laws 1996, LB 1044, § 867; Laws 1998, LB 1073, § 165; Laws 2000, LB 654, § 41; Laws 2002, LB 876, § 86; Laws 2002, LB 1062, § 65; Laws 2003, LB 85, § 3; Laws 2003, LB 245, § 16; Laws 2006, LB 994, § 114; Laws 2007, LB296, § 756; Laws 2008, LB745, § 1; Laws 2008, LB965, § 23; Laws 2011, LB218, § 1; Laws 2017, LB340, § 17; Laws 2018, LB827, § 3; Laws 2019, LB302, § 105; Laws 2019, LB447, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB302, section 105, with LB447, section 1, to reflect all amendments.

Note: Changes made by LB302 became operative July 1, 2019. Changes made by LB447 became effective September 1, 2019.

Cross References

For other exemptions, see sections 49-14,121 and 72-1242.

81-1327 Repealed. Laws 2019, LB298, § 25.

(d) STATE EMPLOYEES

81-1392 Approved youth mentoring program; participation; request; Director of Personnel; powers; state agency; denial; grounds.

(1) An agency head, or other management personnel designated by the agency head, may adjust the work schedule of a state employee by up to one hour per week to permit such state employee to participate in an approved youth mentoring program. Any request for an adjusted work schedule for participation in an approved youth mentoring program shall be submitted and approved in accordance with applicable agency procedures, including approval by the supervisor of such state employee. Nothing in this section shall be construed to authorize paid leave for any state employee.

(2) For purposes of this section, state employee means any employee of the state or of any state agency, including all administrative, professional, academic, and other personnel of the University of Nebraska, the state colleges, and the State Department of Education, but excluding any employee or officer of the state whose salary is set by the Constitution of Nebraska or by statute. An employee of any local government or entity, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act, shall not be considered a state employee for purposes of this section.

(3)(a) The Director of Personnel may use an existing publicly accessible data base of youth mentoring programs as a list of approved youth mentoring programs for purposes of this section.

(b) The director shall only use a data base as the list of approved programs if programs are added to the data base based on nationally recognized standards for quality youth mentoring programs that address elements of effective practice for mentoring, including, but not limited to:

- (i) Recruiting prospective mentors and mentees;
- (ii) Screening prospective mentors and mentees;

(iii) Training prospective mentors, prospective mentees, and the parents or guardians of prospective mentees;

(iv) Matching mentors with mentees and initiating formal mentoring relationships;

(v) Monitoring and supporting mentoring relationships; and

(vi) Bringing mentoring relationships to closure.

(c) The director shall only use a data base as the list of approved programs if such data base is limited to programs that conduct criminal background checks on prospective adult mentors, including, but not limited to, searches of the central registry maintained by the sex offender registration and community notification division of the Nebraska State Patrol pursuant to section 29-4004.

(d) Each state agency is responsible for verifying that the youth mentoring program for which a state employee is requesting an adjusted work schedule is on the list of approved youth mentoring programs.

(e) If no publicly accessible data base can be found that meets the criteria in this section after a reasonable search, the director shall not have any further obligation under this section.

(4) An agency may deny a request to adjust a work schedule pursuant to this section if:

(a) The activity for which the adjustment is requested is not part of an approved youth mentoring program;

(b) The request was not submitted in accordance with agency procedures;

(c) The most recent performance review for the state employee making the request is unsatisfactory;

(d) After considering reasonable alternatives and options, it is determined that the absence of the employee will interfere with agency operations or services; or

(e) For any other reason the agency deems that the absence of the state employee would not be in the best interests of the agency.

(5) The director may adopt and promulgate such rules and regulations as necessary to administer this section.

Source: Laws 2019, LB511, § 1.

Effective date September 1, 2019.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

ARTICLE 14 LAW ENFORCEMENT

(b) COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

Section

81-1426.01. County Justice Reinvestment Grant Program; created; grant recipient; duties; report.

(b) COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

81-1426.01 County Justice Reinvestment Grant Program; created; grant recipient; duties; report.

(1) There is created a separate and distinct budgetary program within the commission to be known as the County Justice Reinvestment Grant Program. Funding shall be used to provide grants to counties to help offset jail costs.

(2) The annual General Fund appropriation to the County Justice Reinvestment Grant Program shall be apportioned to the counties as grants in accordance with a formula established in rules and regulations adopted and promulgated by the commission. The formula shall be based on the total number per county of individuals incarcerated in jails and the total capacity of jails.

(3) Funds provided to counties under the County Justice Reinvestment Grant Program shall be used exclusively to assist counties in the event that their average daily jail population increases after August 30, 2015. In distributing funds provided under the County Justice Reinvestment Grant Program, counties shall demonstrate to the commission that their average daily jail population increased, using data to pinpoint the contributing factors, as a result of the implementation of Laws 2015, LB605. The commission shall grant funds to counties which have an increase in population compared to the average daily jail population of the preceding three fiscal years. In calculating the average daily jail population, counties shall only include post-adjudication inmates who are serving sentences or inmates serving custodial sanctions due to probation violations. Counties may apply for grants one year after August 30, 2015.

(4) No funds appropriated or distributed under the County Justice Reinvestment Grant Program shall be used for the construction of secure detention facilities, secure treatment facilities, secure confinement facilities, or county jails. Grants received under this section shall not be used for capital construction or the lease or acquisition of facilities. Any funds appropriated to the County Justice Reinvestment Grant Program to be distributed to counties under this section shall be retained by the commission to be distributed in the form of grants in the following fiscal year.

(5) In distributing funds provided under the County Justice Reinvestment Grant Program, recipients shall prioritize use of the funds for programs, services, and approaches that reduce jail populations and costs. The funds may be used to supplement existing programs, services, and approaches to reduce jail populations and costs.

(6) Any aid not distributed to counties shall be retained by the commission to be distributed on a competitive basis to counties demonstrating additional need in the funding areas identified in this section.

(7) Any county receiving grants under the County Justice Reinvestment Grant Program shall submit annual information electronically to the commission as required by rules and regulations adopted and promulgated by the commission. The information shall include, but not be limited to, the objective sought for the grant and estimated savings and reduction in jail inmates.

(8) The commission shall report annually to the Governor and the Legislature on the distribution and use of funds for grants appropriated under the County Justice Reinvestment Grant Program. The report shall include, but not be limited to, the information listed under subsection (7) of this section. The report submitted to the Legislature shall be submitted electronically.

(9) The commission shall adopt and promulgate rules and regulations to implement this section.

Source: Laws 2015, LB605, § 87; Laws 2019, LB298, § 18.
Effective date May 28, 2019.

STATE ADMINISTRATIVE DEPARTMENTS

ARTICLE 15

ENVIRONMENT AND ENERGY

(a) ENVIRONMENTAL PROTECTION ACT

Section

- 81-1502. Terms, defined.
81-1503. Environmental Quality Council; membership; appointment; compensation; Director of Environment and Energy; appointment; oath; duties.
81-1504. Department; powers; duties.
81-1504.01. Department; reports required; contents.
81-1505. Council; rules and regulations; standards of air, land, and water quality.
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(b) LITTER REDUCTION AND RECYCLING ACT

- 81-1537. Department, defined.
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81-1561. Litter Fee Collection Fund; created; Nebraska Litter Reduction and Recycling Fund; distribution; procedure; purposes.

(g) PETROLEUM PRODUCTS AND HAZARDOUS SUBSTANCES STORAGE AND HANDLING

- 81-15,118. Legislative findings.
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(h) WASTEWATER TREATMENT OPERATOR CERTIFICATION ACT

- 81-15,129. Terms, defined.

(k) WASTEWATER TREATMENT FACILITIES CONSTRUCTION ASSISTANCE ACT

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81-15,159.01. Department of Environment and Energy; conduct study; establish advisory committee; members; department powers; report.
81-15,159.02. Terms, defined.
81-15,160. Waste Reduction and Recycling Incentive Fund; created; use; investment; grants; restrictions.

(m) SOLID WASTE MANAGEMENT PLAN

- 81-15,166. Comprehensive plan; department; duties; legislative intent; Environmental Quality Council; duties.

ENVIRONMENT AND ENERGY

Section

(n) NEBRASKA ENVIRONMENTAL TRUST ACT

- 81-15,170. Nebraska Environmental Trust Board; created; membership; qualifications; executive director.
- 81-15,175. Fund allocations; board; powers and duties; grant award to Water Resources Cash Fund; payments; legislative intent; additional grant; additional reporting.

(o) SOLID WASTE LANDFILL CLOSURE ASSISTANCE FUND

- 81-15,177. Solid Waste Landfill Closure Assistance Fund; established; use; investment; council; grants; duties.
- 81-15,178. Funding from Solid Waste Landfill Closure Assistance Fund; applicant; requirements.
- 81-15,179. Application for funds; department; powers and duties.

(p) SUPERFUND COST SHARE CASH FUND

- 81-15,180. Superfund Cost Share Cash Fund; created; use; investment.

(q) REMEDIAL ACTION PLAN MONITORING ACT

- 81-15,183. Remedial Action Plan Monitoring Fund; created; use; investment.
- 81-15,184. Remedial action plan; application for monitoring; requirements; fees; department; duties.
- 81-15,185. Department of Environment and Energy; remedial action plan; approval or disapproval; notification.
- 81-15,185.01. Remedial action plan; notice; hearing.
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(s) NEBRASKA EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT

- 81-15,196. Director, defined.
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(t) PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM CONTRACTORS CERTIFICATION AND SYSTEM REGISTRATION ACT

- 81-15,242. Department, defined.
- 81-15,243. Director, defined.
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- 81-15,254. Department of Environment and Energy; Director of Environment and Energy; employees of State Energy Office; transfer; how treated.
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- 81-15,256. References to State Energy Office or Department of Environmental Quality in contracts or other documents; how construed; contracts and property; how treated.
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- 81-15,259. Property of State Energy Office; transfer to Department of Environment and Energy.

(v) VOLKSWAGEN SETTLEMENT CASH FUND

- 81-15,260. Volkswagen Settlement Cash Fund; created; use; investment.

(a) ENVIRONMENTAL PROTECTION ACT

81-1502 Terms, defined.

For purposes of the Environmental Protection Act, unless the context otherwise requires:

(1) Air contaminant or air contamination shall mean the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere;

(2) Air pollution shall mean the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant, or animal life, property, or the conduct of business;

(3) Chairperson shall mean the chairperson of the Environmental Quality Council and council shall mean the Environmental Quality Council;

(4) Complaint shall mean any charge, however informal, to or by the council, that any person or agency, private or public, is polluting the air, land, or water or is violating the Environmental Protection Act or any rule or regulation of the department in respect thereof;

(5) Control and controlling shall include prohibition and prohibiting as related to air, land, or water pollution;

(6) Department shall mean the Department of Environment and Energy, which department is hereby created;

(7) Director shall mean the Director of Environment and Energy, which position is hereby established;

(8) Disposal system shall mean a system for disposing of wastes, including hazardous wastes, either by surface or underground methods, and includes sewerage systems and treatment works, disposal wells and fields, and other systems;

(9) Emissions shall mean releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof;

(10) Person shall mean any: Individual; partnership; limited liability company; association; public or private corporation; trustee; receiver; assignee; agent; municipality or other governmental subdivision; public agency; other legal entity; or any officer or governing or managing body of any public or private corporation, municipality, governmental subdivision, public agency, or other legal entity;

(11) Rule or regulation shall mean any rule or regulation of the department;

(12) Sewerage system shall mean pipelines, conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

(13) Treatment works shall mean any plant or other works used for the purpose of treating, stabilizing, or holding wastes;

(14) Wastes shall mean sewage, industrial waste, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any air, land, or waters of the state;

(15) Refuse shall mean putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and solid market and industrial wastes;

(16) Garbage shall mean rejected food wastes, including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by rendering plants;

(17) Rubbish shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety;

(18) Junk shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material;

(19) Land pollution shall mean the presence upon or within the land resources of the state of one or more contaminants or combinations of contaminants, including, but not limited to, refuse, garbage, rubbish, or junk, in such quantities and of such quality as will or are likely to (a) create a nuisance, (b) be harmful, detrimental, or injurious to public health, safety, or welfare, (c) be injurious to plant and animal life and property, or (d) be detrimental to the economic and social development, the scenic beauty, or the enjoyment of the natural attractions of the state;

(20) Water pollution shall mean the manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of water;

(21) Waters of the state shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state;

(22) Point source shall mean any discernible confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft from which pollutants are or may be discharged;

(23) Effluent limitation shall mean any restriction, including a schedule of compliance, established by the council on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into waters of the state;

(24) Schedule of compliance shall mean a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard;

(25) Hazardous waste shall mean a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or (b) pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed;

(26) Solid waste shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations and from community activities. Solid waste shall not include slag, a product that is a result of the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material; solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.;

(27) Storage, when used in connection with hazardous waste, shall mean the containment of hazardous waste, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such hazardous waste;

(28) Manifest shall mean the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage;

(29) Processing shall mean to treat, detoxify, neutralize, incinerate, biodegrade, or otherwise process a hazardous waste to remove such waste's harmful properties or characteristics for disposal in accordance with regulations established by the council;

(30) Well shall mean a bored, drilled, or driven shaft or a dug hole, the depth of which is greater than the largest surface dimension of such shaft or hole;

(31) Injection well shall mean a well into which fluids are injected;

(32) Fluid shall mean a material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or other form or state;

(33) Mineral production well shall mean a well drilled to promote extraction of mineral resources or energy, including, but not limited to, a well designed for (a) mining of sulfur by the Frasch process, (b) solution mining of sodium chloride, potash, phosphate, copper, uranium, or any other mineral which can be mined by this process, (c) in situ combustion of coal, tar sands, oil shale, or any other fossil fuel, or (d) recovery of geothermal energy for the production of electric power. Mineral production well shall not include any well designed for conventional oil or gas production, for use of fluids to promote enhanced recovery of oil or natural gas, or for injection of hydrocarbons for storage purposes;

(34) Mineral exploration hole shall mean a hole bored, drilled, driven, or dug in the act of exploring for a mineral other than oil and gas;

(35) Solution mining shall mean the use of an injection well and fluids to promote the extraction of mineral resources;

(36) Uranium shall mean tri-uranium oct-oxide;

(37) Solid waste management facility shall mean a facility as defined in section 13-2010; and

(38) Livestock waste control facility shall have the same meaning as in section 54-2417.

Source: Laws 1971, LB 939, § 2; Laws 1972, LB 1435, § 1; Laws 1973, LB 538, § 1; Laws 1980, LB 853, § 1; Laws 1981, LB 216, § 2;

Laws 1983, LB 356, § 2; Laws 1984, LB 742, § 1; Laws 1984, LB 1078, § 1; Laws 1986, LB 1008, § 1; Laws 1992, LB 1257, § 76; Laws 1993, LB 121, § 538; Laws 1994, LB 570, § 5; Laws 1998, LB 1209, § 18; Laws 2004, LB 916, § 25; Laws 2013, LB203, § 1; Laws 2019, LB302, § 106.

Operative date July 1, 2019.

81-1503 Environmental Quality Council; membership; appointment; compensation; Director of Environment and Energy; appointment; oath; duties.

(1) The Environmental Quality Council is hereby created. The council shall consist of seventeen members to be appointed by the Governor with the advice and consent of the Legislature as follows:

- (a) One representative of the food products manufacturing industry;
- (b) One representative of conservation;
- (c) One representative of the agricultural processing industry;
- (d) One representative of the automotive or petroleum industry;
- (e) One representative of the chemical industry;
- (f) One representative of heavy industry;
- (g) One representative of the power generating industry;
- (h) One representative of agriculture actively engaged in crop production;
- (i) One representative of labor;
- (j) One professional engineer experienced in control of air and water pollution and solid wastes;
- (k) One physician knowledgeable in the health aspects of air, water, and land pollution;
- (l) One representative from county government;
- (m) Two representatives from municipal government, one of whom shall represent cities other than those of the primary or metropolitan class;
- (n) One representative of the livestock industry;
- (o) One representative of minority populations; and
- (p) One biologist.

(2) Members shall serve for terms of four years. All appointments shall be subject to confirmation by the Legislature when initially made. As the term of an appointee to the council expires, the succeeding appointee shall be a representative of the same segment of the public as the previous appointee. In the case of appointees to vacancies occurring from unexpired terms, each successor shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed. All members shall be citizens and residents of the State of Nebraska.

(3) Members may be removed by the Governor for inefficiency, neglect of duty, or misconduct in office but only after delivering to the member a copy of the charges and affording him or her an opportunity to be publicly heard in person or by counsel, in his or her own defense, upon not less than ten days' notice. Such hearing shall be held before the Governor. When a member is removed, the Governor shall file, in the office of the Secretary of State, a complete statement of all charges made against such member and the findings thereon, together with a complete record of the proceedings.

(4) The council shall elect from its members a chairperson and a vice-chairperson, who shall hold office at the pleasure of the council. The vice-chairperson shall serve as chairperson in case of the absence or disability of the chairperson. The director shall serve as secretary of the council and shall keep all records of meetings of and actions taken by the council. He or she shall be promptly advised as to such actions by the chairperson.

(5) The members of the council, while engaged in the performance of their official duties, shall receive a per diem of forty dollars while so serving, including travel time. In addition, members of the council shall receive reimbursement for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(6) The council shall hold at least two regular meetings each year, at a time and place fixed by the council and shall keep a record of its proceedings which shall be open to the public for inspection. Special meetings may be called by the chairperson. Such special meetings must be called by him or her upon receipt of a written request signed by two or more members of the council. Written notice of the time and place of all meetings shall be mailed in advance to the office of each member of the council by the secretary. A majority of the members of the council shall constitute a quorum.

(7) The council shall submit to the Governor a list of names from which he or she shall appoint the Director of Environment and Energy who shall be experienced in air, water, and land pollution control and who may be otherwise an employee of state government. The director shall be responsible for administration of the department and all standards, rules, and regulations adopted pursuant to Chapter 81, article 15, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act. All such standards, rules, and regulations shall be adopted by the council after consideration of the recommendations of the director. All grants to political subdivisions under the control of the department shall be made by the director in accordance with priorities established by the council, unless otherwise directed by statute. A majority of the members of the council shall constitute a quorum for the transaction of business. The affirmative vote of a majority of all members of the council shall be necessary for the adoption of standards, rules, and regulations.

(8) Before the director enters upon the duties of his or her office, he or she shall take and subscribe to the constitutional oath of office and shall, in addition thereto, swear and affirm that he or she holds no other public office nor any position under any political committee or party, that he or she has not during the two years immediately prior to his or her appointment received a significant portion of his or her income directly or indirectly from permitholders or applicants for a permit under the Environmental Protection Act, and that he or she will not receive such income during his or her term as director, except that such requirements regarding income prior to the term of office shall not apply to employees of any agency of the State of Nebraska or any political subdivision which may be a permitholder under the Environmental Protection Act. Such oath and affirmation shall be filed with the Secretary of State.

Source: Laws 1971, LB 939, § 3; Laws 1972, LB 1435, § 2; Laws 1974, LB 1029, § 1; Laws 1979, LB 321, § 2; Laws 1981, LB 204, § 195; Laws 1983, LB 356, § 3; Laws 1992, LB 1257, § 77; Laws

1998, LB 1209, § 19; Laws 2005, LB 351, § 1; Laws 2012, LB760, § 1; Laws 2019, LB302, § 107.
Operative date July 1, 2019.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

81-1504 Department; powers; duties.

The department shall have and may exercise the following powers and duties:

(1) To exercise exclusive general supervision of the administration and enforcement of the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act, and all rules and regulations and orders adopted and promulgated under such acts;

(2) To develop comprehensive programs for the prevention, control, and abatement of new or existing pollution of the air, waters, and land of the state;

(3) To advise and consult, cooperate, and contract with other agencies of the state, the federal government, and other states, with interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of the acts;

(4) To act as the state water pollution, air pollution, and solid waste pollution control agency for all purposes of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., and any other federal legislation pertaining to loans or grants for environmental protection and from other sources, public or private, for carrying out any of its functions, which loans and grants shall not be expended for other than the purposes for which provided;

(5) To encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to air, land, and water pollution and causes and effects, prevention, control, and abatement of such pollution as it may deem advisable and necessary for the discharge of its duties under the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act, using its own staff or private research organizations under contract;

(6) To collect and disseminate information and conduct educational and training programs relating to air, water, and land pollution and the prevention, control, and abatement of such pollution;

(7) To issue, modify, or revoke orders (a) prohibiting or abating discharges of wastes into the air, waters, or land of the state and (b) requiring the construction of new disposal systems or any parts thereof or the modification, extension, or adoption of other remedial measures to prevent, control, or abate pollution;

(8) To administer state grants to political subdivisions for solid waste disposal facilities and for the construction of sewage treatment works and facilities to dispose of water treatment plant wastes;

(9) To (a) hold such hearings and give notice thereof, (b) issue such subpoenas requiring the attendance of such witnesses and the production of such evidence, (c) administer such oaths, and (d) take such testimony as the director deems necessary, and any of these powers may be exercised on behalf of the director by a hearing officer designated by the director;

(10) To require submission of plans, specifications, and other data relative to, and to inspect construction of, disposal systems or any part thereof prior to issuance of such permits or approvals as are required by the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act;

(11) To issue, continue in effect, revoke, modify, or deny permits, under such conditions as the director may prescribe and consistent with the standards, rules, and regulations adopted by the council, (a) to prevent, control, or abate pollution, (b) for the discharge of wastes into the air, land, or waters of the state, and (c) for the installation, modification, or operation of disposal systems or any parts thereof;

(12) To require proper maintenance and operation of disposal systems;

(13) To exercise all incidental powers necessary to carry out the purposes of the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act;

(14) To establish bureaus, divisions, or sections for the control of air pollution, water pollution, mining and land quality, and solid wastes which shall be administered by full-time salaried bureau, division, or section chiefs and to delegate and assign to each such bureau, division, or section and its officers and employees the duties and powers granted to the department for the enforcement of Chapter 81, article 15, the Integrated Solid Waste Management Act, the Livestock Waste Management Act, and the standards, rules, and regulations adopted pursuant thereto;

(15)(a) To require access to existing and available records relating to (i) emissions or discharges which cause or contribute to air, land, or water pollution or (ii) the monitoring of such emissions or discharges; and

(b) To require, for purposes of developing or assisting the development of any regulation or enforcing any of the provisions of the Environmental Protection Act which pertain to hazardous waste, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous waste, upon request of any officer, employee, or representative of the department, to furnish information relating to such waste and any permit involved. Such person shall have access at all reasonable times to a copy of all results relating to such waste;

(16) To obtain such scientific, technical, administrative, and operational services including laboratory facilities, by contract or otherwise, as the director deems necessary;

(17) To encourage voluntary cooperation by persons and affected groups to achieve the purposes of the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act;

(18) To encourage local units of government to handle air, land, and water pollution problems within their respective jurisdictions and on a cooperative basis and to provide technical and consultative assistance therefor;

(19) To consult with any person proposing to construct, install, or otherwise acquire an air, land, or water contaminant source or a device or system for control of such source, upon request of such person, concerning the efficacy of such device or system or concerning the air, land, or water pollution problem which may be related to the source, device, or system. Nothing in any such consultation shall be construed to relieve any person from compliance with the

Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act, rules and regulations in force pursuant to the acts, or any other provision of law;

(20) To require all persons engaged or desiring to engage in operations which result or which may result in air, water, or land pollution to secure a permit prior to installation or operation or continued operation;

(21) To enter and inspect, during reasonable hours, any building or place, except a building designed for and used exclusively for a private residence;

(22) To receive or initiate complaints of air, water, or land pollution, hold hearings in connection with air, water, or land pollution, and institute legal proceedings in the name of the state for the control or prevention of air, water, or land pollution, and for the recovery of penalties, in accordance with the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act;

(23) To delegate, by contract with governmental subdivisions which have adopted local air, water, or land pollution control programs approved by the council, the enforcement of state-adopted air, water, or land pollution control regulations within a specified region surrounding the jurisdictional area of the governmental subdivisions. Prosecutions commenced under such contracts shall be conducted by the Attorney General or county attorneys as provided in the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act;

(24) To conduct tests and take samples of air, water, or land contaminants, fuel, process materials, or any other substance which affects or may affect discharges or emissions of air, water, or land contaminants from any source, giving the owner or operator a receipt for the sample obtained;

(25) To develop and enforce compliance schedules, under such conditions as the director may prescribe and consistent with the standards, rules, and regulations adopted by the council, to prevent, control, or abate pollution;

(26) To employ the Governor's Keep Nebraska Beautiful Committee for such special occasions and projects as the department may decide. Reimbursement of the committee shall be made from state and appropriate federal matching funds for each assignment of work by the department as provided in sections 81-1174 to 81-1177;

(27) To provide, to the extent determined by the council to be necessary and practicable, for areawide, selective, and periodic inspection and testing of motor vehicles to secure compliance with applicable exhaust emission standards for a fee not to exceed five dollars to offset the cost of inspection;

(28) To enforce, when it is not feasible to prescribe or enforce any emission standard for control of air pollutants, the use of a design, equipment, a work practice, an operational standard, or a combination thereof, adequate to protect the public health from such pollutant or pollutants with an ample margin of safety;

(29) To establish the position of public advocate to be located within the department to assist and educate the public on departmental programs and to carry out all duties of the ombudsman as provided in the Clean Air Act, as amended, 42 U.S.C. 7661f;

(30) Under such conditions as it may prescribe for the review, recommendations, and written approval of the director, to require the submission of such

plans, specifications, and other information as it deems necessary to carry out the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act or to carry out the rules and regulations adopted pursuant to the acts. When deemed necessary by the director, the plans and specifications shall be prepared and submitted by a professional engineer licensed to practice in Nebraska;

(31) To carry out the provisions of the Petroleum Products and Hazardous Substances Storage and Handling Act;

(32) To consider the risk to human health and safety and to the environment in evaluating and approving plans for remedial action;

(33) To evaluate permits proposed to be issued to any political subdivision under the National Pollutant Discharge Elimination System created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., as provided in section 81-1517;

(34) To exercise such powers and duties as may be delegated by the federal government to administer an individual and general permit program for the discharge of dredged or fill material consistent with section 404 of the Clean Water Act, as amended, 33 U.S.C. 1344;

(35) To serve as or assist in developing and coordinating a central repository within state government for the collection of data on energy;

(36) To undertake a continuing assessment of the trends in the availability, consumption, and development of all forms of energy;

(37) To collect and analyze data relating to present and future demands and resources for all sources of energy and to specify energy needs for the state;

(38) To recommend to the Governor and the Legislature energy policies and conservation measures for the state and to carry out such measures as are adopted;

(39) To provide for public dissemination of appropriate information on energy, energy sources, and energy conservation;

(40) To accept, expend, or disburse funds, public or private, made available to it for research studies, demonstration projects, or other activities which are related either to energy conservation and efficiency or development;

(41) To study the impact and relationship of state energy policies to national and regional energy policies and engage in such activities as will reasonably insure that the State of Nebraska and its residents receive an equitable share of energy supplies, including the administration of any federally mandated or state-mandated energy allocation programs;

(42) To actively seek the advice of the residents of Nebraska regarding energy policies and programs;

(43) To prepare emergency allocation plans suggesting to the Governor actions to be taken in the event of serious shortages of energy;

(44) To design and maintain a state program for conservation of energy and energy efficiency;

(45) To provide technical assistance regarding energy to local subdivisions of government;

(46) To provide technical assistance to private persons desiring information on energy conservation and efficiency techniques and the use of renewable energy technologies;

(47) To develop a strategic state energy plan pursuant to section 81-1604;

(48) To develop and disseminate transparent and objective energy information and analysis while utilizing existing energy planning resources of relevant stakeholder entities;

(49) To actively seek to maximize federal and other nonstate funding and support to the state for energy planning;

(50) To monitor energy transmission capacity planning and policy affecting the state and the regulatory approval process for the development of energy infrastructure and make recommendations to the Governor and electronically to the Legislature as necessary to facilitate energy infrastructure planning and development;

(51) To implement rules and regulations adopted and promulgated by the director pursuant to the Administrative Procedure Act to carry out subdivisions (35) through (58) of this section;

(52) To make all contracts pursuant to subdivisions (35) through (58) of this section and do all things to cooperate with the federal government, and to qualify for, accept, expend, and dispense public or private funds intended for the implementation of subdivisions (35) through (58) of this section;

(53) To contract for services, if such work or services cannot be satisfactorily performed by employees of the department or by any other part of state government;

(54) To enter into such agreements as are necessary to carry out energy research and development with other states;

(55) To carry out the duties and responsibilities relating to energy as may be requested or required of the state by the federal government;

(56) To cooperate and participate with the approval of the Governor in the activities of organizations of states relating to the availability, conservation, development, and distribution of energy;

(57) To engage in such activities as will seek to insure that the State of Nebraska and its residents receive an equitable share of energy supplies at a fair price; and

(58) To form advisory committees of residents of Nebraska to advise the director on programs and policies relating to energy and to assist in implementing such programs. Such committees shall be of a temporary nature, and no member shall receive any compensation for serving on any such committee but, with the approval of the Governor, members shall receive reimbursement for actual and necessary expenses as provided in sections 81-1174 to 81-1177. The minutes of meetings of and actions taken by each committee shall be kept and a record shall be maintained of the name, address, and occupation or vocation of every individual serving on any committee. The department shall maintain such minutes and records and shall make them available for public inspection during regular office hours.

Source: Laws 1971, LB 939, § 4; Laws 1972, LB 1435, § 3; Laws 1973, LB 254, § 1; Laws 1974, LB 1029, § 2; Laws 1979, LB 342, § 1; Laws 1980, LB 853, § 2; Laws 1981, LB 204, § 196; Laws 1983, LB 356, § 4; Laws 1984, LB 1078, § 2; Laws 1986, LB 217, § 15; Laws 1992, LB 1257, § 78; Laws 1994, LB 570, § 6; Laws 1996,

LB 1226, § 13; Laws 1997, LB 622, § 124; Laws 1998, LB 1209, § 20; Laws 2015, LB413, § 1; Laws 2019, LB302, § 108.
Operative date July 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.

81-1504.01 Department; reports required; contents.

The department shall provide the following information to the Governor and to the Clerk of the Legislature by December 1 of each year:

(1) A report by type of service or aid provided by the use and distribution of federal funds received by the department. The report shall also include user fees, permit fees, license fees, and application fees authorized by the federal Environmental Protection Agency as follows:

(a) Actual expenditure of each grant or authorized fees for the most recently completed state fiscal year, including state matching funds;

(b) Current budget and planned use and distribution of each grant and authorized fees for the current state fiscal year, including state matching funds;

(c) A summary of the projected funding level of each grant and authorized fees and the impact of federal mandates and regulations upon the future use of each grant and authorized fees; and

(d) Program summaries including statistical summaries when applicable for the most recently completed state fiscal year and program activity goals for the current state fiscal year;

(2) A summary of regulations of the federal Environmental Protection Agency which the department is required to implement and which do not include federal funding assistance and the possible financial impact to the state and political subdivisions;

(3) A report by type of service or aid provided by the use and distribution of state general and cash funds, including user fees, permit fees, license fees, and application fees, to carry out activities that are not funded by federal grants as follows:

(a) Actual expenditure of state funds, by agency sections, for the most recently completed state fiscal year, including a breakdown of expenditures by personal services, operations, travel, capital outlay, and consulting and contractual services;

(b) Current budget and planned use and distribution of state funds, by agency sections, for the current state fiscal year, including a breakdown of expenditures for personal services, operations, travel, capital outlay, and consulting and contractual services;

(c) A summary of projected program funding needs based upon the statutory requirements and public demand for services and the department's assessment of anticipated needs statewide; and

(d) Program summaries including statistical summaries when applicable for the most recently completed state fiscal year and program activity goals for the current state fiscal year;

(4) A report regarding staff turnover by job class and the department's assessment of its ability to hire and retain qualified staff considering the state's personnel pay plan;

(5) A report listing the method used by each new or existing licensee, permittee, or other person who is required by the department to establish proof of financial responsibility; and

(6) A report for the previous state fiscal year relating to the purpose of the Nebraska Litter Reduction and Recycling Act and of funds credited to the Nebraska Litter Reduction and Recycling Fund.

The reports and summaries submitted to the Clerk of the Legislature shall be submitted electronically.

Source: Laws 1991, LB 528, § 1; Laws 1993, LB 3, § 47; Laws 1993, LB 203, § 1; Laws 1994, LB 1034, § 2; Laws 2003, LB 143, § 9; Laws 2007, LB79, § 1; Laws 2012, LB782, § 201; Laws 2019, LB302, § 109.

Operative date July 1, 2019.

Cross References

Nebraska Litter Reduction and Recycling Act, see section 81-1534.

81-1505 Council; rules and regulations; standards of air, land, and water quality.

(1) In order to carry out the purposes of the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act, the council shall adopt and promulgate rules and regulations which shall set standards of air, water, and land quality to be applicable to the air, waters, and land of this state or portions thereof. Such standards of quality shall be such as to protect the public health and welfare. The council shall classify air, water, and land contaminant sources according to levels and types of discharges, emissions, and other characteristics which relate to air, water, and land pollution and may require reporting for any such class or classes. Such classifications and standards made pursuant to this section may be made for application to the state as a whole or to any designated area of the state and shall be made with special reference to effects on health, economic and social factors, and physical effects on property. Such standards and classifications may be amended as determined necessary by the council.

(2) In adopting the classifications of waters and water quality standards, the primary purpose for such classifications and standards shall be to protect the public health and welfare and the council shall give consideration to:

(a) The size, depth, surface area, or underground area covered, the volume, direction, and rate of flow, stream gradient, and temperature of the water;

(b) The character of the area affected by such classification or standards, its peculiar suitability for particular purposes, conserving the value of the area, and encouraging the most appropriate use of lands within such area for domestic, agricultural, industrial, recreational, and aquatic life purposes;

(c) The uses which have been made, are being made, or are likely to be made, of such waters for agricultural, transportation, domestic, and industrial consumption, for fishing and aquatic culture, for the disposal of sewage, industrial waste, and other wastes, or other uses within this state and, at the discretion of

the council, any such uses in another state on interstate waters flowing through or originating in this state;

(d) The extent of present pollution or contamination of such waters which has already occurred or resulted from past discharges therein; and

(e) Procedures pursuant to section 401 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., for certification by the department of activities requiring a federal license or permit which may result in a discharge.

(3) In adopting effluent limitations or prohibitions, the council shall give consideration to the type, class, or category of discharges and the quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable or other waters of the state, including schedules of compliance, best practicable control technology, and best available control technology.

(4) In adopting standards of performance, the council shall give consideration to the discharge of pollutants which reflect the greatest degree of effluent reduction which the council determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

(5) In adopting toxic pollutant standards and limitations, the council shall give consideration to the combinations of pollutants, the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms.

(6) In adopting pretreatment standards, the council shall give consideration to the prohibitions or limitations to noncompatible pollutants, prohibitions against the passage through a publicly owned treatment works of pollutants which would cause interference with or obstruction to the operation of publicly owned treatment works, damage to such works, and the prevention of the discharge of pollutants therefrom which are inadequately treated.

(7) In adopting treatment standards, the council shall give consideration to providing for processes to which wastewater shall be subjected in a publicly owned wastewater treatment works in order to make such wastewater suitable for subsequent use.

(8) In adopting regulations pertaining to the disposal of domestic and industrial liquid wastes, the council shall give consideration to the minimum amount of biochemical oxygen demand, suspended solids, or equivalent in the case of industrial wastewaters, which must be removed from the wastewaters and the degree of disinfection necessary to meet water quality standards with respect to construction, installation, change of, alterations in, or additions to any wastewater treatment works or disposal systems, including issuance of permits and proper abandonment, and requirements necessary for proper operation and maintenance thereof.

(9)(a) The council shall adopt and promulgate rules and regulations for controlling mineral exploration holes and mineral production and injection wells. The rules and regulations shall include standards for the construction, operation, and abandonment of such holes and wells. The standards shall protect the public health and welfare and air, land, water, and subsurface

resources so as to control, minimize, and eliminate hazards to humans, animals, and the environment. Consideration shall be given to:

(i) Area conditions such as suitability of location, geologic formations, topography, industry, agriculture, population density, wildlife, fish and other aquatic life, sites of archaeological and historical importance, mineral, land, and water resources, and the existing economic activities of the area including, but not limited to, agriculture, recreation, tourism, and industry;

(ii) A site-specific evaluation of the geologic and hydrologic suitability of the site and the injection, disposal, and production zones;

(iii) The quality of the existing ground water, the effects of exemption of the aquifer from any existing water quality standards, and requirements for restoration of the aquifer;

(iv) Standards for design and use of production facilities, which shall include, but not be limited to, all wells, pumping equipment, surface structures, and associated land required for operation of injection or production wells; and

(v) Conditions required for closure, abandonment, or restoration of mineral exploration holes, injection and production wells, and production facilities in order to protect the public health and welfare and air, land, water, and subsurface resources.

(b) The council shall establish fees for regulated activities and facilities and for permits for such activities and facilities. The fees shall be sufficient but shall not exceed the amount necessary to pay the department for the direct and indirect costs of evaluating, processing, and monitoring during and after operation of regulated facilities or performance of regulated activities.

(c) With respect to mineral production wells, the council shall adopt and promulgate rules and regulations which require restoration of air, land, water, and subsurface resources and require mineral production well permit applications to include a restoration plan for the air, land, water, and subsurface resources affected. Such rules and regulations may provide for issuance of a research and development permit which authorizes construction and operation of a pilot plant by the permittee for the purpose of demonstrating the permittee's ability to inject and restore in a manner which meets the standards required by this subsection and the rules and regulations.

The rules and regulations adopted and promulgated may also provide for issuance of a commercial permit after a finding by the department that the injection and restoration procedures authorized by the research and development permit have been successful in demonstrating the applicant's ability to inject and restore in a manner which meets the standards required by this subsection and the rules and regulations.

(d) For the purpose of this subsection, unless the context otherwise requires, restoration shall mean the employment, during and after an activity, of procedures reasonably designed to control, minimize, and eliminate hazards to humans, animals, and the environment, to protect the public health and welfare and air, land, water, and subsurface resources, and to return each resource to a quality of use consistent with the uses for which the resource was suitable prior to the activity.

(10) In adopting livestock waste control regulations, the council shall consider the discharge of livestock wastes into the waters of the state or onto land not owned by the livestock operator, conditions under which permits for such

operations may be issued, including design, location, and proper management of such facilities, protection of ground water from such operations, and revocation, modification, or suspension of such permits for cause and all requirements of the Livestock Waste Management Act.

(11) In adopting regulations for the issuance of permits under the National Pollutant Discharge Elimination System created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., the council shall consider when such permits shall be required and exemptions, application and filing requirements, terms and conditions affecting such permits, notice and public participation, duration and review of such permits, the evaluation provided for under section 81-1517, and monitoring, recording, and reporting under the system.

(12) The council shall adopt and promulgate rules and regulations for air pollution control which shall include:

(a) A construction permit program which requires the owner or operator of an air contaminant source to obtain a permit prior to construction. Application fees shall be according to section 81-1505.06;

(b) An operating permit program consistent with requirements of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and an operating permit program for minor sources of air pollution, which programs shall require permits for both new and existing sources;

(c) Provisions for operating permits to be issued after public notice, to be terminated, modified, or revoked for cause, and to be modified to incorporate new requirements;

(d) Provisions for applications to be on forms provided by the department and to contain information necessary to make a determination on the appropriateness of issuance or denial. The department shall make a completeness determination in a timely fashion and after such determination shall act on the application within time limits set by the council. Applications for operating permits shall include provisions for certification of compliance by the applicant;

(e) Requirements for operating permits which may include such conditions as necessary to protect public health and welfare, including, but not limited to (i) monitoring and reporting requirements on all sources subject to the permit, (ii) payment of annual fees sufficient to pay the reasonable direct and indirect costs of developing and administering the air quality permit program, (iii) retention of records, (iv) compliance with all air quality standards, (v) a permit term of no more than five years from date of issuance, (vi) any applicable schedule of compliance leading to compliance with air quality regulations, (vii) site access to the department for inspection of the facility and records, (viii) emission limits or control technology requirements, (ix) periodic compliance certification, and (x) other conditions necessary to carry out the purposes of the Environmental Protection Act. For purposes of this subsection, control technology shall mean a design, equipment, a work practice, an operational standard which may include a requirement for operator training or certification, or any combination thereof;

(f) Classification of air quality control regions;

(g) Standards for air quality that may be established based upon protection of public health and welfare, emission limitations established by the United States Environmental Protection Agency, and maximum achievable control technology

standards for sources of toxic air pollutants. For purposes of this subdivision, maximum achievable control technology standards shall mean an emission limit or control technology standard which requires the maximum degree of emission reduction that the council, taking into consideration the cost of achieving such emission reduction, any health and environmental impacts not related to air quality, and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which the standard applies through application of measures, processes, methods, systems, or techniques, including, but not limited to, measures which accomplish one or a combination of the following:

(i) Reduce the volume of or eliminate emissions of the pollutants through process changes, substitution of materials, or other modifications;

(ii) Enclose systems or processes to eliminate emissions; or

(iii) Collect, capture, or treat the pollutants when released from a process, stack, storage, or fugitive emission point;

(h) Restrictions on open burning and fugitive emissions;

(i) Provisions for issuance of general operating permits, after public notice, for sources with similar operating conditions and for revoking such general authority to specific permittees;

(j) Provisions for implementation of any emissions trading programs as defined by the department. Such programs shall be consistent with the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and administered through the operating permit program;

(k) A provision that operating permits will not be issued if the Environmental Protection Agency objects in a timely manner;

(l) Provisions for periodic reporting of emissions;

(m) Limitations on emissions from process operations, fuel-burning equipment, and incinerator emissions and such other restrictions on emissions as are necessary to protect the public health and welfare;

(n) Time schedules for compliance;

(o) Requirements for owner or operator testing and monitoring of emissions;

(p) Control technology requirements when it is not feasible to prescribe or enforce an emission standard; and

(q) Procedures and definitions necessary to carry out payment of the annual emission fee set in section 81-1505.04.

(13)(a) In adopting regulations for hazardous waste management, the council shall give consideration to generation of hazardous wastes, labeling practices, containers used, treatment, storage, collection, transportation including a manifest system, processing, resource recovery, and disposal of hazardous wastes. It shall consider the permitting, licensing, design and construction, and development and operational plans for hazardous waste treatment, storage, and disposal facilities, and conditions for licensing or permitting of hazardous waste treatment, storage, and disposal areas. It shall consider modification, suspension, or revocation of such licenses and permits, including requirements for waste analysis, site improvements, fire prevention, safety, security, restricted access, and covering and handling of hazardous liquids and materials. Licenses and permits for hazardous waste, treatment, storage, and disposal facilities shall not be issued until certification by the State Fire Marshal as to fire

prevention and fire safety has been received by the department. The council shall further consider the need at treatment, storage, or disposal facilities for required equipment, communications and alarms, personnel training, and contingency plans for any emergencies that might arise and for a coordinator during such emergencies.

In addition the council shall give consideration to (i) ground water monitoring, (ii) use and management of containers and tanks, (iii) surface impoundments, (iv) waste piles, (v) land treatment, (vi) incinerators, (vii) chemical or biological treatment, (viii) landfills including the surveying thereof, and (ix) special requirements for ignitable, reactive, or incompatible wastes.

In considering closure and postclosure of hazardous waste treatment, storage, or disposal facilities, the council shall consider regulations that would result in the owner or operator closing his or her facility so as to minimize the need for future maintenance, and to control, minimize, or eliminate, to the extent necessary to protect humans, animals, and the environment, postclosure escape of hazardous waste, hazardous waste constituents, and leachate to the ground water or surface waters, and to control, minimize, or eliminate, to the extent necessary to protect humans, animals, and the environment, waste decomposition to the atmosphere. In considering corrective action for hazardous waste treatment, storage, or disposal facilities, the council shall consider regulations that would require the owner or operator, or any previous owner or operator with actual knowledge of the presence of hazardous waste at the facility, to undertake corrective action or such other response measures necessary to protect human health or the environment for all releases of hazardous waste or hazardous constituents from any treatment, storage, or disposal facility or any solid waste management unit at such facility regardless of the time at which waste was placed in such unit.

Such regulations adopted pursuant to this subsection shall in all respects comply with the Environmental Protection Act and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

(b) In adopting regulations for hazardous waste management, the council shall consider, in addition to criteria in subdivision (a) of this subsection, establishing criteria for (i) identifying hazardous waste including extraction procedures, toxicity, persistence, and degradability in nature, potential for accumulation in tissue, flammability or ignitability, corrosiveness, reactivity, and generation of pressure through decomposition, heat, or other means, and other hazardous characteristics, (ii) listing all materials it deems hazardous and which should be subject to regulation, and (iii) locating treatment, storage, or disposal facilities for such wastes. In adopting criteria for flammability and ignitability of wastes pursuant to subdivision (b)(i) of this subsection, no regulation shall be adopted without the approval of the State Fire Marshal.

(c) In adopting regulations for hazardous waste management, the council shall establish a schedule of fees to be paid to the director by licensees or permittees operating hazardous waste processing facilities or disposal areas on the basis of a monetary value per cubic foot or per pound of the hazardous wastes, sufficient but not exceeding the amount necessary to reimburse the department for the costs of monitoring such facilities or areas during and after operation of such facilities or areas. The licensees may assess a cost against persons using the facilities or areas. The director shall remit any money

collected from fees paid to him or her to the State Treasurer who shall credit the entire amount thereof to the General Fund.

(d) In adopting regulations for solid waste disposal, the council shall consider storage, collection, transportation, processing, resource recovery, and disposal of solid waste, developmental and operational plans for solid waste disposal areas, conditions for permitting of solid waste disposal areas, modification, suspension, or revocation of such permits, regulations of operations of disposal areas, including site improvements, fire prevention, ground water protection, safety and restricted access, handling of liquid and hazardous materials, insect and rodent control, salvage operations, and the methods of disposing of accumulations of junk outside of solid waste disposal areas. Such regulations shall in all respects comply with the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

(14) In adopting regulations governing discharges or emissions of oil and other hazardous materials into the waters, in the air, or upon the land of the state, the council shall consider the requirements of the Integrated Solid Waste Management Act, methods for prevention of such discharges or emissions, and the responsibility of the discharger or emitter for cleanup, toxicity, degradability, and dispersal characteristics of the substance.

(15) In adopting regulations governing composting and composting sites, the council shall give consideration to:

(a) Approval of a proposed site by the local governing body, including the zoning authority, if any, prior to issuance of a permit by the department;

(b) Issuance of permits by the department for such composting operations, with conditions if necessary;

(c) Submission of construction and operational plans by the applicant for a permit to the department, with approval of such plans before issuance of such permit;

(d) A term of up to ten years for such permits;

(e) Renewal of permits if the operation has been in substantial compliance with composting regulations adopted pursuant to this subsection, permit conditions, and operational plans;

(f) Review by the department of materials to be composted, including chemical analysis when found by the department to be necessary;

(g) Inspections of such compost sites by the department. Operations out of compliance with composting regulations, permit conditions, or operational plans shall be given a reasonable time for voluntary compliance, and failure to do so within the specified time shall result in a hearing after notice is given, at which time the owner or operator shall appear and show cause why his or her permit should not be revoked;

(h) Special permits of the department for demonstration projects not to exceed six months;

(i) Exemptions from permits of the department; and

(j) The Integrated Solid Waste Management Act.

(16) Any person operating or responsible for the operation of air, water, or land contaminant sources of any class for which the rules and regulations of the council require reporting shall make reports containing information as may

be required by the department concerning quality and quantity of discharges and emissions, location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of discharges and emissions, and such other information as is relevant to air, water, or land pollution and is available.

(17) Prior to adopting, amending, or repealing standards and classifications of air, water, and land quality and rules and regulations under the Integrated Solid Waste Management Act or the Livestock Waste Management Act, the council shall, after due notice, conduct public hearings thereon. Notice of public hearings shall specify the waters or the area of the state for which standards of air, water, or land are sought to be adopted, amended, or repealed and the time, date, and place of such hearing. Such hearing shall be held in the general area to be affected by such standards. Such notice shall be given in accordance with the Administrative Procedure Act.

(18) Standards of quality of the air, water, or land of the state and rules and regulations adopted under the Integrated Solid Waste Management Act or the Livestock Waste Management Act or any amendment or repeal of such standards or rules and regulations shall become effective upon adoption by the council and filing in the office of the Secretary of State. In adopting standards of air, water, and land quality or making any amendment thereof, the council shall specify a reasonable time for persons discharging wastes into the air, water, or land of the state to comply with such standards and upon the expiration of any such period of time may revoke or modify any permit previously issued which authorizes the discharge of wastes into the air, water, or land of this state which results in reducing the quality of such air, water, or land below the standards established therefor by the council.

(19) All standards of quality of air, water, or land and all rules and regulations adopted pursuant to law by the council prior to May 29, 1981, and applicable to specified air, water, or land are hereby approved and adopted as standards of quality of and rules and regulations for such air, water, or land.

(20) In addition to such standards as are heretofore authorized, the council shall adopt and promulgate rules and regulations to set standards of performance, effluent standards, pretreatment standards, treatment standards, toxic pollutant standards and limitations, effluent limitations, effluent prohibitions, and quantitative limitations or concentrations which shall in all respects conform with and meet the requirements of the National Pollutant Discharge Elimination System in the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(21)(a) The council shall adopt and promulgate rules and regulations requiring all new or renewal permit or license applicants regulated under the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act to establish proof of financial responsibility by providing funds in the event of abandonment, default, or other inability of the permittee or licensee to meet the requirements of its permit or license or other conditions imposed by the department pursuant to the acts. The council may exempt classes of permittees or licensees from the requirements of this subdivision when a finding is made that such exemption will not result in a significant risk to the public health and welfare.

(b) Proof of financial responsibility shall include any of the following made payable to or held in trust for the benefit of the state and approved by the department:

(i) A surety bond executed by the applicant and a corporate surety licensed to do business in this state;

(ii) A deposit of cash, negotiable bonds of the United States or the state, negotiable certificates of deposit, or an irrevocable letter of credit of any bank or other savings institution organized or transacting business in the United States in an amount or which has a market value equal to or greater than the amount of the bonds required for the bonded area under the same terms and conditions upon which surety bonds are deposited;

(iii) An established escrow account; or

(iv) A bond of the applicant without separate surety upon a satisfactory demonstration to the director that such applicant has the financial means sufficient to self-bond pursuant to bonding requirements adopted by the council consistent with the purposes of this subdivision.

(c) The director shall determine the amount of the bond, deposit, or escrow account which shall be reasonable and sufficient so the department may, if the permittee or licensee is unable or unwilling to do so and in the event of forfeiture of the bond or other financial responsibility methods, arrange to rectify any improper management technique committed during the term of the permit or license and assure the performance of duties and responsibilities required by the permit or license pursuant to law, rules, and regulations.

(d) In determining the amount of the bond or other method of financial responsibility, the director shall consider the requirements of the permit or license or any conditions specified by the department, the probable difficulty of completing the requirements of such permit, license, or conditions due to such factors as topography, geology of the site, and hydrology, and the prior history of environmental activities of the applicant.

This subsection shall apply to hazardous waste treatment, storage, or disposal facilities which have received interim status.

(22)(a) The council shall adopt and promulgate rules and regulations no more stringent than the provisions of section 1453 et seq. of the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300j-13 et seq., for public water system source water assessment programs.

(b) The council may adopt and promulgate rules and regulations to implement a source water petition program no more stringent than section 1454 et seq. of the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300j-14 et seq.

(23) The council may adopt and promulgate rules and regulations for the issuance of permits relating to the discharge of dredged or fill material into the waters of the United States under section 404 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., giving consideration to (a) when such permits are required and exemptions, application, and filing requirements, (b) terms and conditions affecting such permits, notice and public participation, and duration, (c) review of such permits, (d) monitoring, recording, and reporting requirements, and (e) such other requirements not inconsistent with the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

Source: Laws 1971, LB 939, § 5; Laws 1972, LB 1435, § 4; Laws 1973, LB 538, § 2; Laws 1974, LB 1029, § 3; Laws 1979, LB 342, § 2; Laws 1980, LB 853, § 3; Laws 1981, LB 216, § 3; Laws 1983, LB 356, § 5; Laws 1984, LB 1078, § 3; Laws 1986, LB 1008, § 2;

Laws 1992, LB 1257, § 79; Laws 1993, LB 623, § 3; Laws 1994, LB 570, § 7; Laws 1994, LB 1031, § 1; Laws 1997, LB 517, § 25; Laws 1998, LB 1209, § 21; Laws 1999, LB 784, § 1; Laws 2001, LB 126, § 1; Laws 2001, LB 667, § 49; Laws 2004, LB 449, § 1; Laws 2006, LB 872, § 3; Laws 2011, LB30, § 1; Laws 2015, LB413, § 2; Laws 2019, LB302, § 110.

Operative date July 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

81-1505.01 Environmental Cash Fund; created; use; investment.

There is hereby created the Environmental Cash Fund which shall be used to pay the expenses of the department. The department shall remit all fees collected pursuant to subsection (9) of section 81-1505 and section 81-1521.09 to the State Treasurer for credit to the fund. Any fee collected pursuant to section 81-1521.09 shall be used to pay the expenses related to the notice of intent for which the fee was paid. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the Department of Environmental Quality Cash Fund to the Environmental Cash Fund on July 1, 2019.

Source: Laws 1983, LB 356, § 8; Laws 1987, LB 114, § 1; Laws 1992, LB 1257, § 80; Laws 1993, LB 3, § 48; Laws 1994, LB 1066, § 112; Laws 1995, LB 429, § 2; Laws 2019, LB302, § 111.

Operative date July 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

81-1506 Unlawful acts.

(1) It shall be unlawful for any person:

(a) To cause pollution of any air, waters, or land of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, waters, or land of the state; or

(b) To discharge or emit any wastes into any air, waters, or land of the state which reduce the quality of such air, waters, or land below the air, water, or land quality standards established therefor by the council. Any such action is hereby declared to be a public nuisance. An animal feeding operation is not a nuisance if:

(i) Reasonable techniques are employed to keep dust, noise, insects, and odor at a minimum;

(ii) It is in compliance with applicable regulations adopted by the council and zoning regulations of the local governing body having jurisdiction; and

(iii) The action is brought by or on behalf of a person whose date of lawful possession of the land claimed to be affected by an animal feeding operation is subsequent to the issuance of an appropriate permit by the department for such operation or is subsequent to the operation of the feedlot and an onsite

inspection by the department is made, before or after filing of the suit, and the inspection reveals that no permit is required for such operation.

(2) It shall be unlawful for any person to:

(a) Discharge any pollutant into waters of the state without obtaining a permit as required by the National Pollutant Discharge Elimination System created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., and by rules and regulations adopted and promulgated pursuant to section 81-1505;

(b) Construct, install, modify, or operate any disposal system or part thereof or any extension or addition thereto without obtaining necessary permits from the department;

(c) Increase in volume or strength any waste in excess of permitted discharges specified under any existing permit;

(d) Construct, install, or operate any industrial, commercial, or other facility or extend, modify, or add to any such facility if the operation would cause an increase in the discharge or emission of wastes into the air, waters, or land of the state or would otherwise cause an alteration of the physical, chemical, or biological properties of any air, waters, or land of the state in a manner that is not lawfully authorized;

(e) Construct or use any new outlet for the discharge or emission of any wastes into the air, waters, or land of the state without the necessary permit; or

(f) Discharge any dredged or fill material into waters of the United States without obtaining a permit as required by section 404 of the Clean Water Act, as amended, 33 U.S.C. 1344, and by rules and regulations adopted and promulgated pursuant to section 81-1505.

(3) It shall be unlawful for any person to:

(a) Construct or operate a solid waste management facility without first obtaining a permit required under the Environmental Protection Act or under the Integrated Solid Waste Management Act and the rules and regulations adopted and promulgated by the council pursuant to the acts;

(b) Violate any term or condition of a solid waste management facility permit;

(c) Violate any rule or regulation adopted and promulgated by the council pursuant to the Environmental Protection Act or the Integrated Solid Waste Management Act; or

(d) After October 1, 1993, dispose of any solid waste at any location other than a solid waste management facility holding a current permit issued by the department pursuant to the Integrated Solid Waste Management Act.

(4) It shall be unlawful to:

(a) Construct or operate an air pollution source without first obtaining a permit required under the Environmental Protection Act and the rules and regulations adopted and promulgated by the council pursuant to subsection (12) of section 81-1505;

(b) Violate any term or condition of an air pollution permit or any emission limit set in the permit; or

(c) Violate any emission limit or air quality standard established by the council.

(5) It shall be unlawful for any person to:

(a) Construct or operate an animal feeding operation without first obtaining a permit if required under the Livestock Waste Management Act or under the Environmental Protection Act and the rules and regulations adopted and promulgated by the council pursuant to such acts;

(b) Violate any provision of the Livestock Waste Management Act;

(c) Violate any term or condition of an animal feeding operation permit; or

(d) Violate any rule or regulation adopted and promulgated by the council pursuant to the Environmental Protection Act or the Livestock Waste Management Act.

(6) Nothing in this section shall be construed to authorize the department to specify the type, design, method of installation, or type of construction of any equipment of manufacturing processes.

Source: Laws 1971, LB 939, § 6; Laws 1972, LB 1435, § 5; Laws 1974, LB 1029, § 4; Laws 1977, LB 132, § 1; Laws 1980, LB 915, § 1; Laws 1983, LB 356, § 6; Laws 1992, LB 1257, § 83; Laws 1993, LB 623, § 4; Laws 1994, LB 570, § 8; Laws 1998, LB 1209, § 22; Laws 2004, LB 916, § 26; Laws 2019, LB302, § 112.

Operative date July 1, 2019.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

(b) LITTER REDUCTION AND RECYCLING ACT

81-1537 Department, defined.

Department shall mean the Department of Environment and Energy.

Source: Laws 1979, LB 120, § 4; Laws 1993, LB 3, § 50; Laws 2019, LB302, § 113.

Operative date July 1, 2019.

Termination date October 30, 2020.

81-1540 Director, defined.

Director shall mean the Director of Environment and Energy.

Source: Laws 1979, LB 120, § 7; Laws 1993, LB 3, § 52; Laws 2019, LB302, § 114.

Operative date July 1, 2019.

Termination date October 30, 2020.

81-1561 Litter Fee Collection Fund; created; Nebraska Litter Reduction and Recycling Fund; distribution; procedure; purposes.

(1) The Tax Commissioner shall deduct and withhold from the litter fee collected a fee sufficient to reimburse himself or herself for the cost of collecting and administering the litter fee and shall deposit such collection fee in the Litter Fee Collection Fund which is hereby created. The Litter Fee Collection Fund shall be appropriated to the Department of Revenue. Any money in the Litter Fee Collection Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The Tax Commissioner shall remit the balance of the litter fee collections to the Department of Environment and Energy. The department shall allocate and distribute funds from the Nebraska Litter Reduction and Recycling Fund in percentage amounts to be determined by the council on an annual basis, after a public hearing on a date to be determined by the council, for the following activities:

(a) Programs of public education, motivation, and participation aimed at creating an ethic conducive to the reduction of litter, establishing an attitude against littering and a desire for a clean environment, and securing greater awareness of and compliance with antilitter laws. Such programs shall include:

(i) The distribution of informative materials to elementary and secondary schools;

(ii) The purchase and erection of roadside signs;

(iii) The organization and operation of cleanup drives conducted by local agencies and organizations using volunteer help;

(iv) Grants to state and local government units and agencies and private organizations for developing and conducting antilitter programs; and

(v) Any other public information method selected by the department, including the use of media;

(b) Cleanup of public highways, waterways, recreation lands, urban areas, and public places within the state, including, but not limited to:

(i) Grants to cities and counties for payment of personnel employed in the pickup of litter;

(ii) Grants for programs aimed at increasing the use of youth and unemployed persons in seasonal and part-time litter pickup programs and to establish work release and other programs to carry out the purposes of the Nebraska Litter Reduction and Recycling Act;

(iii) Grants to public and private agencies and persons to conduct surveys of amounts and composition of litter and rates of littering; and

(iv) Grants to public and private agencies and persons for research and development in the fields of litter reduction, removal, and disposal, including the evaluation of behavioral science techniques in litter control and the development of new equipment, and to implement such research and development when appropriate; and

(c) New or improved community recycling and source separation programs, including, but not limited to:

(i) Expansion of existing and creation of new community recycling centers;

(ii) Expansion of existing and creation of new source separation programs;

(iii) Research and evaluation of markets for the materials and products recovered in source separation and recycling programs; and

(iv) Providing advice and assistance on matters relating to recycling and source separation, including information and consultation on available technology, operating procedures, organizational arrangements, markets for materials and products recovered in recycling and source separation, transportation alternatives, and publicity techniques.

Source: Laws 1979, LB 120, § 28; Laws 1981, LB 253, § 21; Laws 1985, LB 273, § 69; Laws 1993, LB 3, § 53; Laws 1993, LB 203, § 17;

Laws 1994, LB 1066, § 114; Laws 2003, LB 408, § 5; Laws 2005, LB 426, § 17; Laws 2019, LB302, § 115.

Operative date July 1, 2019.

Termination date October 30, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

(g) **PETROLEUM PRODUCTS AND HAZARDOUS
SUBSTANCES STORAGE AND HANDLING**

81-15,118 Legislative findings.

The Legislature finds that the number of leaking underground storage tanks throughout the state is increasing and that there exists a serious threat to the health and safety of citizens because substances contained in leaking storage tanks are often potential ground water contaminants and major fire and explosive hazards.

For the reasons stated in this section, the Legislature deems it necessary to provide a program of storage tank registration and inspection as a preventative measure and a comprehensive leak cleanup program as a responsive measure. Primary responsibility for the Petroleum Products and Hazardous Substances Storage and Handling Act shall be with the Department of Environment and Energy. However, preventative measures described in such act shall also be carried out by the State Fire Marshal. The State Fire Marshal's actions shall be pursuant to an interagency agreement with the department.

Source: Laws 1986, LB 217, § 2; Laws 1993, LB 3, § 57; Laws 2019, LB302, § 116.

Operative date July 1, 2019.

81-15,119 Terms, defined.

For purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act, unless the context otherwise requires:

(1) Operator shall mean any person in control of, or having responsibility for, the daily operation of a tank but shall not include a person described in subdivision (2)(b) of this section;

(2)(a) Owner shall mean:

(i) In the case of a tank in use on July 17, 1986, or brought into use after such date, any person who owns a tank used for the storage or dispensing of regulated substances; and

(ii) In the case of any tank in use before July 17, 1986, but no longer in use on such date, any person who owned such tank immediately before the discontinuation of its use.

(b) Owner shall not include a person who, without participating in the management of a tank and otherwise not engaged in petroleum production, refining, and marketing:

(i) Holds indicia of ownership primarily to protect his or her security interest in a tank or a lienhold interest in the property on or within which a tank is or was located; or

(ii) Acquires ownership of a tank or the property on or within which a tank is or was located:

(A) Pursuant to a foreclosure of a security interest in the tank or of a lienhold interest in the property; or

(B) If the tank or the property was security for an extension of credit previously contracted, pursuant to a sale under judgment or decree, pursuant to a conveyance under a power of sale contained within a trust deed or from a trustee, or pursuant to an assignment or deed in lieu of foreclosure.

(c) Ownership of a tank or the property on or within which a tank is or was located shall not be acquired by a voidable transfer, as provided in the Uniform Voidable Transactions Act;

(3) Permanent abandonment shall mean that a tank has been taken permanently out of service as a storage vessel for any reason or has not been used for active storage for more than one year;

(4) Person shall mean any individual, firm, joint venture, partnership, limited liability company, corporation, association, political subdivision, cooperative association, or joint-stock association and includes any trustee, receiver, assignee, or personal representative thereof owning or operating a tank;

(5) Petroleum product shall mean any petroleum product, including, but not limited to, petroleum-based motor or vehicle fuels, gasoline, kerosene, and other products used for the purposes of generating power, lubrication, illumination, heating, or cleaning, but shall not include propane or liquefied natural gas;

(6) Regulated substance shall mean any petroleum product and any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as such act existed on May 31, 2001, but not including any substance regulated as a hazardous waste under subtitle C of such act;

(7) Release shall mean any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a tank or any overfilling of a tank into ground water, surface water, or subsurface soils;

(8) Remedial action shall mean any immediate or long-term response to a release or suspected release in accordance with rules and regulations adopted and promulgated by the department or the State Fire Marshal, including tank testing only in conjunction with a release or suspected release, site investigation, site assessment, cleanup, restoration, mitigation, and any other action which is reasonable and necessary;

(9) Risk-based corrective action shall mean an approach to petroleum release corrective actions in which exposure and risk assessment practices, including appropriate consideration of natural attenuation, are integrated with traditional corrective actions to ensure that appropriate and cost-effective remedies are selected that are protective of human health and the environment;

(10) Tank shall mean any tank or combination of tanks, including underground pipes connected to such tank or tanks, which is used to contain an accumulation of regulated substances and the volume of which is ten percent or more beneath the surface of the ground. Tank shall not include any:

(a) Farm or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for consumptive use on the premises where stored, subject to a one-time fee;

(b) Tank with a storage capacity of one thousand one hundred gallons or less used for storing heating oil for consumptive use on the premises where stored, subject to a one-time fee;

(c) Septic tank;

(d) Tank situated in an underground area such as a basement, cellar, mineworking, drift, shaft, or tunnel if the tank is situated on or above the surface of the floor;

(e) Pipeline facility, including gathering lines:

(i) Defined under 49 U.S.C. 60101, as such section existed on May 31, 2001; or

(ii) Which is an intrastate pipeline regulated under state law comparable to the law prescribed in subdivision (e)(i) of this subdivision;

(f) Surface impoundment, pit, pond, or lagoon;

(g) Flow-through process tank;

(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

(i) Storm water or wastewater collection system; and

(11) Temporary abandonment shall mean that a tank will be or has been out of service for at least one hundred eighty days but not more than one year.

Source: Laws 1986, LB 217, § 3; Laws 1987, LB 365, § 1; Laws 1989, LB 289, § 32; Laws 1991, LB 409, § 22; Laws 1993, LB 121, § 542; Laws 1996, LB 1226, § 15; Laws 1998, LB 1161, § 40; Laws 2001, LB 461, § 11; Laws 2019, LB70, § 18.
Effective date September 1, 2019.

Cross References

Uniform Voidable Transactions Act, see section 36-801.

81-15,120 Farm or residential tank; heating oil storage tank; registration; when required; fee; Petroleum Products and Hazardous Substances Storage and Handling Fund; created; use; investment.

Any farm or residential tank or tank used for storing heating oil as defined in subdivisions (10)(a) and (b) of section 81-15,119 shall be registered with the State Fire Marshal. The registration shall be accompanied by a one-time fee of five dollars and shall be valid until the State Fire Marshal is notified that a tank so registered has been permanently closed. Such registration shall specify the ownership of, location of, and substance stored in the tank to be registered. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Petroleum Products and Hazardous Substances Storage and Handling Fund which is hereby created as a cash fund. The fund shall also consist of any money appropriated to the fund by the state. The fund shall be administered by the Department of Environment and Energy to carry out the purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act, including the provision of matching funds required by Public Law 99-499 for actions otherwise authorized by the act. Any money in such fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1986, LB 217, § 4; Laws 1989, LB 816, § 1; Laws 1993, LB 3, § 58; Laws 1994, LB 1066, § 119; Laws 1996, LB 1226, § 16;

Laws 1998, LB 1161, § 41; Laws 2001, LB 461, § 12; Laws 2019, LB302, § 117.

Operative date July 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

81-15,123 State Fire Marshal; rules and regulations; considerations; requirements.

The State Fire Marshal shall adopt and promulgate rules and regulations governing release, detection, prevention, and correction procedures applicable to all owners and operators as shall be necessary to protect human health, public safety, and the environment. Such rules and regulations may distinguish between types, classes, and ages of tanks. In making such distinctions, the State Fire Marshal shall consider, but not be limited to, location of the tanks, soil and climate conditions, uses of the tanks, history of maintenance, age of the tanks, current industry-recommended practices, national consensus codes, hydrogeology, depth to the ground water, size of the tanks, quantity of regulated substances periodically deposited in or dispensed from the tanks, the technical capability of the owners and operators, and the compatibility of the regulated substance and the materials of which the tank is fabricated. Before adoption, such rules and regulations shall be reviewed and approved by the Director of Environment and Energy who shall determine whether the proposed rules and regulations are adequate to protect the environment. Rules and regulations adopted and promulgated pursuant to this section shall include, but not be limited to:

(1) Proper procedures and specifications for the construction, design, installation, replacement, or repair of tanks;

(2) A permit and registration system for all tanks;

(3) A program to establish an inspection system for all tanks. Such program shall provide for periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal. A fee schedule may also be developed for the inspection of new tank and piping installations and tank closures in the manner prescribed in section 81-505.01. Such inspection fees shall be remitted by the State Fire Marshal to the State Treasurer for credit to the Underground Storage Tank Fund. No fee shall be charged for the periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal;

(4) A monitoring system for all tanks which includes, but is not limited to, the following:

(a) An inventory-control procedure for any tank used to hold petroleum products or hazardous substances for resale;

(b) An inventory-control procedure for any tank used solely for consumptive onsite purposes and not for resale. Such control procedure shall determine the method of inventory measurement giving consideration to the economic burden created by the procedure. The frequency of inventory measurement for such category of tank shall include at least one measurement every thirty days;

(c) Provisions for the prompt reporting of any release of a regulated substance; and

(d) A procedure for the proper method of monitoring tanks;

(5) A procedure for notifying the State Fire Marshal of temporarily or permanently abandoned tanks;

(6) A procedure for removing or making safe any abandoned tanks, except that the State Fire Marshal may dispense with such procedure in special circumstances;

(7) Financial responsibility requirements, taking into account the financial responsibility requirements established pursuant to 42 U.S.C. 6991b(d);

(8) Requirements for maintaining a leak-detection system, an inventory-control system, and a tank-testing or comparable system or method designed to identify releases in a manner consistent with the protection of human health, public safety, and the environment;

(9) Requirements for maintaining records of any monitoring or leak-detection system, inventory-control system, or tank-testing or comparable system;

(10) Provisions to establish a system for licensing tank installation and removal contractors;

(11) Provisions to prohibit delivery to, deposit into, or the acceptance of a regulated substance into, an underground storage tank at a facility which has been identified by the State Fire Marshal to be ineligible for such delivery, deposit, or acceptance; and

(12) Effective August 8, 2009, requirements for training and certification of operators.

Nothing in this section shall be construed to require a subcontractor working under the direction of a licensed installation or removal contractor to be licensed.

Source: Laws 1986, LB 217, § 7; Laws 1989, LB 816, § 3; Laws 1991, LB 409, § 23; Laws 1993, LB 3, § 59; Laws 1993, LB 720, § 1; Laws 2007, LB390, § 1; Laws 2019, LB302, § 118.
Operative date July 1, 2019.

81-15,124 Release of regulated substance; Department of Environment and Energy; State Fire Marshal; powers and duties; remedial action plan.

Any reported or suspected release of a regulated substance from any tank shall be investigated consistent with principles of risk-based corrective action by the State Fire Marshal and the Department of Environment and Energy. In the event that the State Fire Marshal or the department finds an adverse effect caused by a release of a regulated substance from a tank:

(1) The State Fire Marshal shall (a) determine the immediate danger presented by the release, (b) take all steps necessary to assure immediate public safety, and (c) assist the department in determining the source of the release and taking all steps necessary to ensure that the release is halted;

(2) By order of the department, the owner or operator of the tank causing the release shall, after securing the source of the release, develop a plan for remedial action to be approved by the department. The department shall inform the owner or operator of its approval or disapproval of a plan for remedial action within one hundred twenty days after receipt of a remedial action plan which contains all required information. If after one hundred twenty days the department fails to either deny, approve, or amend the remedial action plan submitted, the proposed plan shall be deemed approved; and

(3) The approved remedial action plan shall then be carried out by the owner or operator of the tank causing the release. All expenses incurred during the remedial action shall be paid by the owner or operator subject to reimbursement pursuant to the Petroleum Release Remedial Action Act.

If it is determined that the source of the release is unknown or that the owner or operator of the facility causing the release is unknown or unavailable, a remedial action plan shall be developed by or under the direction of the department. Such remedial action plan shall be developed and carried out by the department with money from the Petroleum Products and Hazardous Substances Storage and Handling Fund if funds are available. If at a later date the owner or operator of the facility which caused the release is determined, he or she shall be responsible for remedial action costs incurred on his or her behalf subject to reimbursement pursuant to the Petroleum Release Remedial Action Act. Any money received from such person shall be deposited in the Petroleum Products and Hazardous Substances Storage and Handling Fund.

Source: Laws 1986, LB 217, § 8; Laws 1989, LB 289, § 33; Laws 1993, LB 3, § 60; Laws 1993, LB 237, § 5; Laws 1998, LB 1161, § 43; Laws 2019, LB302, § 119.
Operative date July 1, 2019.

Cross References

Petroleum Release Remedial Action Act, see section 66-1501.

81-15,124.01 Environmental Quality Council; rules and regulations.

(1) The Environmental Quality Council shall adopt and promulgate rules and regulations consistent with principles of risk-based corrective action governing all phases of remedial action to be taken by owners, operators, and other persons in response to a release or suspected release of a regulated substance from a tank. Such rules and regulations shall include:

(a) Provisions governing remedial action to be taken by owners and operators pursuant to section 81-15,124;

(b) Provisions by which the Department of Environment and Energy may determine the cleanup levels to be achieved through soil or water remediation and the applicable limitations for air emissions at the petroleum release site or occurring by reason of such remediation; and

(c) Such other provisions necessary to carry out the Petroleum Products and Hazardous Substances Storage and Handling Act.

(2) In developing rules and regulations, the Environmental Quality Council shall take into account risk-based corrective action assessment principles which identify the risks presented to the public health and safety or the environment by each release in a manner that will protect the public health and safety and the environment using, to the extent appropriate, a tiered approach consistent with the American Society for Testing of Materials guidance for risk-based corrective action applicable to petroleum release sites.

Source: Laws 1989, LB 289, § 34; Laws 1993, LB 3, § 61; Laws 1996, LB 1226, § 18; Laws 1998, LB 1161, § 44; Laws 2009, LB154, § 19; Laws 2019, LB302, § 120.
Operative date July 1, 2019.

81-15,124.02 Access to property.

If necessary in the course of an investigation or inspection or during the remedial action and if the owner of property or the owner's agent has specifically denied the Department of Environment and Energy access to the property for such purposes, the department may order the owner or owner's agent to grant access to property for the performance of reasonable steps, including drilling, to determine the source and extent of contamination or for remediation. Access shall be by the department or by a person conducting an investigation, inspection, or remedial action at the direction of the department. All actions taken on the property shall be performed in the least obtrusive manner possible to allow the investigation, inspection, or remedial action to proceed. Upon completion of any such actions, the property shall be restored as nearly as possible to its original condition.

Source: Laws 1991, LB 409, § 21; Laws 1993, LB 3, § 62; Laws 2019, LB302, § 121.

Operative date July 1, 2019.

81-15,124.04 Risk-based corrective action; department provide briefing.

The Department of Environment and Energy shall provide briefing on the use by the department of risk-based corrective action. The briefing shall be directed toward comprehension and knowledge of the use by the department of risk-based corrective action, and a fee may be charged for attending the briefing which shall be remitted to the State Treasurer for credit to the Petroleum Release Remedial Action Cash Fund. The department may contract for providing such briefing and shall maintain and make available to the public a list of attendees.

Source: Laws 1998, LB 1161, § 45; Laws 2019, LB302, § 122.

Operative date July 1, 2019.

81-15,124.05 Remedial action plan; certificate of completion; form; effect.

(1) If a remedial action plan submitted by a responsible person as defined in section 66-1514 is approved or deemed to be approved by the Department of Environment and Energy pursuant to subdivision (2) of section 81-15,124 and has been carried out, the department may issue to the responsible person a certificate of completion stating that no further remedial action needs to be taken at the site relating to any contamination for which remedial action has already been taken in accordance with the approved remedial action plan. The department shall condition the certificate of completion upon compliance with any monitoring, institutional, or technological controls that may be necessary and which were relied upon by the responsible person to demonstrate compliance with the remedial action plan. Any certificate of completion issued pursuant to this section shall be in a form which can be filed for record in the real estate records of the county in which the remedial action took place. The responsible person shall file the certificate of completion and notify the department within ten days after issuance as to the date and location of the real estate filing. If the department issues a certificate of completion to a responsible person under this section, a covenant not to sue shall arise by operation of law subject to subsection (2) of this section. The covenant not to sue releases the responsible person from liability to the state and from liability to perform additional environmental assessment, remedial activity, or response action with regard to the release of a petroleum product for which the responsible person

has complied with the requirements of this subsection. The covenant not to sue shall be voided if the responsible person fails to conduct additional remedial action as required under subsection (2) of this section, if a certificate of completion is revoked by the department under subsection (3) of this section, or if the responsible person fails to comply with the monitoring, institutional, or technological controls, if any, upon which the certificate of completion is conditioned.

(2) A certificate of completion issued by the department under subsection (1) of this section shall require the responsible person to conduct additional remedial action in the event that any monitoring conducted at or near the real property or other circumstances indicate that (a) contamination is reoccurring, (b) additional contamination is present for which remedial action was not taken according to the remedial action plan, or (c) contamination from the site presents a threat to human health or the environment and was not addressed in the remedial action plan.

(3) A certificate of completion shall be revoked if the department demonstrates by a preponderance of the evidence that any approval provided under this section was obtained by fraud or material misrepresentation, knowing failure to disclose material information, or false certification to the department. The department shall file a copy of the notice of revocation of any certificate of completion in the real estate records of the county in which the remedial action took place within ten days after such revocation.

(4) If a responsible person transfers property to an affiliate in order for that affiliate to obtain a benefit to which the transferor would not otherwise be eligible under this section or to avoid an obligation under this section, the affiliate shall be subject to the same obligations and obtain the same level of benefits as those available to the transferor under this section.

(5)(a) A covenant not to sue arising under subsection (1) of this section, unless voided pursuant to such subsection, shall bar suit against any person who acquires title to property to which a certificate of completion applies for all claims of the state or any other person in connection with petroleum products which were the subject of an approved remedial action plan and (b) a person who purchased a site before May 31, 2001, is released, upon the issuance of a certificate of completion under this section or upon the issuance of a no further action letter on or after May 31, 2001, pursuant to section 81-15,186, from all liability to the state for cleanup of contamination that was released at the site covered by the certificate of completion or the no further action letter before the purchase date, except as provided in subsection (4) of this section, for releases or consequences that the person contributed to or caused, for failure by such person to comply with the monitoring, institutional, or technological controls, if any, upon which the certificate of completion is conditioned, or in the event the certificate of completion is revoked by the department under subsection (3) of this section.

(6) Any person entitled to the protections of the covenant not to sue or eligible to be released from liability pursuant to the issuance of a certificate of completion or a no further action letter under subsection (5) of this section who is ordered by the department to take remedial action shall be eligible for reimbursement as a responsible person pursuant to section 66-1525 and shall not be required to pay the first cost or percent of the remaining cost as provided in subsection (1) of section 66-1523 unless such person contributed to

or caused the release or failed to comply with the monitoring, institutional, or technological controls, if any, imposed under subsection (1) of this section.

Source: Laws 2001, LB 461, § 13; Laws 2019, LB302, § 123.
Operative date July 1, 2019.

81-15,125 Violation; penalty.

Any person violating the Petroleum Products and Hazardous Substances Storage and Handling Act or the rules, regulations, or orders of the State Fire Marshal or the Department of Environment and Energy adopted and promulgated or issued pursuant to such act shall be subject to a civil fine of not more than five thousand dollars for each offense and, in the case of a continuing violation, each day of violation shall constitute a separate offense. In assessing the amount of the fine, the court shall consider the size of the operation and the degree and extent of the pollution.

Source: Laws 1986, LB 217, § 9; Laws 1993, LB 3, § 63; Laws 2019, LB302, § 124.
Operative date July 1, 2019.

81-15,126 Violation; action to enjoin.

The Department of Environment and Energy or the State Fire Marshal may apply to the district court of the county where the violation is occurring or about to occur for a restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the Petroleum Products and Hazardous Substances Storage and Handling Act or the rules, regulations, or orders adopted and promulgated under the act. The court shall have jurisdiction to grant relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

Source: Laws 1986, LB 217, § 10; Laws 1993, LB 3, § 64; Laws 2019, LB302, § 125.
Operative date July 1, 2019.

81-15,127 Notice of registration requirements; duty to provide.

(1) Any person who deposits regulated substances in a tank shall reasonably notify the owner or operator of such tank of the owner's or operator's registration requirements pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act.

(2) The Department of Environment and Energy shall design and make available a printed notice of registration for owners of tanks to any person who deposits regulated substances in a tank.

Source: Laws 1986, LB 217, § 11; Laws 1993, LB 3, § 65; Laws 2019, LB302, § 126.
Operative date July 1, 2019.

(h) WASTEWATER TREATMENT OPERATOR CERTIFICATION ACT

81-15,129 Terms, defined.

As used in the Wastewater Treatment Operator Certification Act, unless the context otherwise requires:

(1) Certificate shall mean a certificate of competency issued by the director or his or her duly authorized representative certifying that the operator has met the requirements for the specified operator classification of the certification program;

(2) Council shall mean the Environmental Quality Council;

(3) Department shall mean the Department of Environment and Energy;

(4) Director shall mean the Director of Environment and Energy;

(5) Nationally recognized association of certification authorities shall mean an organization or organizations selected by the director which (a) serve as an information center for certification activities, (b) recommend minimum standards and guidelines for classification of wastewater treatment facilities and certification of operators, (c) facilitate reciprocity between state programs, (d) assist authorities in establishing new certification programs and updating existing ones, and (e) provide testing services;

(6) Operator shall mean any person who regularly makes recommendations or is responsible for process control decisions at a wastewater treatment facility. Operator shall not include a person whose duties are limited solely to laboratory testing or maintenance or who exercises general or indirect supervision only;

(7) Voluntarily certified operator shall mean an operator who holds a certificate of competency described in section 81-15,133; and

(8) Wastewater treatment facility shall mean the structures, equipment, and processes required to collect, transport, and treat domestic or industrial wastes and to dispose of the effluent and sludge.

Source: Laws 1987, LB 533, § 2; Laws 1993, LB 3, § 66; Laws 2019, LB302, § 127.

Operative date July 1, 2019.

(k) WASTEWATER TREATMENT FACILITIES
CONSTRUCTION ASSISTANCE ACT

81-15,149 Terms, defined.

As used in the Wastewater Treatment Facilities Construction Assistance Act, unless the context otherwise requires:

(1) Clean Water Act means the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.;

(2) Construction means any of the following: Preliminary planning to determine the feasibility of wastewater treatment works or nonpoint source control systems; engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, designs, plans, working drawings, specifications, procedures, or other necessary preliminary actions; erection, building, acquisition, alteration, remodeling, improvement, or extension of wastewater treatment works or nonpoint source control systems; or the inspection or supervision of any of the foregoing items;

(3) Council means the Environmental Quality Council;

(4) County means any county authorized to construct a sewerage disposal system and plant or plants pursuant to the County Industrial Sewer Construction Act;

(5) Department means the Department of Environment and Energy;

(6) Director means the Director of Environment and Energy;

(7) Eligible financial institution means a bank that agrees to participate in the linked deposit program and which is chartered to conduct banking in this state pursuant to the Nebraska Banking Act, is chartered to conduct banking by another state and authorized to do business in this state, or is a national bank authorized to do business in this state;

(8) Fund means the Wastewater Treatment Facilities Construction Loan Fund;

(9) Linked deposit program means the Wastewater Treatment Facilities Construction Assistance Act Linked Deposit Program established in accordance with section 81-15,151.03;

(10) Municipality means any city, town, village, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes;

(11) Nonpoint source control systems means projects which establish the use of methods, measures, or practices to control the pollution of surface waters and ground water that occurs as pollutants are transported by water from diffuse or scattered sources. Such projects include, but are not limited to, structural and nonstructural controls and operation and maintenance procedures applied before, during, and after pollution-producing activities. Sources of nonpoint source pollution may include, but are not limited to, agricultural, forestry, and urban lands, transportation corridors, stream channels, mining and construction activities, animal feeding operations, septic tank systems, underground storage tanks, landfills, and atmospheric deposition;

(12) Operate and maintain means all necessary activities including the normal replacement of equipment or appurtenances to assure the dependable and economical function of a wastewater treatment works or nonpoint source control systems in accordance with its intended purpose; and

(13) Wastewater treatment works means the structures, equipment, processes, and land required to collect, transport, and treat domestic or industrial wastes and to dispose of the effluent and sludges.

Source: Laws 1988, LB 766, § 3; Laws 1993, LB 3, § 67; Laws 1994, LB 1139, § 39; Laws 1996, LB 1226, § 22; Laws 2003, LB 164, § 1; Laws 2004, LB 916, § 27; Laws 2014, LB514, § 3; Laws 2016, LB737, § 1; Laws 2019, LB302, § 128.

Operative date July 1, 2019.

Cross References

County Industrial Sewer Construction Act, see section 23-3601.

Nebraska Banking Act, see section 8-101.02.

81-15,151 Wastewater Treatment Facilities Construction Loan Fund; transfers authorized; Construction Administration Fund; created; use; investment.

(1)(a) The Wastewater Treatment Facilities Construction Loan Fund is hereby created. The fund shall be held as a trust fund for the purposes and uses described in the Wastewater Treatment Facilities Construction Assistance Act.

(b) The fund shall consist of federal capitalization grants, state matching appropriations, repayments of principal and interest on loans, transfers made pursuant to section 71-5327, and other money designated for the fund. The

director may make loans from the fund pursuant to the act and may use (i) up to four percent of all federal capitalization grant awards to the fund, (ii) up to four hundred thousand dollars per year, or (iii) the equivalent of one-fifth percent per year of the current valuation of the fund for the reasonable cost of administering the fund and conducting activities under Title VI of the federal Clean Water Act.

(c) The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that (i) amounts designated by the director for use in the linked deposit program shall be deposited with eligible financial institutions by the director and (ii) any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

(d) The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for the security, investment, and repayment of bonds.

(e) The fund and the assets thereof may be used, to the extent permitted by the Clean Water Act, as amended, and the regulations adopted and promulgated pursuant to such act, (i) to pay or to secure the payment of bonds and the interest thereon, except that amounts deposited into the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon, (ii) to deposit as provided by the linked deposit program, and (iii) to buy or refinance the debt obligation of municipalities for wastewater treatment works if the debt was incurred and construction was begun after March 7, 1985. Eligibility and terms of such refinancing shall be in accordance with the Wastewater Treatment Facilities Construction Assistance Act.

(f) The director may transfer any money in the Wastewater Treatment Facilities Construction Loan Fund to the Drinking Water Facilities Loan Fund to meet the purposes of section 71-5327. The director shall identify any such transfer in the intended use plan presented to the council for annual review and adoption pursuant to section 71-5321.

(2)(a) There is hereby created the Construction Administration Fund. Any funds available for administering loans or fees collected pursuant to the Wastewater Treatment Facilities Construction Assistance Act shall be deposited in such fund. The fund shall be administered by the department for the purposes of the act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings shall be credited to the fund.

(b) The Construction Administration Fund and assets thereof may be used, to the extent permitted by the Clean Water Act and the regulations adopted and promulgated pursuant to such act, to fund subdivisions (11), (12), and (13) of section 81-15,153. The annual obligation of the state pursuant to subdivisions (11) and (13) of such section shall not exceed sixty-five percent of the revenue from administrative fees collected pursuant to this section in the prior fiscal year.

(c) The director may transfer any money in the Construction Administration Fund to the Wastewater Treatment Facilities Construction Loan Fund to meet the nonfederal match requirements of any applicable federal capitalization grants or to meet the purposes of subdivision (11) of section 81-15,153.

Source: Laws 1988, LB 766, § 5; Laws 1989, LB 623, § 1; Laws 1989, LB 311, § 9; Laws 1993, LB 3, § 68; Laws 1994, LB 1066, § 121; Laws 1996, LB 1226, § 24; Laws 2008, LB726, § 1; Laws 2014, LB514, § 4; Laws 2016, LB737, § 3; Laws 2019, LB307, § 5. Effective date September 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

(I) WASTE REDUCTION AND RECYCLING

81-15,159 Legislative findings and intent; state purchases; preference requirements.

(1) The Legislature hereby finds and declares that:

(a) Some landfills operating with or without a permit in Nebraska exhibit numerous operational and management practices which are inconsistent with proper landfill management and permit requirements, and the owners and operators of such landfills should be encouraged to cooperate and work with the Department of Environment and Energy to ensure that the air, land, and water of this state are not polluted;

(b) Some landfills in Nebraska are reaching capacity and the siting of a new location can be a financially expensive and socially disruptive process, and because of this situation all Nebraska citizens and businesses are encouraged to implement waste reduction measures that will result in a reduction of waste entering landfills by at least twenty-five percent;

(c) Recycling and waste reduction are necessary components of any well-managed waste management system and can extend the lifespan of a landfill and provide alternative waste management options; and

(d) The state can encourage recycling by the example of its own purchase and use of recycled and recyclable materials. The state can also encourage recycling and waste reduction by the creation of funding grants which support existing and future waste management systems.

(2) It is the intent of the Legislature that the state, as a major consumer and an example for others, should assist resource recovery by making a concerted effort to use recyclable and recycled products and encourage other levels of government and the private sector to follow its example. When purchasing products, materials, or supplies for use by the State of Nebraska, the Department of Administrative Services, the University of Nebraska, and any other state agency making such purchases shall give preference to and purchase products, materials, and supplies which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use. Preference shall also be given to the purchase of corn-based biodegradable plastics and road deicers, depending on the availability and suitability of such products. Such preference shall not operate when it would result in the

purchase of products, materials, or supplies which are of inadequate quality or substantially higher cost.

Source: Laws 1990, LB 163, § 1; Laws 1992, LB 1257, § 94; Laws 2019, LB302, § 129.

Operative date July 1, 2019.

81-15,159.01 Department of Environment and Energy; conduct study; establish advisory committee; members; department powers; report.

(1) The Department of Environment and Energy shall conduct a study to examine the status of solid waste management programs operated by the department and make recommendations to modernize and revise such programs. The study shall include, but not be limited to: (a) Whether existing state programs regarding litter and waste reduction and recycling should be amended or merged; (b) a needs assessment of the recycling and composting programs in the state, including the need for infrastructure development operating standards, market development, coordinated public education resulting in behavior change, and incentives to increase recycling and composting; (c) methods to partner with political subdivisions, private industry, and private, nonprofit organizations to most successfully address waste management issues in the state; (d) recommendations regarding existing funding sources and possible new revenue sources at the state and local level to address existing and emerging solid waste management issues; and (e) revisions to existing grant programs to address solid waste management issues in a proactive manner.

(2) The Director of Environment and Energy shall establish an advisory committee to advise the department regarding the study described in this section. The members of the advisory committee shall be appointed by the director and shall include no more than nine members. The director shall designate a chairperson of the advisory committee. The members shall receive no compensation for their services.

(3) In addition to the advisory committee, the department may hire consultants and special experts to assist in the study described in this section. After completion of the study, the department shall submit a report, including recommendations, to the Executive Board of the Legislative Council and the chairpersons of the Natural Resources Committee, the Urban Affairs Committee, and the Appropriations Committee of the Legislature no later than December 15, 2017. The report shall be submitted electronically.

Source: Laws 2016, LB1101, § 2; Laws 2019, LB302, § 130.

Operative date July 1, 2019.

81-15,159.02 Terms, defined.

For purposes of the Waste Reduction and Recycling Incentive Act:

- (1) Council means the Environmental Quality Council;
- (2) Department means the Department of Environment and Energy;
- (3) Director means the Director of Environment and Energy;
- (4) Scrap tire or waste tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;
- (5) Tire means any tire made of rubber or other resilient material and normally used on any vehicle;

(6) Tire-derived product means the usable product produced from a scrap tire. Tire-derived product does not include crumb rubber or chipped tires not intended for a direct end use and does not include baled tires or tire-derived fuel; and

(7) Tire retailer means a person, business, or other entity which engages in the retail sale of tires in any quantity for any use or purpose by the purchaser other than for resale.

Source: Laws 1994, LB 1034, § 6; Laws 1997, LB 495, § 8; Laws 2003, LB 143, § 10; Laws 2019, LB302, § 131.
Operative date July 1, 2019.

81-15,160 Waste Reduction and Recycling Incentive Fund; created; use; investment; grants; restrictions.

(1) The Waste Reduction and Recycling Incentive Fund is created. The department shall deduct from the fund amounts sufficient to reimburse itself for its costs of administration of the fund. The fund shall be administered by the department. The fund shall consist of proceeds from the fees imposed pursuant to the Waste Reduction and Recycling Incentive Act.

(2) The fund may be used for purposes which include, but are not limited to:

(a) Technical and financial assistance to political subdivisions for creation of recycling systems and for modification of present recycling systems;

(b) Recycling and waste reduction projects, including public education, planning, and technical assistance;

(c) Market development for recyclable materials separated by generators, including public education, planning, and technical assistance;

(d) Capital assistance for establishing private and public intermediate processing facilities for recyclable materials and facilities using recyclable materials in new products;

(e) Programs which develop and implement composting of yard waste and composting with sewage sludge;

(f) Technical assistance for waste reduction and waste exchange for waste generators;

(g) Programs to assist communities and counties to develop and implement household hazardous waste management programs;

(h) Capital assistance for establishing private and public facilities to manufacture combustible waste products and to incinerate combustible waste to generate and recover energy resources, except that no disbursements shall be made under this section for scrap tire processing related to tire-derived fuel; and

(i) Grants for reimbursement of costs to cities of the second class, villages, and counties of five thousand or fewer population for the deconstruction of abandoned buildings. Eligible deconstruction costs will be related to the recovery and processing of recyclable or reusable material from the abandoned buildings.

(3) Grants up to one million five hundred thousand dollars annually shall be available until June 30, 2024, for new scrap tire projects only, if acceptable scrap tire project applications are received. Eligible categories of disbursement under section 81-15,161 may include, but are not limited to:

(a) Reimbursement for the purchase of crumb rubber generated and used in Nebraska, with disbursements not to exceed fifty percent of the cost of the crumb rubber;

(b) Reimbursement for the purchase of tire-derived product which utilizes a minimum of twenty-five percent recycled tire content, with disbursements not to exceed twenty-five percent of the product's retail cost;

(c) Participation in the capital costs of building, equipment, and other capital improvement needs or startup costs for scrap tire processing or manufacturing of tire-derived product, with disbursements not to exceed fifty percent of such costs or five hundred thousand dollars, whichever is less;

(d) Participation in the capital costs of building, equipment, or other startup costs needed to establish collection sites or to collect and transport scrap tires, with disbursements not to exceed fifty percent of such costs;

(e) Cost-sharing for the manufacturing of tire-derived product, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(f) Cost-sharing for the processing of scrap tires, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(g) Cost-sharing for the use of scrap tires for civil engineering applications for specified projects, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(h) Disbursement to a political subdivision up to one hundred percent of costs incurred in cleaning up scrap tire collection and disposal sites; and

(i) Costs related to the study provided in section 81-15,159.01.

The director shall give preference to projects which utilize scrap tires generated and used in Nebraska.

(4) Priority for grants made under section 81-15,161 shall be given to grant proposals demonstrating a formal public/private partnership except for grants awarded from fees collected under subsection (6) of section 13-2042.

(5) Grants awarded from fees collected under subsection (6) of section 13-2042 may be renewed for up to a five-year grant period. Such applications shall include an updated integrated solid waste management plan pursuant to section 13-2032. Annual disbursements are subject to available funds and the grantee meeting established grant conditions. Priority for such grants shall be given to grant proposals showing regional participation and programs which address the first integrated solid waste management hierarchy as stated in section 13-2018 which shall include toxicity reduction. Disbursements for any one year shall not exceed fifty percent of the total fees collected after rebates under subsection (6) of section 13-2042 during that year.

(6) Any person who stores waste tires in violation of section 13-2033, which storage is the subject of abatement or cleanup, shall be liable to the State of Nebraska for the reimbursement of expenses of such abatement or cleanup paid by the department.

(7) The department may receive gifts, bequests, and any other contributions for deposit in the Waste Reduction and Recycling Incentive Fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Waste Reduction and Recycling Incentive Fund

available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1990, LB 163, § 2; Laws 1992, LB 1257, § 95; Laws 1993, LB 203, § 20; Laws 1993, LB 444, § 1; Laws 1994, LB 1034, § 7; Laws 1994, LB 1066, § 122; Laws 1997, LB 495, § 9; Laws 1999, LB 592, § 3; Laws 2001, LB 461, § 16; Laws 2002, Second Spec. Sess., LB 1, § 7; Laws 2003, LB 143, § 11; Laws 2007, LB568, § 3; Laws 2009, LB180, § 2; Laws 2009, LB379, § 1; Laws 2009, First Spec. Sess., LB3, § 78; Laws 2013, LB549, § 1; Laws 2016, LB1101, § 3; Laws 2018, LB1008, § 5; Laws 2019, LB302, § 132.

Operative date July 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

(m) SOLID WASTE MANAGEMENT PLAN

81-15,166 Comprehensive plan; department; duties; legislative intent; Environmental Quality Council; duties.

The Department of Environment and Energy, with the advice and consent of the Environmental Quality Council, shall contract for the preparation of a comprehensive solid waste management plan. Such plan shall be contracted for and prepared on or before December 15, 1991.

It is the intent of the Legislature that in preparation of the plan the state consider the following hierarchy of criteria: (1) Volume reduction at the source; (2) recycling, reuse, and vegetative waste composting; (3) incineration with energy resource recovery; (4) incineration for volume reduction; and (5) land disposal.

It is the intent of the Legislature that the plan be used as a guide to assist political subdivisions in the planning and implementation of their individual, joint, or regional solid waste management systems. The comprehensive solid waste management plan shall not supersede or impair plans, agreements, or contracts initiated by political subdivisions prior to December 15, 1991.

The Environmental Quality Council shall adopt and promulgate rules and regulations for solid waste management options which comply with Environmental Protection Agency rules and guidelines, including rules and guidelines promulgated pursuant to the 1984 Hazardous and Solid Waste Amendments to Subtitle D of the federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.

Source: Laws 1990, LB 163, § 9; Laws 1991, LB 325, § 2; Laws 1993, LB 3, § 71; Laws 2019, LB302, § 133.

Operative date July 1, 2019.

(n) NEBRASKA ENVIRONMENTAL TRUST ACT

81-15,170 Nebraska Environmental Trust Board; created; membership; qualifications; executive director.

The Nebraska Environmental Trust Board is hereby created as an entity of the executive branch. The board shall consist of the Director of Environment

and Energy, the Director of Natural Resources, the Director of Agriculture, the secretary of the Game and Parks Commission, the chief executive officer of the Department of Health and Human Services or his or her designee, and nine citizens appointed by the Governor with the approval of a majority of the Legislature. The citizen members shall begin serving immediately following notice of nomination and prior to approval by the Legislature. The citizen members shall represent the general public and shall have demonstrated competence, experience, and interest in the environment of the state. Two of the citizen appointees shall also have experience with private financing of public-purpose projects. Three appointees shall be chosen from each of the three congressional districts. The board shall hire an executive director who shall hire and supervise other staff members as may be authorized by the board. The executive director shall serve at the pleasure of the board and be solely responsible to it. The Game and Parks Commission shall provide administrative support, including, but not limited to, payroll and accounting functions, to the board.

Source: Laws 1992, LB 1257, § 47; Laws 1993, LB 138, § 79; Laws 1996, LB 1044, § 869; Laws 2000, LB 900, § 248; Laws 2002, LB 1003, § 49; Laws 2007, LB296, § 758; Laws 2019, LB302, § 134.
Operative date July 1, 2019.

81-15,175 Fund allocations; board; powers and duties; grant award to Water Resources Cash Fund; payments; legislative intent; additional grant; additional reporting.

(1) The board may make an annual allocation each fiscal year from the Nebraska Environmental Trust Fund to the Nebraska Environmental Endowment Fund as provided in section 81-15,174.01. The board shall make annual allocations from the Nebraska Environmental Trust Fund and may make annual allocations each fiscal year from the Nebraska Environmental Endowment Fund for projects which conform to the environmental categories of the board established pursuant to section 81-15,176 and to the extent the board determines those projects to have merit. The board shall establish a calendar annually for receiving and evaluating proposals and awarding grants. To evaluate the economic, financial, and technical feasibility of proposals, the board may establish subcommittees, request or contract for assistance, or establish advisory groups. Private citizens serving on advisory groups shall be reimbursed for their actual and necessary expenses pursuant to sections 81-1174 to 81-1177.

(2) The board shall establish rating systems for ranking proposals which meet the board's environmental categories and other criteria. The rating systems shall include, but not be limited to, the following considerations:

- (a) Conformance with categories established pursuant to section 81-15,176;
- (b) Amount of funds committed from other funding sources;
- (c) Encouragement of public-private partnerships;
- (d) Geographic mix of projects over time;
- (e) Cost-effectiveness and economic impact;
- (f) Direct environmental impact;
- (g) Environmental benefit to the general public and the long-term nature of such public benefit; and

(h) Applications recommended by the Director of Natural Resources and submitted by the Department of Natural Resources pursuant to subsection (7) of section 61-218 shall be awarded fifty priority points in the ranking process for the 2011 grant application if the Legislature has authorized annual transfers of three million three hundred thousand dollars to the Water Resources Cash Fund for each of fiscal years 2011-12 and 2012-13 and has stated its intent to transfer three million three hundred thousand dollars to the Water Resources Cash Fund in fiscal year 2013-14. Priority points shall be awarded if the proposed programs set forth in the grant application are consistent with the purposes of reducing consumptive uses of water, enhancing streamflows, recharging ground water, or supporting wildlife habitat in any river basin determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713.

(3) A grant awarded under this section pursuant to an application made under subsection (7) of section 61-218 shall be paid out in the following manner:

(a) The initial three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than fifteen business days after the date that the grant is approved by the board;

(b) The second three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2013; and

(c) The third three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2014, if the Legislature has authorized a transfer of three million three hundred thousand dollars from the General Fund to the Water Resources Cash Fund for fiscal year 2013-14.

(4) It is the intent of the Legislature that the Department of Natural Resources apply for an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2014-15, a three-year grant that would begin in fiscal year 2017-18, and a three-year grant that would begin in fiscal year 2020-21 and such application shall be awarded fifty priority points in the ranking process as set forth in subdivision (2)(h) of this section if the following criteria are met:

(a) The Natural Resources Committee of the Legislature has examined options for water funding and has submitted a report electronically to the Clerk of the Legislature and the Governor by December 1, 2012, setting forth:

(i) An outline and priority listing of water management and funding needs in Nebraska, including instream flows, residential, agricultural, recreational, and municipal needs, interstate obligations, water quality issues, and natural habitats preservation;

(ii) An outline of statewide funding options which create a dedicated, sustainable funding source to meet the needs set forth in the report; and

(iii) Recommendations for legislation;

(b) The projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section have resulted in enhanced streamflows, reduced consumptive uses of water, recharged ground water, supported wildlife habitat, or otherwise contributed towards conserving,

enhancing, and restoring Nebraska's ground water and surface water resources. On or before July 1, 2014, the department shall submit electronically a report to the Natural Resources Committee of the Legislature providing demonstrable evidence of the benefits accrued from such projects and activities; and

(c) In addition to the grant reporting requirements of the trust, on or before July 1, 2014, the department provides to the board a report which includes documentation that:

(i) Expenditures from the Water Resources Cash Fund made to natural resources districts have met the matching fund requirements provided in subdivision (5)(a) of section 61-218;

(ii) Ten percent or less of the matching fund requirements has been provided by in-kind contributions for expenses incurred for projects enumerated in the grant application. In-kind contributions shall not include land or land rights; and

(iii) All other projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section were matched not less than forty percent of the project or activity cost by other funding sources.

(5) The board may establish a subcommittee to rate grant applications. If the board uses a subcommittee, the meetings of such subcommittee shall be subject to the Open Meetings Act. The subcommittee shall (a) use the rating systems established by the board under subsection (2) of this section, (b) assign a numeric value to each rating criterion, combine these values into a total score for each application, and rank the applications by the total scores, (c) recommend an amount of funding for each application, which amount may be more or less than the requested amount, and (d) submit the ranked list and recommended funding to the board for its approval or disapproval.

(6) The board may commit funds to multiyear projects, subject to available funds and appropriations. No commitment shall exceed three years without formal action by the board to renew the grant or contract. Multiyear commitments may be exempt from the rating process except for the initial application and requests to renew the commitment.

(7) The board shall adopt and promulgate rules and regulations and publish guidelines governing allocations from the fund. The board shall conduct annual reviews of existing projects for compliance with project goals and grant requirements.

(8) Every five years the board may evaluate the long-term effects of the projects it funds. The evaluation may assess a sample of such projects. The board may hire an independent consultant to conduct the evaluation and may report the evaluation findings to the Legislature and the Governor. The report submitted to the Legislature shall be submitted electronically.

Source: Laws 1992, LB 1257, § 52; Laws 1993, LB 138, § 81; Laws 2000, LB 957, § 12; Laws 2002, LB 1003, § 51; Laws 2004, LB 832, § 2; Laws 2011, LB229, § 3; Laws 2011, LB366, § 1; Laws 2012, LB782, § 204; Laws 2017, LB331, § 53; Laws 2019, LB298, § 19.

Effective date May 28, 2019.

Cross References

Open Meetings Act, see section 84-1407.

(c) SOLID WASTE LANDFILL CLOSURE ASSISTANCE FUND

81-15,177 Solid Waste Landfill Closure Assistance Fund; established; use; investment; council; grants; duties.

(1) There is hereby established the Solid Waste Landfill Closure Assistance Fund which shall be a cash fund administered by the Department of Environment and Energy. The fund shall be used:

(a) To provide grants for landfill site closing assessment, closure, monitoring, and remediation costs related to landfills existing or already closed on July 15, 1992; and

(b) To provide funds to the department for expenses incurred in carrying out its duties under sections 81-15,178 and 81-15,179.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The Environmental Quality Council shall adopt and promulgate rules and regulations regarding the form and procedure for applications for grants from the fund, procedures for determining claims for payment or reimbursement, procedures for determining the amount and type of costs that are eligible for payment or reimbursement from the fund, procedures for determining priority among applicants, procedures for auditing persons who have received payments from the fund, and other provisions necessary to carry out sections 81-15,178 and 81-15,179.

Source: Laws 1992, LB 1257, § 54; Laws 1994, LB 1022, § 1; Laws 1994, LB 1066, § 125; Laws 1998, LB 924, § 45; Laws 2002, LB 1101, § 1; Laws 2019, LB302, § 135.
Operative date July 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

81-15,178 Funding from Solid Waste Landfill Closure Assistance Fund; applicant; requirements.

In order for an applicant to receive funding from the Solid Waste Landfill Closure Assistance Fund, the applicant shall:

(1) Agree to use the funds for landfill site closing assessment, closure, monitoring, or remediation costs relating to landfills existing or already closed on July 15, 1992;

(2) Provide the Department of Environment and Energy with documentation regarding the landfill closure site, including, when appropriate, information indicating that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands;

(3) Provide a plan for the proposed project, including appropriate engineering, economic, and financial feasibility data and other data and information, including estimated costs, as may be required by the department; and

(4) Demonstrate the anticipated environmental and ecological benefits resulting from the proposed project.

Source: Laws 1992, LB 1257, § 55; Laws 1994, LB 1022, § 3; Laws 2019, LB302, § 136.

Operative date July 1, 2019.

81-15,179 Application for funds; department; powers and duties.

Upon receipt of an application for funds from the Solid Waste Landfill Closure Assistance Fund, the Department of Environment and Energy shall evaluate and investigate all aspects of the proposed project and the proposed schedule for completion, determine eligibility and priority of the project for funding, and make appropriate grants from the fund pursuant to rules and regulations adopted and promulgated by the Environmental Quality Council. If the department determines that an application is unsatisfactory or does not contain adequate information, the department shall return the application to the applicant and may make recommendations to the applicant which the department considers necessary to make the plan or the application satisfactory.

Source: Laws 1992, LB 1257, § 56; Laws 2019, LB302, § 137.

Operative date July 1, 2019.

(p) SUPERFUND COST SHARE CASH FUND

81-15,180 Superfund Cost Share Cash Fund; created; use; investment.

The Superfund Cost Share Cash Fund is created. The Department of Environment and Energy shall remit grants and gifts received by the department for purposes of providing cost share for remediation of superfund sites to the State Treasurer for credit to the fund. The department shall administer the Superfund Cost Share Cash Fund to pay for nonfederal costs, including costs for in-kind services, required as cost share for remediation of superfund sites. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Superfund Cost Share Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2005, LB 426, § 3; Laws 2009, First Spec. Sess., LB3, § 80; Laws 2019, LB302, § 138.

Operative date July 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

(q) REMEDIAL ACTION PLAN MONITORING ACT

81-15,183 Remedial Action Plan Monitoring Fund; created; use; investment.

(1) The Remedial Action Plan Monitoring Fund is created. The fund shall be administered by the Department of Environment and Energy. Revenue from the following sources shall be credited to the fund:

(a) Application fees collected under the Remedial Action Plan Monitoring Act;

(b) Deposits for costs associated with administration of the act, including review, oversight, and guidance;

(c) Gifts, grants, reimbursements, or appropriations from any source intended to be used for purposes of the act; and

(d) Investment interest attributable to the fund.

(2) The fund shall be used by the department to:

(a) Review applications and provide technical review, oversight, guidance, and other activities associated with remedial action plans for land pollution or water pollution;

(b) Fund activities performed by the department to address immediate or emergency threats to human health and the environment related to property under the act; and

(c) Administer and enforce the act.

(3) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1994, LB 1349, § 3; Laws 1995, LB 7, § 130; Laws 2004, LB 449, § 6; Laws 2019, LB302, § 139.
Operative date July 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

81-15,184 Remedial action plan; application for monitoring; requirements; fees; department; duties.

(1) Any entity which voluntarily chooses to make application for monitoring of remedial action plans for property where land pollution or water pollution exists shall:

(a) Submit an application on a form approved by the Department of Environment and Energy;

(b) Provide the department with a nonrefundable application fee of two thousand dollars; and

(c) Execute a written agreement to provide reimbursement of all department direct and indirect costs related to technical review, oversight, guidance, and other activities associated with the remedial action plan. As part of the voluntary agreement, the department shall require the applicant to post a deposit of three thousand dollars to be used by the department to cover all costs. The department shall not commence technical review, oversight, guidance, or other activities associated with the remedial action plan until the voluntary agreement is executed and a complete remedial action plan has been submitted. If the costs of the department exceed the initial deposit, an additional amount agreed upon by the department and the applicant may be required prior to proceeding. After the mutual termination of the voluntary agreement, any balance of funds paid under this subdivision shall be refunded.

(2) The department shall review and approve or deny all applications and notify the applicant in writing. If the application is denied, the notification shall state the reason for the denial. If the department determines that an application does not contain adequate information, the department shall return the application to the applicant. The applicant has sixty days to resubmit the required information or the application will be deemed denied.

(3) Within ninety days of approval of the application and voluntary agreement, the applicant shall provide a complete remedial action plan for the proposed project that conforms to all federal and state environmental standards and substantive requirements, including:

(a) Documentation regarding the investigation of land pollution or water pollution including, when appropriate, information indicating that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands;

(b) A remedial action work plan which describes the remedial action measures to be taken to address the land or water pollution; and

(c) Project monitoring reports, appropriate engineering, scientific, and financial feasibility data, and other data and information as may be required by the department.

Source: Laws 1994, LB 1349, § 4; Laws 2004, LB 449, § 8; Laws 2008, LB724, § 1; Laws 2019, LB302, § 140.
Operative date July 1, 2019.

81-15,185 Department of Environment and Energy; remedial action plan; approval or disapproval; notification.

Upon receipt of a voluntary remedial action plan for land pollution or water pollution pursuant to section 81-15,184, the Department of Environment and Energy shall review and approve or disapprove the plan and notify the applicant in writing. If the plan is disapproved, the notification shall state the reason for the disapproval and provide a reasonable opportunity to resubmit the plan.

Source: Laws 1994, LB 1349, § 5; Laws 2004, LB 449, § 9; Laws 2019, LB302, § 141.
Operative date July 1, 2019.

81-15,185.01 Remedial action plan; notice; hearing.

The Department of Environment and Energy shall issue public notice of its intent to approve a voluntary remedial action plan pursuant to section 81-15,185 in a local newspaper of general circulation in the area affected and make the remedial action plan available to the public. The public shall have thirty days from the date of publication during which any person may submit written comments to the department regarding the proposed remedial action. Such person may also request or petition the Director of Environment and Energy, in writing, for a hearing and state the nature of the issues to be raised. The director shall hold a public hearing if the comments, request, or petition raise legal, policy, or discretionary questions of general application and significant public interest exists.

Source: Laws 2004, LB 449, § 10; Laws 2019, LB302, § 142.
Operative date July 1, 2019.

81-15,185.02 Remedial action plan; termination; notification.

(1) The applicant may unilaterally terminate a voluntary remedial action plan approved pursuant to section 81-15,185 prior to completion of investigative and remedial activities if the applicant leaves the property in no worse condition, from a human health and environment perspective, than when the applicant

initiated voluntary remedial action and the applicant reimburses the Department of Environment and Energy for all outstanding costs.

(2) The department may terminate a voluntary remedial action plan if the applicant:

(a) Violates any terms or conditions of the plan or fails to fulfill any obligations of the plan, including submission of an acceptable remedial action plan within a reasonable period of time;

(b) Fails to address an immediate and significant risk of harm to public health and the environment in a timely and effective manner; or

(c) Fails to initiate the plan within six months after approval by the department or to complete the plan within twenty-four months after approval by the department, excluding long-term operation, maintenance, and monitoring, unless the department grants an extension of time.

(3) The department shall notify the applicant in writing of the intention to terminate the voluntary remedial action plan and include the reason for the termination and a summary of any unreimbursed costs of the department that are due.

Source: Laws 2004, LB 449, § 11; Laws 2019, LB302, § 143.
Operative date July 1, 2019.

81-15,185.03 Remedial action plan; completion; duties; enforceability.

(1) Within sixty days after completion of a voluntary remedial action plan approved pursuant to section 81-15,185, the applicant shall provide the Department of Environment and Energy with a final remedial action report and assurance that the plan has been fully implemented. Department approval of a voluntary remedial action plan shall be void upon failure to comply with the approved plan or willful submission of false, inaccurate, or misleading information by the applicant.

(2) Voluntary remedial action plans approved under section 81-15,185 are not enforceable unless the department can demonstrate that the applicant has failed to fully implement the approved plan. The department may require further action if such action is authorized by other state statutes administered by the department.

Source: Laws 2004, LB 449, § 12; Laws 2019, LB302, § 144.
Operative date July 1, 2019.

81-15,186 Department of Environment and Energy; issuance of letter; contents.

If the requirements of the Remedial Action Plan Monitoring Act are met and the applicant has remitted all applicable fees, the Department of Environment and Energy may issue to the applicant a letter stating that no further action need be taken at the site related to any contamination for which remedial action has been taken in accordance with the approved remedial action plan. Such letter shall provide that the department may require the person to conduct additional remedial action in the event that any monitoring conducted at or near the real property or other circumstances indicate that (1) contamination is reoccurring, (2) additional contamination is present which was not identified pursuant to section 81-15,184, or (3) additional contamination is present for which remedial action was not taken according to the remedial

action plan. As a condition of issuance, the department may require payment of ongoing direct and indirect costs of oversight of any ongoing long-term operation, maintenance, and monitoring.

Source: Laws 1994, LB 1349, § 6; Laws 2004, LB 449, § 13; Laws 2019, LB302, § 145.

Operative date July 1, 2019.

(s) NEBRASKA EMERGENCY PLANNING AND
COMMUNITY RIGHT TO KNOW ACT

81-15,196 Director, defined.

Director means the Director of Environment and Energy.

Source: Laws 1997, LB 374, § 6; Laws 2019, LB302, § 146.

Operative date July 1, 2019.

81-15,210 State Administrator; State Emergency Response Commission; created; members; terms.

(1) The director of the Nebraska Emergency Management Agency shall serve as the State Administrator of the Nebraska Emergency Planning and Community Right to Know Act. The State Emergency Response Commission is created and shall be a part of the Nebraska Emergency Management Agency for administrative purposes. The membership of the commission shall include the Director of Environment and Energy or his or her designee, the Director-State Engineer or his or her designee, the Superintendent of Law Enforcement and Public Safety or his or her designee, the State Fire Marshal or his or her designee, the director of the Nebraska Emergency Management Agency or his or her designee, the chief executive officer of the Department of Health and Human Services or his or her designee, two elected officials or employees of municipal or county government, and one citizen member to represent each of the following interest groups: Firefighters, local emergency management, public or community health, environmental protection, labor, school district, small business, agricultural business, chemical industry, highway transportation, and rail transportation. The Governor shall appoint the municipal or county government officials or employees and the citizen members with the approval of the Legislature. The appointments shall be made to represent the three congressional districts as equally as possible.

(2) The members appointed by the Governor shall be appointed for terms of four years, except that of the first citizen members appointed, three members shall serve for one-year terms, three members shall serve for two-year terms, and two members shall serve for three-year terms, as designated at the time of appointment.

(3) A vacancy on the commission shall exist in the event of the death, disability, or resignation of a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed by the Governor for the remainder of such term.

Source: Laws 1997, LB 374, § 20; Laws 2007, LB296, § 760; Laws 2019, LB302, § 147.

Operative date July 1, 2019.

81-15,213 Nebraska Emergency Management Agency; Department of Environment and Energy; duties.

(1) The Nebraska Emergency Management Agency shall supervise and coordinate emergency planning and training under section 305 of Title III and shall oversee and distribute all funds received under section 305 of Title III and section 81-15,214.

(2) The Department of Environment and Energy shall receive emergency notification and facility reports and establish procedures for receiving and processing requests from the public for information as required to be provided under the Nebraska Emergency Planning and Community Right to Know Act. The director or his or her designee shall serve as commission coordinator for information.

Source: Laws 1997, LB 374, § 23; Laws 2019, LB302, § 148.
Operative date July 1, 2019.

81-15,229 Inspection of information; publication of notice.

(1) Each emergency plan, material safety data sheet, list of chemicals, inventory form, toxic chemical release form, and followup emergency notice shall be made available to the general public, consistent with section 322 of Title III, during normal working hours at the location or locations designated by the Department of Environment and Energy, the commission, or a local emergency planning committee, as appropriate. Upon request by an owner or operator of a facility subject to the requirements of section 81-15,224, the Department of Environment and Energy, the commission, or the appropriate committee shall withhold from disclosure under this section the location of any specific chemical required by section 81-15,225 to be contained in an inventory form as tier II information.

(2) Each local emergency planning committee shall annually publish a notice in local newspapers that the emergency plan, material safety data sheets, and inventory forms have been submitted under this section. The notice shall state that followup emergency notices may subsequently be issued. Such notice shall announce that members of the public who wish to review any such plan, sheet, form, or followup notice may do so at the location designated under subsection (1) of this section.

Source: Laws 1997, LB 374, § 39; Laws 2019, LB302, § 149.
Operative date July 1, 2019.

81-15,235 Rules and regulations.

The Nebraska Emergency Management Agency shall as necessary adopt and promulgate rules and regulations to carry out its responsibilities under the Nebraska Emergency Planning and Community Right to Know Act. The Environmental Quality Council shall adopt and promulgate rules and regulations necessary for the Department of Environment and Energy to carry out its responsibilities under the act.

Source: Laws 1997, LB 374, § 45; Laws 2019, LB302, § 150.
Operative date July 1, 2019.

(t) PRIVATE ONSITE WASTEWATER TREATMENT
SYSTEM CONTRACTORS CERTIFICATION
AND SYSTEM REGISTRATION ACT

81-15,242 Department, defined.

Department means the Department of Environment and Energy.

Source: Laws 2003, LB 94, § 7; Laws 2019, LB302, § 151.
Operative date July 1, 2019.

81-15,243 Director, defined.

Director means the Director of Environment and Energy.

Source: Laws 2003, LB 94, § 8; Laws 2019, LB302, § 152.
Operative date July 1, 2019.

81-15,245 Private Onsite Wastewater Treatment System Advisory Committee; created; members; expenses.

The Private Onsite Wastewater Treatment System Advisory Committee is created. The advisory committee shall be composed of the following eleven members:

(1) Seven members appointed by the director as follows:

(a) Five private onsite wastewater treatment system professionals; and

(b) Two registered environmental health specialists or officials representing local public health departments which have established programs for regulating private onsite wastewater treatment systems;

(2) The chief executive officer of the Department of Health and Human Services or his or her designee;

(3) The Director of Environment and Energy or his or her designated representative; and

(4) One representative with experience in soils and geology and one representative with experience in biological engineering, both of whom shall be designated by the vice chancellor of the University of Nebraska Institute of Agriculture and Natural Resources.

Members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The department shall provide administrative support for the advisory committee.

Source: Laws 2003, LB 94, § 10; Laws 2007, LB296, § 761; Laws 2019, LB302, § 153.

Operative date July 1, 2019.

(u) MERGER OF STATE ENERGY OFFICE AND DEPARTMENT
OF ENVIRONMENTAL QUALITY

81-15,254 Department of Environment and Energy; Director of Environment and Energy; employees of State Energy Office; transfer; how treated.

(1) On and after July 1, 2019, the State Energy Office shall be merged into the Department of Environmental Quality which shall be renamed as the Department of Environment and Energy and the Director of Environmental Quality shall be renamed as the Director of Environment and Energy.

(2) On and after July 1, 2019, positions of employment in the State Energy Office related to the powers, duties, and functions transferred to the Department of Environment and Energy pursuant to Laws 2019, LB302, are transferred to the Department of Environment and Energy. For purposes of the transition, employees of the State Energy Office shall be considered employees of the Department of Environment and Energy and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the department or the director from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2019, LB302, § 1.
Operative date July 1, 2019.

81-15,255 Appropriation and salary limit of State Energy Office; how treated.

Any appropriation and salary limit provided in any legislative bill enacted by the One Hundred Sixth Legislature, First Session, to Agency No. 71, State Energy Office, in the following program classification, shall be null and void, and any such amounts are hereby appropriated to Agency No. 84, Department of Environment and Energy: Program No. 106, Energy Office Administration. Any financial obligations of the State Energy Office that remain unpaid as of June 30, 2019, and that are subsequently certified as valid encumbrances to the accounting division of the Department of Administrative Services pursuant to sections 81-138.01 to 81-138.04, shall be paid by the Department of Environment and Energy from the unexpended balance of appropriations existing in such program classifications on June 30, 2019.

Source: Laws 2019, LB302, § 2.
Operative date July 1, 2019.

81-15,256 References to State Energy Office or Department of Environmental Quality in contracts or other documents; how construed; contracts and property; how treated.

On and after July 1, 2019, whenever the State Energy Office or the Department of Environmental Quality is referred to or designated by any contract or other document in connection with the duties and functions of the Department of Environment and Energy, such reference or designation shall apply to the Department of Environment and Energy. All contracts entered into by the State Energy Office or the Department of Environmental Quality prior to July 1, 2019, in connection with the duties and functions of the Department of Environment and Energy are hereby recognized, with the Department of Environment and Energy succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to such department for the payments of such obligations. All documents and records

transferred, or copies of the same, may be authenticated or certified by such department for all legal purposes.

Source: Laws 2019, LB302, § 3.
Operative date July 1, 2019.

81-15,257 Actions and proceedings; how treated.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2019, or which could have been commenced prior to that date, by or against the State Energy Office or the Department of Environmental Quality, or the director or any employee thereof in such director's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the State Energy Office to the Department of Environment and Energy or the renaming of the Department of Environmental Quality as the Department of Environment and Energy.

Source: Laws 2019, LB302, § 4.
Operative date July 1, 2019.

81-15,258 Provisions of law; how construed.

On and after July 1, 2019, unless otherwise specified, whenever any provision of law refers to the State Energy Office or the Department of Environmental Quality in connection with duties and functions of the Department of Environment and Energy, such law shall be construed as referring to the Department of Environment and Energy.

Source: Laws 2019, LB302, § 5.
Operative date July 1, 2019.

81-15,259 Property of State Energy Office; transfer to Department of Environment and Energy.

On July 1, 2019, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the State Energy Office pertaining to the duties and functions transferred to the Department of Environment and Energy pursuant to Laws 2019, LB302, shall become the property of such department.

Source: Laws 2019, LB302, § 6.
Operative date July 1, 2019.

(v) VOLKSWAGEN SETTLEMENT CASH FUND

81-15,260 Volkswagen Settlement Cash Fund; created; use; investment.

The Volkswagen Settlement Cash Fund is created. The fund shall be administered by the Department of Environment and Energy. All sums of money received from the Volkswagen Settlement shall be deposited in the fund. The department shall expend the fund in accordance with the department use plan. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The balance of any account established to receive and expend revenue from the Volkswagen Settlement shall be transferred to the Volkswagen Settlement Cash Fund.

Source: Laws 2019, LB298, § 22.
Effective date May 28, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 16

STATE ENERGY OFFICE

(a) STATE ENERGY OFFICE

Section

- 81-1601. Repealed. Laws 2019, LB302, § 181.
 81-1602. Repealed. Laws 2019, LB302, § 181.
 81-1603. Repealed. Laws 2019, LB302, § 181.
 81-1604. Legislative findings; strategic state energy plan; development; advisory committee; contents of plan.
 81-1605. Repealed. Laws 2019, LB302, § 181.
 81-1606. Department of Environment and Energy; energy statistics and information; develop and maintain; report.
 81-1607. Director of Environment and Energy; comprehensive report; contents.
 81-1607.01. State Energy Cash Fund; created; use; investment.

(b) LIGHTING AND THERMAL EFFICIENCY STANDARDS

- 81-1608. Uniform energy efficiency standards; legislative findings.
 81-1609. Terms, defined.
 81-1611. Nebraska Energy Code; adoption; alternative standards; used; when.
 81-1612. Director of Environment and Energy; adopt rules and regulations.
 81-1613. Department; produce manuals; contents.
 81-1614. Nebraska Energy Code; applicability.
 81-1616. Procedures for insuring compliance with Nebraska Energy Code; costs; appeal.
 81-1617. Nebraska Energy Code; inspections and investigations necessary to enforce.
 81-1618. Local energy code; fees; waiver; procedure.
 81-1620. Department; establish technical assistance program.
 81-1622. No local energy code; contractor, architect, engineer; duties.
 81-1625. Building; failure to comply with Nebraska Energy Code or equivalent standard; liability.

(e) PETROLEUM OVERCHARGES

- 81-1635. Nebraska Energy Settlement Fund; established; source of funds; investment.
 81-1636. Fund; plan for disbursement.
 81-1637. Predisbursement plan; contents; hearing.
 81-1638. Department of Environment and Energy; duties; political subdivision; application for disbursement.
 81-1640. Fund; proposed uses; hearing.
 81-1641. Disbursement of funds; sections applicable.

(a) STATE ENERGY OFFICE

81-1601 Repealed. Laws 2019, LB302, § 181.
 Operative date July 1, 2019.

81-1602 Repealed. Laws 2019, LB302, § 181.
 Operative date July 1, 2019.

81-1603 Repealed. Laws 2019, LB302, § 181.
 Operative date July 1, 2019.

81-1604 Legislative findings; strategic state energy plan; development; advisory committee; contents of plan.

(1) The Legislature finds that:

(a) Comprehensive planning enables the state to address its energy needs, challenges, and opportunities and enhances the state's ability to prioritize energy-related policies, activities, and programs; and

(b) Meeting the state's need for clean, affordable, and reliable energy in the future will require a diverse energy portfolio and a strategic approach, requiring engagement of all energy stakeholders in a comprehensive planning process.

(2) The Department of Environment and Energy shall develop an integrated and comprehensive strategic state energy plan and review such plan periodically as the department deems necessary. The department may organize technical committees of individuals with expertise in energy development for purposes of developing the plan. If the department forms an advisory committee pursuant to subdivision (58) of section 81-1504 for purposes of such plan, the chairperson of the Appropriations Committee of the Legislature, the chairperson of the Natural Resources Committee of the Legislature, and three members of the Legislature selected by the Executive Board of the Legislative Council shall be nonvoting, ex officio members of such advisory committee.

(3) The strategic state energy plan shall include short-term and long-term objectives that will ensure a secure, reliable, and resilient energy system for the state's residents and businesses; a cost-competitive energy supply and access to affordable energy; the promotion of sustainable economic growth, job creation, and economic development; and a means for the state's energy policy to adapt to changing circumstances.

(4) The strategic state energy plan shall include, but not be limited to:

(a) A comprehensive analysis of the state's energy profile, including all energy resources, end-use sectors, and supply and demand projections;

(b) An analysis of other state energy plans and regional energy activities which identifies opportunities for streamlining and partnerships; and

(c) An identification of goals and recommendations related to:

(i) The diversification of the state's energy portfolio in a way that balances the lowest practicable environmental cost with maximum economic benefits;

(ii) The encouragement of state and local government coordination and public-private partnerships for future economic and investment decisions;

(iii) The incorporation of new technologies and opportunities for energy diversification that will maximize Nebraska resources and support local economic development;

(iv) The interstate and intrastate promotion and marketing of the state's renewable energy resources;

(v) A consistent method of working with and marketing to energy-related businesses and developers;

(vi) The advancement of transportation technologies, alternative fuels, and infrastructure;

(vii) The development and enhancement of oil, natural gas, and electricity production and distribution;

(viii) The development of a communications process between energy utilities and the department for responding to and preparing for regulations having a statewide impact; and

(ix) The development of a mechanism to measure the plan's progress.

Source: Laws 2015, LB469, § 11; Laws 2019, LB302, § 154.
Operative date July 1, 2019.

81-1605 Repealed. Laws 2019, LB302, § 181.

Operative date July 1, 2019.

81-1606 Department of Environment and Energy; energy statistics and information; develop and maintain; report.

The Department of Environment and Energy shall develop and maintain a program of collection, compilation, and analysis of energy statistics and information. Existing information reporting requests, maintained at the state and federal levels, shall be utilized whenever possible in any data collection required regarding state energy policy pursuant to this section, subdivisions (35) through (58) of section 81-1504, or section 81-1604 or 81-1607. A central state repository of energy data shall be developed and coordinated with other governmental data-collection and record-keeping programs. The department shall, on at least an annual basis, with monthly compilations, submit to the Governor and the Clerk of the Legislature a report identifying state energy consumption by fuel type and by use to the extent that such information is available. The report submitted to the Clerk of the Legislature shall be submitted electronically. Nothing in this section shall be construed as permitting or authorizing the revealing of confidential information. For purposes of this section confidential information shall mean any process, formula, pattern, decision, or compilation of information which is used, directly or indirectly, in the business of the producer, refiner, distributor, transporter, or vendor, and which gives such producer, refiner, distributor, transporter, or vendor an advantage or an opportunity to obtain an advantage over competitors who do not know or use it.

Source: Laws 1980, LB 954, § 57; Laws 1983, LB 124, § 9; Laws 2012, LB782, § 205; Laws 2015, LB469, § 13; Laws 2019, LB302, § 155.

Operative date July 1, 2019.

81-1607 Director of Environment and Energy; comprehensive report; contents.

(1) On or before February 15 of each year, the Director of Environment and Energy shall transmit to the Governor and the Clerk of the Legislature a comprehensive report designed to identify emerging trends related to energy supply, demand, and conservation and to specify the level of statewide energy need within the following sectors: Agricultural, commercial, residential, industrial, transportation, utilities, government, and any other sector that the director determines to be useful. The report submitted to the Clerk of the Legislature shall be submitted electronically.

(2) The report shall include, but not be limited to:

(a) An assessment of the state's energy resources, including examination of the current energy supplies and any feasible alternative sources;

(b) The estimated reduction in annual energy consumption resulting from various energy conservation measures;

(c) The status of the ongoing studies of the Department of Environment and Energy pursuant to subdivisions (35) through (58) of section 81-1504;

(d) Recommendations to the Governor and the Legislature for administrative and legislative actions to accomplish the purposes of this section and section 81-1606; and

(e) The use of funds disbursed during the previous year under sections 81-1635 to 81-1641. The use of such funds shall be reported each year until the funds are completely disbursed and all contractual obligations have expired or otherwise terminated.

Source: Laws 1980, LB 954, § 59; Laws 1987, LB 23, § 3; Laws 1988, LB 764, § 1; Laws 2012, LB782, § 206; Laws 2019, LB302, § 156.
Operative date July 1, 2019.

81-1607.01 State Energy Cash Fund; created; use; investment.

The State Energy Cash Fund is hereby created. The fund shall consist of funds received pursuant to section 57-705. The fund shall be used for the administration of subdivisions (35) through (58) of section 81-1504 and sections 81-1604 to 81-1607, for energy conservation activities, and for providing technical assistance to communities in the area of natural gas other than assistance regarding ownership of regulated utilities, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the State Energy Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the State Energy Office Cash Fund to the State Energy Cash Fund on July 1, 2019.

Source: Laws 1989, LB 727, § 3; Laws 1994, LB 1066, § 126; Laws 2009, First Spec. Sess., LB3, § 81; Laws 2015, LB469, § 14; Laws 2019, LB302, § 157.
Operative date July 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

(b) LIGHTING AND THERMAL EFFICIENCY STANDARDS

81-1608 Uniform energy efficiency standards; legislative findings.

The Legislature finds that consumers have an expectation that newly built houses or buildings they buy meet uniform energy efficiency standards. Therefore, the Legislature finds that there is a need to adopt the 2018 International Energy Conservation Code, published by the International Code Council, in order (1) to ensure that a minimum energy efficiency standard is maintained throughout the state, (2) to harmonize and clarify energy building code statutory references, (3) to ensure compliance with the federal Energy Policy Act of 1992, (4) to increase energy savings for all Nebraska consumers, especially low-income Nebraskans, (5) to reduce the cost of state programs that provide assistance to low-income Nebraskans, (6) to reduce the amount of money expended to import energy, (7) to reduce the growth of energy consumption, (8) to lessen the need for new power plants, and (9) to provide training for local

code officials and residential and commercial builders who implement the 2018 International Energy Conservation Code.

Source: Laws 1980, LB 954, § 32; Laws 2004, LB 888, § 4; Laws 2011, LB329, § 4; Laws 2019, LB405, § 6.

Operative date July 1, 2020.

81-1609 Terms, defined.

As used in sections 81-1608 to 81-1626, unless the context otherwise requires:

- (1) Department means the Department of Environment and Energy;
- (2) Contractor means the person or entity responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building;
- (3) Architect or engineer means any person licensed as an architect or professional engineer under the Engineers and Architects Regulation Act;
- (4) Building means any new structure, renovated building, or addition which is used or intended for supporting or sheltering any use or occupancy, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of three and four-tenths British Thermal Units per hour or one watt per square foot;
- (5) Residential building means a building three stories or less that is used primarily as one or more dwelling units;
- (6) Renovation means alterations on an existing building which will cost more than fifty percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included;
- (7) Addition means an extension or increase in the height, conditioned floor area, or conditioned volume of a building or structure;
- (8) Floor area means the total area of the floor or floors of a building, expressed in square feet, which is within the exterior faces of the shell of the structure which is heated or cooled;
- (9) Nebraska Energy Code means the 2018 International Energy Conservation Code published by the International Code Council;
- (10) Traditional energy sources means electricity, petroleum-based fuels, uranium, coal, and all nonrenewable forms of energy; and
- (11) Equivalent or equivalent code means standards that meet or exceed the requirements of the Nebraska Energy Code.

Source: Laws 1980, LB 954, § 33; Laws 1982, LB 799, § 6; Laws 1983, LB 124, § 10; Laws 1997, LB 622, § 126; Laws 2000, LB 1135, § 25; Laws 2004, LB 888, § 5; Laws 2011, LB329, § 5; Laws 2019, LB302, § 158; Laws 2019, LB405, § 7.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB302, section 158, with LB405, section 7, to reflect all amendments.

Note: Changes made by LB302 became operative July 1, 2019. Changes made by LB405 became operative July 1, 2020.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

81-1611 Nebraska Energy Code; adoption; alternative standards; used; when.

The Legislature hereby adopts the 2018 International Energy Conservation Code published by the International Code Council as the Nebraska Energy Code. The Director of Environment and Energy may adopt regulations specifying alternative standards for building systems, techniques, equipment designs, or building materials that shall be deemed equivalent to the Nebraska Energy Code. Regulations specifying alternative standards may be deemed equivalent to the Nebraska Energy Code and may be approved for general or limited use if the use of such alternative standards would not result in energy consumption greater than would result from the strict application of the Nebraska Energy Code.

Source: Laws 1980, LB 954, § 35; Laws 1983, LB 124, § 12; Laws 2000, LB 1135, § 26; Laws 2004, LB 888, § 6; Laws 2011, LB329, § 6; Laws 2019, LB302, § 159; Laws 2019, LB405, § 8.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB302, section 159, with LB405, section 8, to reflect all amendments.

Note: Changes made by LB302 became operative July 1, 2019. Changes made by LB405 became operative July 1, 2020.

81-1612 Director of Environment and Energy; adopt rules and regulations.

The Director of Environment and Energy may adopt and promulgate rules and regulations for implementation and administration of sections 81-1608 to 81-1626. Rules, regulations, or amendments thereto shall be adopted pursuant to the Administrative Procedure Act.

Source: Laws 1980, LB 954, § 36; Laws 1981, LB 2, § 1; Laws 1983, LB 124, § 13; Laws 2000, LB 1135, § 27; Laws 2019, LB302, § 160.
Operative date July 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

81-1613 Department; produce manuals; contents.

The department shall produce manuals for use by architects, engineers, prime contractors, and owners. Such manuals shall be furnished upon request at a price sufficient to cover the costs of production. Such manuals shall contain, but not be limited to:

- (1) The Nebraska Energy Code;
- (2) Forms, charts, tables, and other data to assist architects, engineers, and prime contractors in meeting the Nebraska Energy Code; and
- (3) Any other information which the department determines will assist local code officials in enforcing the code.

Source: Laws 1980, LB 954, § 37; Laws 1983, LB 124, § 14; Laws 2004, LB 888, § 7; Laws 2019, LB302, § 161.
Operative date July 1, 2019.

81-1614 Nebraska Energy Code; applicability.

The Nebraska Energy Code shall apply to all new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after July 1, 2020.

Source: Laws 1980, LB 954, § 38; Laws 1981, LB 2, § 2; Laws 1983, LB 124, § 15; Laws 2004, LB 888, § 8; Laws 2011, LB329, § 7; Laws 2019, LB405, § 9.
Operative date July 1, 2020.

81-1616 Procedures for insuring compliance with Nebraska Energy Code; costs; appeal.

For purposes of insuring compliance with section 81-1614:

(1) The department, or its authorized agent, may conduct such inspections and investigations as are necessary to make a determination pursuant to section 81-1625 and may issue an order containing and resulting from the findings of such inspections and investigations; and

(2) A building owner may submit a written request that the department undertake a determination pursuant to subdivision (1) of this section. Such request shall include a list of reasons why the building owner believes such a determination is necessary.

A building owner aggrieved by the determination, or refusal to make such determination, under this section may appeal such determination or refusal, and the appeal shall be in accordance with the Administrative Procedure Act.

The department may charge an amount sufficient to recover the costs of providing such determinations.

Source: Laws 1980, LB 954, § 40; Laws 1981, LB 799, § 7; Laws 1983, LB 124, § 17; Laws 2000, LB 1135, § 28; Laws 2004, LB 888, § 10; Laws 2011, LB329, § 9; Laws 2019, LB302, § 162.
Operative date July 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

81-1617 Nebraska Energy Code; inspections and investigations necessary to enforce.

The department and any local code authority may conduct inspections and investigations necessary to enforce the Nebraska Energy Code or equivalent code and may, at reasonable hours, enter into any building and upon any premises within its jurisdiction for the purpose of examination to determine compliance with sections 81-1608 to 81-1626. Inspections shall be conducted only after permission has been granted by the owner or occupant or after a warrant has been issued pursuant to sections 29-830 to 29-835.

Source: Laws 1980, LB 954, § 41; Laws 1981, LB 2, § 3; Laws 1983, LB 124, § 18; Laws 2004, LB 888, § 11; Laws 2019, LB302, § 163.
Operative date July 1, 2019.

81-1618 Local energy code; fees; waiver; procedure.

Any county, city, or village may adopt and enforce a local energy code. Such local energy code shall be deemed equivalent to the Nebraska Energy Code if it does not result in energy consumption greater than would result from the strict application of the Nebraska Energy Code and is reasonably consistent with the intent of sections 81-1608 to 81-1626. Any building or portion thereof subject to the jurisdiction of and inspected by such county, city, or village shall be deemed to comply with sections 81-1608 to 81-1626 if it meets the standards of such local energy code. Such county, city, or village may by ordinance or resolution prescribe a schedule of fees sufficient to pay the costs incurred pursuant to sections 81-1608 to 81-1626.

Any county, city, or village which adopts and enforces a local energy code may waive a specific requirement of the Nebraska Energy Code when meeting such requirement is not economically justified. The local code authority shall submit to the department its analysis for determining that a specific requirement is not justified. The department shall review such analysis and transmit its findings and conclusions to the local code authority within a reasonable time. The local code authority shall submit to the department its explanation as to how the original code or any revised code addresses the issues raised by the department. After a local code authority has submitted such explanation, the authority may proceed to enforce its local energy code.

Source: Laws 1980, LB 954, § 42; Laws 1981, LB 2, § 4; Laws 1983, LB 124, § 19; Laws 2004, LB 888, § 12; Laws 2019, LB302, § 164; Laws 2019, LB405, § 10.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB302, section 164, with LB405, section 10, to reflect all amendments.

Note: Changes made by LB302 became operative July 1, 2019. Changes made by LB405 became operative July 1, 2020.

81-1620 Department; establish technical assistance program.

The department shall establish a training program to provide initial technical assistance to local code officials and residential and commercial builders upon adoption and implementation of a new Nebraska Energy Code. The program shall include the training of local code officials in building technology and local enforcement procedure related to implementation of the Nebraska Energy Code and the development of training programs suitable for presentation by local governments, educational institutions, and other public or private entities. Subsequent requests for training shall be fulfilled at a fee that pays for the department's costs for such training.

Source: Laws 1980, LB 954, § 44; Laws 1983, LB 124, § 20; Laws 2004, LB 888, § 13; Laws 2011, LB329, § 10; Laws 2019, LB302, § 165.

Operative date July 1, 2019.

81-1622 No local energy code; contractor, architect, engineer; duties.

Prior to the construction, renovation, or addition to any existing building after the dates specified in section 81-1614 the following requirements shall be met where a county, city, or village has not adopted a local energy code pursuant to section 81-1618:

(1) When no architect or engineer is retained, the prime contractor shall build or cause to be built, to the best of his or her knowledge, according to the Nebraska Energy Code; and

(2) When an architect or engineer is retained: (a) The architect or engineer shall place his or her state registration seal on all construction drawings which shall indicate that the design meets the Nebraska Energy Code and (b) the prime contractor responsible for the actual construction shall build or cause to be built in accordance with the construction documents prepared by the architect or engineer.

Source: Laws 1980, LB 954, § 46; Laws 1983, LB 124, § 21; Laws 2004, LB 888, § 14; Laws 2019, LB405, § 11.

Operative date July 1, 2020.

81-1625 Building; failure to comply with Nebraska Energy Code or equivalent standard; liability.

If the Director of Environment and Energy or the local code authority finds, within two years from the date a building is first occupied, that the building, at the time of construction, did not comply with the Nebraska Energy Code or equivalent code adopted by a county, city, or village in effect at such time, the director or code authority may order the owner or prime contractor to take those actions necessary to bring the building into compliance. This section does not limit the right of the owner to bring civil action against the contractor, architect, or engineer for the cost of bringing the building into compliance.

Source: Laws 1980, LB 954, § 49; Laws 1983, LB 124, § 23; Laws 2004, LB 888, § 15; Laws 2019, LB302, § 166.
Operative date July 1, 2019.

(e) PETROLEUM OVERCHARGES**81-1635 Nebraska Energy Settlement Fund; established; source of funds; investment.**

There is hereby established in the state treasury a fund, to be known as the Nebraska Energy Settlement Fund and referred to in sections 81-1635 to 81-1641 as the fund, to be administered by the Department of Environment and Energy as the representative of the Governor. The fund shall consist of (1) money received by the State of Nebraska after February 15, 1986, from awards or allocations to the State of Nebraska on behalf of consumers of petroleum products as a result of judgments or settlements for overcharges to consumers of petroleum products sold during the period of time in which federal price controls on such products were in effect and (2) any investment interest earned on the fund. The Department of Administrative Services may for accounting purposes create subfunds of the fund to segregate awards or allocations received pursuant to different orders or settlements. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. No money shall be transferred or disbursed from the fund except pursuant to sections 81-1635 to 81-1641.

Source: Laws 1987, LB 683, § 1; Laws 1995, LB 7, § 131; Laws 2019, LB302, § 167.
Operative date July 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

81-1636 Fund; plan for disbursement.

The Governor or the Department of Environment and Energy as representative of the Governor shall develop a plan for the disbursement of the money credited to the fund for submission to the United States Department of Energy. The plan shall be in accordance with the specifications and guidelines of the applicable federal court order and any applicable federal law or regulations.

Source: Laws 1987, LB 683, § 2; Laws 1988, LB 764, § 2; Laws 2019, LB302, § 168.
Operative date July 1, 2019.

81-1637 Predisbursement plan; contents; hearing.

(1) The Governor shall submit electronically a predisbursement plan to the Legislature if in session or the Executive Board of the Legislative Council if the Legislature is not in session.

(2) The predisbursement plan shall generally outline the uses and beneficiaries of proposed disbursements from the fund, as well as the expected benefits to the state as a whole.

(3) The predisbursement plan shall also include a policy statement which shall indicate (a) a perception of the current and anticipated trends regarding energy availability, costs, and needs in the state, (b) assumptions regarding the impacts on energy needs of the state of current and anticipated state and federal policies and market forces affecting energy use, and (c) generally, how the types of projects to be selected will address those trends and assumptions.

(4) The Legislature may hold a public hearing within thirty days after receipt of the predisbursement plan to solicit testimony on such plan. The Legislature may, no later than fifteen days following such hearing, make recommendations to the Department of Environment and Energy concerning the plan. No disbursement of or obligation to disburse any money in the fund shall be made after July 9, 1988, until forty-five days after the predisbursement plan referring to such disbursement has been submitted to the Legislature or the Executive Board of the Legislative Council, as the case may be.

Source: Laws 1987, LB 683, § 3; Laws 1988, LB 764, § 3; Laws 2012, LB782, § 207; Laws 2019, LB302, § 169.
Operative date July 1, 2019.

81-1638 Department of Environment and Energy; duties; political subdivision; application for disbursement.

(1) The Department of Environment and Energy shall, as the representative of and under the direction of the Governor, be the administrative agency for the selection of projects pursuant to section 81-1636, allocation of funds to the projects, and monitoring of the uses of the funds so allocated.

(2) The department shall contract with any and all grantees of funds in and recipients of loans from the fund. The contracts shall include provisions for reporting on and accounting for the use of the funds by the grantee or loan recipient to the department, and any contracts or agreements entered into before appropriations are made by the Legislature shall recite that they are subject to appropriations of the fund by the Legislature.

(3) Any political subdivision of this state may apply for, and shall be eligible to receive, a disbursement for a project pursuant to section 81-1636, including a disbursement of loan proceeds.

Source: Laws 1987, LB 683, § 4; Laws 1993, LB 479, § 4; Laws 2019, LB302, § 170.
Operative date July 1, 2019.

81-1640 Fund; proposed uses; hearing.

The Department of Environment and Energy shall conduct a public hearing on the proposed uses of the fund in the manner and to the extent required by

specifications and guidelines of the applicable federal court order and any applicable federal law or regulations.

Source: Laws 1987, LB 683, § 6; Laws 1988, LB 764, § 5; Laws 2019, LB302, § 171.

Operative date July 1, 2019.

81-1641 Disbursement of funds; sections applicable.

Sections 81-1635 to 81-1641 shall apply to the disbursement of all funds which are subject to sections 81-1635 to 81-1641 except for funds appropriated by Legislative Bill 432, Ninetieth Legislature, First Session, 1987.

Sections 81-1636 and 81-1637 shall not apply to any funds which are the subject of any written agreement or contract entered into prior to April 9, 1987, for the awarding of any funds received by the state from United States v. Exxon Corporation.

Source: Laws 1987, LB 683, § 7; Laws 1988, LB 764, § 6; Laws 2019, LB302, § 172.

Operative date July 1, 2019.

ARTICLE 17

NEBRASKA CONSULTANTS' COMPETITIVE NEGOTIATION ACT

Section

81-1701. Act; purpose; applicability.

81-1701 Act; purpose; applicability.

The purpose of the Nebraska Consultants' Competitive Negotiation Act is to provide managerial control over competitive negotiations by the state for acquisition of professional architectural, engineering, landscape architecture, or land surveying services. The act does not apply to (1) contracts under section 57-1503, (2) contracts under subsection (6) of section 39-1349, (3) contracts under sections 39-2808 to 39-2823 except as provided in section 39-2810, or (4) contracts under the State Park System Construction Alternatives Act except as provided in section 37-1719.

Source: Laws 1978, LB 715, § 1; Laws 2011, First Spec. Sess., LB4, § 6; Laws 2015, LB312, § 7; Laws 2016, LB960, § 30; Laws 2018, LB775, § 36; Laws 2019, LB616, § 2.

Effective date September 1, 2019.

Cross References

State Park System Construction Alternatives Act, see section 37-1701.

ARTICLE 20

NEBRASKA STATE PATROL

(a) GENERAL PROVISIONS

Section

81-2013.01. Missing Native American women and children; Nebraska State Patrol; duties; report.

(a) GENERAL PROVISIONS

81-2013.01 Missing Native American women and children; Nebraska State Patrol; duties; report.

The Nebraska State Patrol shall conduct a study to determine how to increase state criminal justice protective and investigative resources for reporting and identifying missing Native American women and children in Nebraska. The Nebraska State Patrol shall work with the Commission on Indian Affairs to convene meetings with tribal and local law enforcement partners, federally recognized tribes, and urban Indian organizations to determine the scope of the problem, identify barriers, and find ways to create partnerships to increase reporting and investigation of missing Native American women and children. Consultation and collaboration with federally recognized tribes shall be conducted with respect for government-to-government relations. The Nebraska State Patrol shall work with the United States Department of Justice to increase information sharing and resource coordination to focus on reporting and investigating missing Native American women and children in Nebraska. The Nebraska State Patrol shall submit a report electronically to the Executive Board of the Legislative Council by June 1, 2020, on the results of such study. Such report shall include data and analysis of the number of missing Native American women and children in Nebraska, identification of barriers in providing state resources to address the issue, and recommendations, including any proposed legislation, to improve the reporting and identification of missing Native American women and children in Nebraska.

Source: Laws 2019, LB154, § 1.
Effective date September 1, 2019.

ARTICLE 21**STATE ELECTRICAL DIVISION**

Section

- 81-2101. Act, how cited.
81-2106. Plan, lay out, or supervise certain activities; license required; exceptions.
81-2108. Wiring or installing; license required; exceptions; lending license prohibited.
81-2144. Directional boring contractor; activities authorized.

81-2101 Act, how cited.

Sections 81-2101 to 81-2144 shall be known and may be cited as the State Electrical Act.

Source: Laws 1975, LB 525, § 1; R.S.1943, (1976), § 81-571; Laws 1986, LB 379, § 1; Laws 1993, LB 215, § 1; Laws 1993, LB 193, § 1; Laws 2003, LB 126, § 1; Laws 2019, LB65, § 1.
Effective date September 1, 2019.

81-2106 Plan, lay out, or supervise certain activities; license required; exceptions.

Except as provided in section 81-2108, 81-2110, 81-2112, or 81-2144, no person shall, for another, plan, lay out, or supervise the installation of wiring, apparatus, or equipment for electrical light, heat, power, or other purposes unless he or she is licensed by the board as a Class B electrical contractor, an

electrical contractor, a Class A master electrician, or a Class B master electrician.

Source: Laws 1975, LB 525, § 7; Laws 1978, LB 833, § 4; R.S.Supp.,1980, § 81-577; Laws 1993, LB 193, § 6; Laws 2003, LB 126, § 5; Laws 2019, LB65, § 2.
Effective date September 1, 2019.

81-2108 Wiring or installing; license required; exceptions; lending license prohibited.

(1) Except as provided in subsection (2) of this section or in section 81-2110, 81-2112, or 81-2144, no person shall, for another, wire for or install electrical wiring, apparatus, or equipment unless he or she is licensed by the board as a Class B electrical contractor, an electrical contractor, a Class A master electrician, a Class B master electrician, or a fire alarm installer.

(2) Except as provided in section 81-2106, 81-2110, 81-2112, or 81-2144, no person shall wire for or install electrical wiring, apparatus, or equipment or supervise an apprentice electrician unless such person is licensed as a Class B journeyman electrician, a journeyman electrician, a residential journeyman electrician, or a fire alarm installer and is employed by a Class B electrical contractor, an electrical contractor, a Class A master electrician, a Class B master electrician, or a fire alarm installer.

For purposes of this section, the holder of a fire alarm installer license shall only supervise those apprentices engaged in the installation of fire alarm equipment and apparatus operating at fifty volts or less.

(3) No person licensed under the State Electrical Act may lend his or her license to any person or knowingly permit the use of such license by another.

Source: Laws 1975, LB 525, § 9; Laws 1978, LB 833, § 6; R.S.Supp.,1980, § 81-579; Laws 1982, LB 605, § 1; Laws 1993, LB 193, § 8; Laws 2003, LB 126, § 7; Laws 2004, LB 914, § 2; Laws 2019, LB65, § 3.
Effective date September 1, 2019.

81-2144 Directional boring contractor; activities authorized.

A person who is a directional boring contractor may install underground conduit under the direct supervision of a Class A master electrician, Class B master electrician, journeyman electrician, or Class B journeyman electrician who is employed by an electrical contractor.

Source: Laws 2019, LB65, § 4.
Effective date September 1, 2019.

ARTICLE 34

ENGINEERS AND ARCHITECTS REGULATION ACT

Section

81-3449. Practice of architecture; exempted activities.

81-3453. Practice of engineering; exempted activities.

81-3449 Practice of architecture; exempted activities.

The provisions of the Engineers and Architects Regulation Act regulating the practice of architecture do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet of above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet of above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(4) Any public works project with contemplated expenditures for a completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;

(5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(6) The teaching, including research and service, of architectural subjects in a college or university offering a degree in architecture accredited by the National Architectural Accrediting Board;

(7) The preparation of submissions to architects, building officials, or other regulating authorities by the manufacturer, supplier, or installer of any materials, assemblies, components, or equipment that describe or illustrate the use of such items, the preparation of any details or shop drawings required of the contractor by the terms of the construction documents, or the management of construction contracts by persons customarily engaged in contracting work;

(8) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged

in the practice of architecture if such employees are acting under the direct supervision of an architect;

(9) A public service provider or an organization who employs a licensee performing professional services for itself;

(10) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards offering to render the professional services involved in the practice of architecture. The nonresident shall not perform any of the professional services involved in the practice of architecture until licensed as provided in the Engineers and Architects Regulation Act. The nonresident shall notify the board in writing that (a) he or she holds a National Council of Architectural Registration Boards certificate and is not currently licensed in Nebraska but will be present in Nebraska for the purpose of offering to render architectural services, (b) he or she will deliver a copy of the notice to every potential client to whom the applicant offers to render architectural services, and (c) he or she promises to apply immediately to the board for licensure if selected as the architect for the project;

(11) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of the respective profession, if such qualified member does not represent himself or herself to be practicing architecture and does not represent himself or herself to be an architect;

(12) Financial institutions making disbursements of funds in connection with construction projects;

(13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environment and Energy; and

(14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

Source: Laws 1997, LB 622, § 49; Laws 1999, LB 253, § 3; Laws 1999, LB 440, § 1; Laws 2000, LB 900, § 251; Laws 2004, LB 599, § 3; Laws 2011, LB45, § 14; Laws 2015, LB23, § 45; Laws 2019, LB302, § 173.

Operative date July 1, 2019.

Cross References

Negotiated Rulemaking Act, see section 84-921.

81-3453 Practice of engineering; exempted activities.

The provisions of the Engineers and Architects Regulation Act regulating the practice of engineering do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet above grade finished space. Any detached or attached sheds, storage buildings,

and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage and if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(4) Any public works project with contemplated expenditures for the completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;

(5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(6) The teaching, including research and service, of engineering subjects in a college or university offering an ABET-accredited engineering curriculum of four years or more;

(7) A public service provider or an organization who employs a licensee performing professional services for itself;

(8) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of such profession, if such qualified member does not represent himself or herself to be practicing engineering and does not represent himself or herself to be a professional engineer;

(9) The offer to practice engineering by a person not a resident of and having no established place of business in this state if the person is legally qualified by licensure to practice engineering in his or her own state or country. The person

shall make application to the board in writing and after payment of a fee established by the board may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to such applicant with respect to any other work not set forth in the permit;

(10) The work of an employee or a subordinate of a person holding a certificate of licensure under the Engineers and Architects Regulation Act or an employee of a person practicing lawfully under subdivision (9) of this section if the work is done under the direct supervision of a person holding a certificate of licensure or a person practicing lawfully under such subdivision;

(11) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

(12) Financial institutions making disbursements of funds in connection with construction projects;

(13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environment and Energy;

(14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;

(15) Work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, which does not have a substantial impact upon public health, safety, and welfare, as determined by the board, or require the submission of reports or documents to public agencies;

(16) The construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the owner thereof to be designed or supervised by an engineer or unless legal requirements are imposed upon the owner of a water well as a part of a public water supply;

(17) Work performed in the exploration, development, and production of oil and gas or before the Nebraska Oil and Gas Conservation Commission; and

(18) Siting, layout, construction, and reconstruction of a private onsite wastewater treatment system with a maximum flow from the facility of one thousand gallons of domestic wastewater per day if such system meets all of the conditions required pursuant to the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act unless the siting, layout, construction, or reconstruction by an engineer is required by the

Department of Environment and Energy, mandated by law or rules and regulations imposed upon the owner of the system, or required by the owner.

Source: Laws 1997, LB 622, § 53; Laws 1999, LB 253, § 4; Laws 1999, LB 440, § 2; Laws 2000, LB 900, § 252; Laws 2003, LB 94, § 19; Laws 2004, LB 599, § 5; Laws 2011, LB45, § 17; Laws 2015, LB23, § 48; Laws 2019, LB302, § 174.

Operative date July 1, 2019.

Cross References

Negotiated Rulemaking Act, see section 84-921.

Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act, see section 81-15,236.

ARTICLE 37

NEBRASKA VISITORS DEVELOPMENT ACT

Section

81-3701. Act, how cited.

81-3711. Commission; duties.

81-3728. Vendors; duties.

81-3730. Tourism promotional products; authorized.

81-3701 Act, how cited.

Sections 81-3701 to 81-3730 shall be known and may be cited as the Nebraska Visitors Development Act.

Source: Laws 1980, LB 499, § 19; Laws 1988, LB 797, § 10; R.S.1943, (2008), § 81-1263; Laws 2012, LB1053, § 1; Laws 2015, LB449, § 10; Laws 2017, LB222, § 1; Laws 2018, LB945, § 23; Laws 2019, LB637, § 1.

Effective date April 25, 2019.

81-3711 Commission; duties.

The commission shall:

- (1) Administer the Nebraska Visitors Development Act;
- (2) Prepare and approve a budget;
- (3) Elect a chairperson and vice-chairperson;
- (4) Procure and evaluate data and information necessary for the proper administration of the act;
- (5) Appoint an executive director at a salary to be fixed by the commission to conduct the day-to-day operations of the commission;
- (6) Employ personnel and contract for services which are necessary for the proper operation of the commission;
- (7) Establish a means by which any interested person has the opportunity at least annually to offer his or her ideas and suggestions relative to the commission's duties for the upcoming year;
- (8) Authorize the expenditure of funds and contracting of expenditures to carry out the act;
- (9) Keep minutes of its meetings and other books and records which clearly reflect all of the actions and transactions of the commission and keep such records open to examination during normal business hours;

(10) Prohibit any funds appropriated to the commission from being expended directly or indirectly to promote or oppose any candidate for public office or to influence state or federal legislation;

(11) Have authority to mark significant tourism attractions as provided in section 81-3711.01;

(12) Have authority to develop and approve state marketing campaigns;

(13) Adopt and promulgate rules and regulations to carry out the Nebraska Visitors Development Act;

(14) Develop and administer a program to provide promotional services, technical assistance, and state aid to local governments and the tourism industry;

(15) Establish written policies and procedures governing the executive director and the personnel of the commission in the expenditure and use of funds appropriated to the commission;

(16) Cooperate with federal, state, and local governments and private individuals and organizations to carry out any of the functions of the commission and purposes of the Nebraska Visitors Development Act; and

(17) Actively coordinate and develop working partnerships with other state agencies, including, but not limited to, the Commission on Indian Affairs, the Department of Economic Development, the Game and Parks Commission, the Nebraska Arts Council, the Nebraska State Historical Society, and the University of Nebraska.

Source: Laws 2012, LB1053, § 11; Laws 2015, LB449, § 14; Laws 2017, LB222, § 6; Laws 2019, LB637, § 2.
Effective date April 25, 2019.

81-3728 Vendors; duties.

Vendors under contract with the commission to develop, print, and distribute publications and promotional materials or produce, sell, and distribute tourism promotional products on behalf of the commission shall, on a monthly basis, submit to the commission all revenue received from the sale of advertising space in such publications or from the sale of such tourism promotional products. Monthly submissions shall include an itemization of the sources of revenue in a format as designated by the commission. Revenue shall be remitted to the State Treasurer for credit to the Nebraska Tourism Commission Promotional Cash Fund.

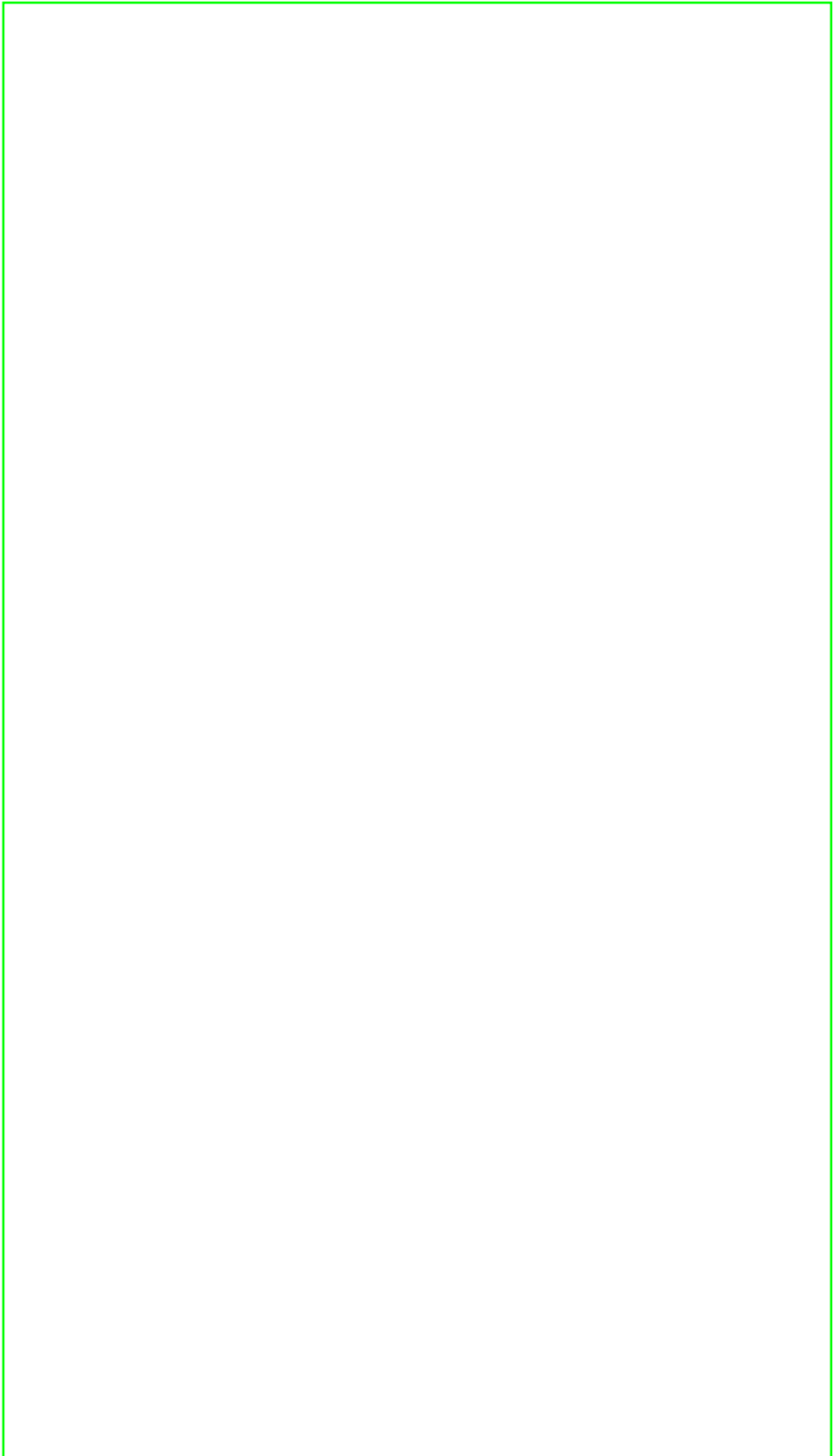
Source: Laws 2018, LB945, § 24; Laws 2019, LB637, § 4.
Effective date April 25, 2019.

81-3730 Tourism promotional products; authorized.

The commission is authorized to develop and make available for sale directly to the public tourism promotional products related to state marketing campaigns developed and approved by the commission. The commission may contract with private vendors to produce, sell, and distribute such tourism promotional products. Any revenue from the sale of such tourism promotional

products shall be credited to the Nebraska Tourism Commission Promotional Cash Fund as provided in section 81-3728.

Source: Laws 2019, LB637, § 3.
Effective date April 25, 2019.



CHAPTER 82

STATE CULTURE AND HISTORY

Article.

1. Nebraska State Historical Society. 82-101.01.

ARTICLE 1

NEBRASKA STATE HISTORICAL SOCIETY

Section

- 82-101.01. Nebraska State Historical Society; board of trustees; membership; terms; nominating committee; election; expenses.

82-101.01 Nebraska State Historical Society; board of trustees; membership; terms; nominating committee; election; expenses.

(1) The initial board of trustees shall be comprised of the current members of the society's board of directors. As their terms expire under the society's presently existing bylaws, their successors shall be selected. Those outgoing board members who were elected shall be replaced by trustees elected by the society's membership as provided in this section. Those outgoing board members who were gubernatorial appointments shall be replaced by trustees appointed by the Governor. The trustees who are elected shall be elected for three-year terms from the same congressional district as the trustees whose terms have expired. The trustees selected by the Governor shall be appointed for three-year terms from the same congressional district as the trustees whose terms have expired.

(2) A nominating committee comprised of society members, one from each of the congressional districts, shall be appointed each year by the president of the board of trustees with the approval of the board of trustees. Such appointments shall be made at least one hundred twenty days prior to the date of the annual meeting of the members. The nominating committee shall file, in writing, its slate of nominees for trustee with the secretary of the society not later than ninety days prior to the date of the annual meeting. Thereafter, additional nominations may be made for trustee by written petition filed by not less than twenty-five active members of the society, which petition shall be filed with the secretary of the society not later than sixty days prior to the annual meeting. Candidates nominated by the nominating committee shall file a similar petition. Not later than thirty days prior to the date of the annual meeting, the secretary of the society shall deliver a ballot listing the names of the nominees to the active members of the society eligible to vote, to be marked by the members and returned to the secretary. The ballot shall be mailed or sent electronically. All returned ballots, whether sent electronically or by mail, must be received by the secretary at least ten days prior to the date of the annual meeting in order to be counted. The board of trustees shall adopt a system of ballot certification insuring a secret ballot and that the person submitting the ballot is a society member entitled to vote. The returned ballots shall be counted by the secretary of the society, and the names of the successful candidates shall be announced at the annual meeting. The ballots and other records of the election shall be

retained for one year following the election and shall be available for inspection. All members of the nominating committee, all members signing a nominating petition, and all members who are entitled to cast a ballot must be active members of the society who are in good standing. A member shall be considered in good standing when the member has fulfilled all requirements for membership. All general and other specified classes of members shall be eligible to vote for election or to be chosen as an officer or trustee or to serve as a member of the nominating committee. Only nominees named on the ballot shall be eligible for election. The candidate for a particular trustee post receiving the highest number of votes shall be declared elected even though such votes do not constitute a majority of the votes cast for such post. When two trustees are elected from a congressional district for a certain term, those declared elected shall be the two receiving the highest number of votes cast for such term, even though one or both fail to receive a majority of the votes cast for such term.

(3) The term of each trustee shall begin on January 1 of the year following the year of his or her election or appointment and shall end on December 31 of the final year of the term to which the member was elected or appointed.

(4) No trustee shall be eligible to serve for more than two full consecutive three-year terms but may be eligible for election or appointment to the board of trustees after having not served for at least a period of three years.

(5) In the event a vacancy occurs on the board of trustees, the board of trustees shall fill the position of an elected trustee for the remainder of the unexpired term and the Governor shall fill the position of an appointed trustee for the remainder of the unexpired term.

(6) In the event the boundaries of the congressional districts are altered or increase or decrease in number, the trustees shall continue to serve the term for which they were elected or appointed. Thereafter, the board of trustees shall be adjusted so as to be in accordance with the boundaries and number of congressional districts.

(7) Members of the board of trustees shall serve without pay. The trustees shall receive remuneration for travel and expenses incurred while engaged in the business of the society.

Source: Laws 1994, LB 1236, § 2; Laws 2019, LB447, § 2.
Effective date September 1, 2019.

CHAPTER 83

STATE INSTITUTIONS

Article.

1. Management.
 - (a) General Provisions. 83-101.14, 83-121.
 - (f) Correctional Services, Parole, and Pardons. 83-173.03, 83-181.
4. Penal and Correctional Institutions.
 - (h) Disciplinary Procedures in Adult Institutions. 83-4,114.
 - (l) Incarceration Work Camps. 83-4,142 to 83-4,146.
12. Developmental Disabilities Services. 83-1225.

ARTICLE 1

MANAGEMENT

(a) GENERAL PROVISIONS

Section

- 83-101.14. Deaf or hard of hearing persons; access to treatment programs; rules and regulations.
- 83-121. School District Reimbursement Fund; created; use; investment.
- (f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS
- 83-173.03. Use of restrictive housing; levels; department; duties; use of immediate segregation.
- 83-181. Committed offender; health care; food and clothing; access to attorney.

(a) GENERAL PROVISIONS

83-101.14 Deaf or hard of hearing persons; access to treatment programs; rules and regulations.

The Department of Health and Human Services with the assistance of the Commission for the Deaf and Hard of Hearing shall adopt and promulgate rules and regulations to define criteria and standards for access by eligible deaf or hard of hearing persons to mental health, alcoholism, and drug abuse treatment programs.

Source: Laws 1995, LB 25, § 9; Laws 1996, LB 1044, § 895; Laws 1997, LB 851, § 26; Laws 2019, LB248, § 7.
Effective date September 1, 2019.

83-121 School District Reimbursement Fund; created; use; investment.

There is hereby created the School District Reimbursement Fund for use by the Department of Health and Human Services. The fund shall consist of money received from school districts or the department for the operation of special education programs within the department. The fund shall be used for the operation of such programs pursuant to sections 79-1155 to 79-1158.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1994, LB 1194, § 11; Laws 1995, LB 7, § 139; Laws 1996, LB 900, § 1066; Laws 1996, LB 1044, § 907; Laws 2007, LB296, § 783; Laws 2019, LB675, § 54.
Effective date May 28, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

(f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS

83-173.03 Use of restrictive housing; levels; department; duties; use of immediate segregation.

(1) No inmate shall be held in restrictive housing unless done in the least restrictive manner consistent with maintaining order in the facility and pursuant to rules and regulations adopted and promulgated by the department pursuant to the Administrative Procedure Act.

(2) The department shall adopt and promulgate rules and regulations pursuant to the Administrative Procedure Act establishing levels of restrictive housing as may be necessary to administer the correctional system. Rules and regulations shall establish behavior, conditions, and mental health status under which an inmate may be placed in each confinement level as well as procedures for making such determinations. Rules and regulations shall also provide for individualized transition plans, developed with the active participation of the committed offender, for each confinement level back to the general population or to society.

(3) On and after March 1, 2020, no inmate who is a member of a vulnerable population shall be placed in restrictive housing. In line with the least restrictive framework, an inmate who is a member of a vulnerable population may be assigned to immediate segregation to protect himself or herself, staff, other inmates, or inmates who are members of vulnerable populations pending classification. The department shall adopt and promulgate rules and regulations pursuant to the Administrative Procedure Act regarding restrictive housing to address risks for inmates who are members of vulnerable populations. Nothing in this subsection prohibits the department from developing secure mental health housing to serve the needs of inmates with serious mental illnesses as defined in section 44-792, developmental disabilities as defined in section 71-1107, or traumatic brain injuries as defined in section 79-1118.01 in such a way that provides for meaningful access to social interaction, exercise, environmental stimulation, and therapeutic programming.

(4) For purposes of this section, member of a vulnerable population means an inmate who is eighteen years of age or younger, pregnant, or diagnosed with a serious mental illness as defined in section 44-792, a developmental disability as defined in section 71-1107, or a traumatic brain injury as defined in section 79-1118.01.

Source: Laws 2015, LB598, § 31; Laws 2016, LB867, § 1; Laws 2019, LB686, § 13.

Operative date September 1, 2019.

Cross References

Administrative Procedure Act, see section 84-920.

83-181 Committed offender; health care; food and clothing; access to attorney.

(1) Each committed offender shall have regular medical and dental care. Each committed offender shall be adequately fed and clothed in accordance with the regulations of the department. No committed offender shall be required to wear stripes or other degrading apparel.

(2) The department shall allow each committed offender reasonable access to his or her attorney or attorneys. If a committed offender communicates with his or her attorney or attorneys by telephone or videoconferencing, such communication shall be provided without charge to the committed offender and without monitoring or recording by the department or law enforcement.

Source: Laws 1969, c. 817, § 12, p. 3079; Laws 2019, LB443, § 1.
Effective date September 1, 2019.

ARTICLE 4

PENAL AND CORRECTIONAL INSTITUTIONS

(h) DISCIPLINARY PROCEDURES IN ADULT INSTITUTIONS

Section

83-4,114. Disciplinary restrictions and punishment; degree; solitary confinement prohibited; annual report; contents; long-term restrictive housing work group; established; members; meetings; director; duties; termination.

(l) INCARCERATION WORK CAMPS

83-4,142. Department of Correctional Services; duties; legislative intent.

83-4,143. Eligibility for incarceration work camp; Board of Parole or Director of Correctional Services; considerations; duration.

83-4,144. Incarceration work camp; release on parole.

83-4,145. Incarceration work camp; failure to complete program; effect.

83-4,146. Incarceration work camp; costs.

(h) DISCIPLINARY PROCEDURES IN ADULT INSTITUTIONS

83-4,114 Disciplinary restrictions and punishment; degree; solitary confinement prohibited; annual report; contents; long-term restrictive housing work group; established; members; meetings; director; duties; termination.

(1) There shall be no corporal punishment or disciplinary restrictions on diet.

(2) Disciplinary restrictions on clothing, bedding, mail, visitations, use of toilets, washbowls, or scheduled showers shall be imposed only for abuse of such privilege or facility and only as authorized by written directives, guidance documents, and operational manuals.

(3) No person shall be placed in solitary confinement.

(4) The director shall issue an annual report on or before September 15 to the Governor and the Clerk of the Legislature. The report to the Clerk of the Legislature shall be issued electronically. For all inmates who were held in restrictive housing during the prior year, the report shall contain the race, gender, age, and length of time each inmate has continuously been held in restrictive housing. Prior to releasing the report, the director shall meet with the long-term restrictive housing work group to share the contents of the report. The report shall also contain:

- (a) The number of inmates held in restrictive housing;
 - (b) The reason or reasons each inmate was held in restrictive housing;
 - (c) The number of inmates held in restrictive housing who have been diagnosed with a mental illness or behavioral disorder and the type of mental illness or behavioral disorder by inmate;
 - (d) The number of inmates who were released from restrictive housing directly to parole or into the general public and the reason for such release;
 - (e) The number of inmates who were placed in restrictive housing for his or her own safety and the underlying circumstances for each placement;
 - (f) To the extent reasonably ascertainable, comparable statistics for the nation and each of the states that border Nebraska pertaining to subdivisions (4)(a) through (e) of this section; and
 - (g) The mean and median length of time for all inmates held in restrictive housing.
- (5)(a) There is hereby established within the department a long-term restrictive housing work group. The work group shall consist of one member of the Judiciary Committee of the Legislature appointed by the Executive Board of the Legislative Council who shall be a nonvoting, ex officio member and the following voting members:
- (i) The director and all deputy directors who have oversight over inmate health services or correctional facilities. The director or his or her designee shall serve as the chairperson of the work group;
 - (ii) The behavioral health administrator within the department;
 - (iii) Two employees of the department who currently work with inmates held in restrictive housing as designated by the director;
 - (iv) Additional department staff as designated by the director; and
 - (v) Six members appointed by the Governor who have demonstrated an interest in correctional issues. Of these members at least one shall be an individual who was previously incarcerated in Nebraska's correctional system. The remaining members shall consist of individuals who are mental health professionals, have been employed in a restrictive housing unit in a correctional facility, have advocated for the rights of incarcerated individuals, or have otherwise been engaged in activities related to Nebraska's correctional system.
- (b) The work group shall advise the department on policies and procedures related to the proper treatment and care of offenders in long-term restrictive housing.
- (c) The director shall convene the work group's first meeting no later than September 15, 2015, and the work group shall meet at least semiannually thereafter. The chairperson shall schedule and convene the work group's meetings.
- (d) The director shall provide the work group with quarterly updates on the department's policies related to the work group's subject matter and with any other information related to long-term restrictive housing that is requested by members of the work group.

(e) The work group shall terminate on December 31, 2021.

Source: Laws 1976, LB 275, § 6; Laws 2015, LB598, § 33; Laws 2016, LB1094, § 43; Laws 2019, LB686, § 14.
Operative date September 1, 2019.

(l) INCARCERATION WORK CAMPS

83-4,142 Department of Correctional Services; duties; legislative intent.

The Department of Correctional Services shall develop and implement an incarceration work camp for placement of felony offenders as a transitional phase prior to release on parole or as assigned by the Director of Correctional Services pursuant to subsection (2) of section 83-176. As part of the incarceration work camp, an intensive residential drug treatment program may be developed and implemented for felony offenders.

It is the intent of the Legislature that the incarceration work camp serve to reduce prison overcrowding and to make prison bed space available for violent offenders. It is the further intent of the Legislature that the incarceration work camp serve the interests of society by addressing the criminogenic needs of certain designated offenders and by deterring such offenders from engaging in further criminal activity. To accomplish these goals, the incarceration work camp shall provide regimented, structured, disciplined programming, including all of the following: Work programs; vocational training; behavior management and modification; money management; substance abuse awareness, counseling, and treatment; and education, programming needs, and aftercare planning, which will increase the offender's abilities to lead a law-abiding, productive, and fulfilling life as a contributing member of a free society.

Source: Laws 1997, LB 882, § 2; Laws 2005, LB 538, § 27; Laws 2007, LB83, § 1; Laws 2009, LB274, § 1; Laws 2019, LB340, § 2.
Effective date September 1, 2019.

83-4,143 Eligibility for incarceration work camp; Board of Parole or Director of Correctional Services; considerations; duration.

(1) It is the intent of the Legislature that the Board of Parole may recommend placement of felony offenders at the incarceration work camp. The offenders recommended by the board shall be offenders currently housed at other Department of Correctional Services adult correctional facilities and shall complete the incarceration work camp programming prior to release on parole.

(2) When the Board of Parole is of the opinion that a felony offender currently incarcerated in a Department of Correctional Services adult correctional facility may benefit from a brief and intensive period of regimented, structured, and disciplined programming immediately prior to release on parole, the board may direct placement of such an offender in an incarceration work camp for a period not to exceed one hundred eighty days as a condition of release on parole. The board may consider such placement if the felony offender (a) is medically and mentally fit to participate, with allowances given for reasonable accommodation as determined by medical and mental health professionals, and (b) has not previously been incarcerated for a violent felony crime. Offenders convicted of a crime under sections 28-319 to 28-322.05 or of any capital crime are not eligible to be placed in an incarceration work camp.

(3) The Director of Correctional Services may assign a felony offender to an incarceration work camp if he or she believes it is in the best interests of the felony offender and of society, except that offenders convicted of a crime under sections 28-319 to 28-322.05 or of any capital crime are not eligible to be assigned to an incarceration work camp pursuant to this subsection.

Source: Laws 1997, LB 882, § 3; Laws 2000, LB 288, § 1; Laws 2005, LB 538, § 28; Laws 2006, LB 1199, § 104; Laws 2007, LB83, § 2; Laws 2009, LB97, § 29; Laws 2009, LB274, § 2; Laws 2015, LB268, § 33; Referendum 2016, No. 426; Laws 2019, LB340, § 3; Laws 2019, LB519, § 16.

Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB340, section 3, with LB519, section 16, to reflect all amendments.

83-4,144 Incarceration work camp; release on parole.

An offender placed in an incarceration work camp pursuant to a recommendation of the Board of Parole shall be released on parole upon successful completion, as determined by the board, of the incarceration work camp program.

Source: Laws 1997, LB 882, § 4; Laws 2007, LB83, § 3; Laws 2019, LB340, § 4.

Effective date September 1, 2019.

83-4,145 Incarceration work camp; failure to complete program; effect.

An offender placed at the incarceration work camp pursuant to a recommendation of the Board of Parole who fails to successfully complete the incarceration work camp program shall be returned to the board for a rescission hearing. Credit shall be given for time actually served in the incarceration work camp program.

Source: Laws 1997, LB 882, § 5; Laws 2007, LB83, § 4; Laws 2019, LB340, § 5.

Effective date September 1, 2019.

83-4,146 Incarceration work camp; costs.

All costs incurred during the period the offender is committed to an incarceration work camp shall be the responsibility of the state, including the cost of transporting the offender to the incarceration work camp and for returning the offender to the appropriate Department of Correctional Services adult correctional facility if the offender is discharged for unsatisfactory performance from the incarceration work camp.

Source: Laws 1997, LB 882, § 6; Laws 2003, LB 46, § 29; Laws 2007, LB83, § 5; Laws 2019, LB340, § 6.

Effective date September 1, 2019.

ARTICLE 12

DEVELOPMENTAL DISABILITIES SERVICES

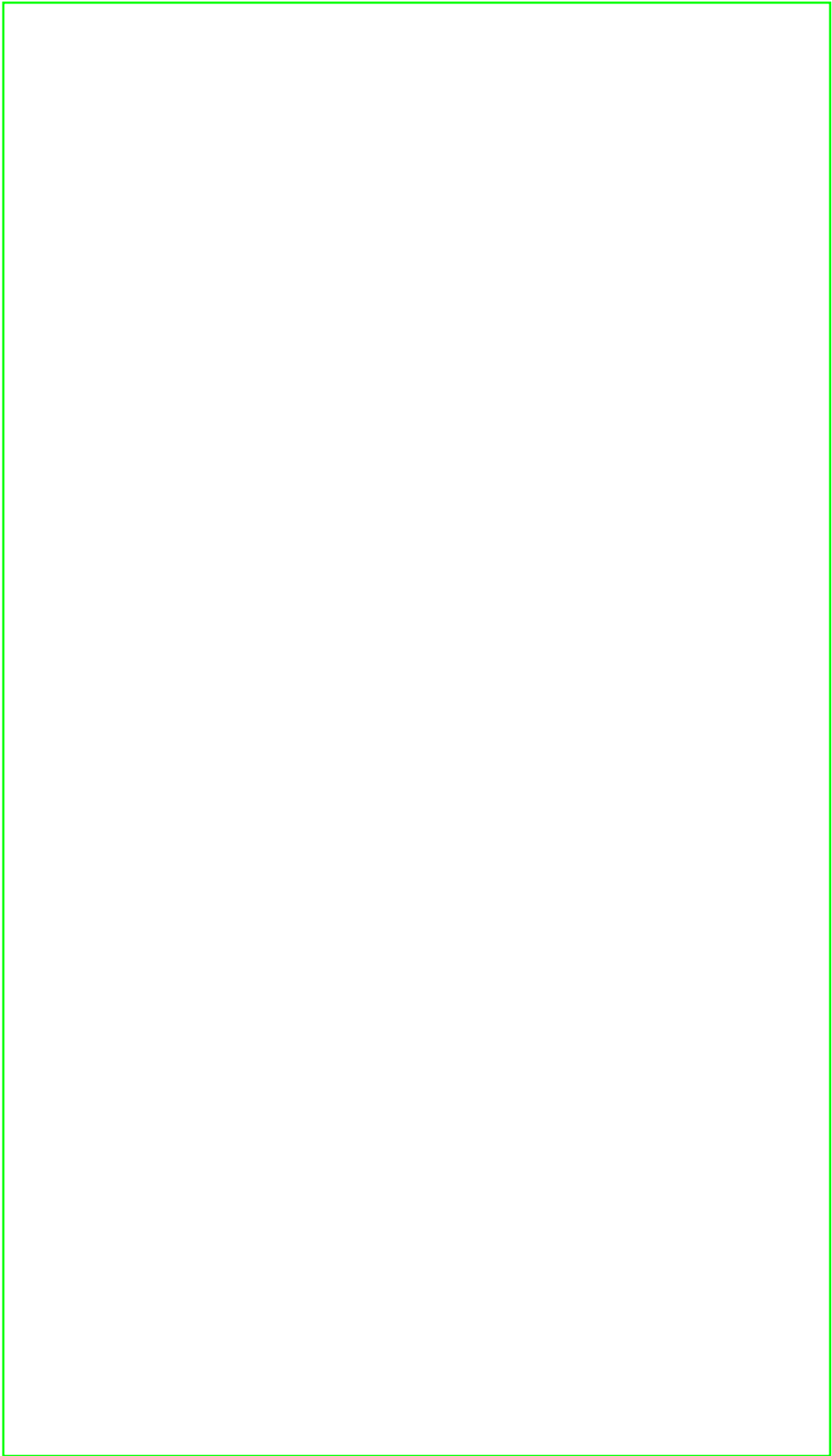
Section

83-1225. School district; provide transition services; enumerated.

83-1225 School district; provide transition services; enumerated.

Each school district shall provide transition services for each student with a developmental disability no later than when the student reaches sixteen years of age and until the student graduates from a special education program or no longer meets the definition of a child with a disability pursuant to section 79-1117. Transition services shall consist of a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living, and community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other postschool adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation. The transition team shall designate one or more specialized service providers to develop a plan for the student's transition to adult specialized services.

Source: Laws 1991, LB 830, § 25; Laws 1996, LB 900, § 1068; Laws 2019, LB675, § 55.
Effective date May 28, 2019.



CHAPTER 84

STATE OFFICERS

Article.

1. Governor. 84-166.
3. Auditor of Public Accounts. 84-304, 84-304.02.
6. State Treasurer. 84-602.04 to 84-618.
7. General Provisions as to State Officers. 84-712.05.
12. Public Records.
 - (a) Records Management Act. 84-1227.
13. State Employees Retirement Act. 84-1307 to 84-1331.
14. Public Meetings. 84-1411.
15. Public Employees Retirement Board. 84-1502, 84-1503.

ARTICLE 1

GOVERNOR

Section

84-166. Vital resource emergency; Governor; powers.

84-166 Vital resource emergency; Governor; powers.

Pursuant to the proclamation of a vital resource emergency issued as provided in section 84-164, the Governor by executive order may:

(1) Regulate the operating hours of vital resource consuming instrumentalities including state government, political subdivisions, private institutions, and business facilities to the extent that the regulation is not hazardous or detrimental to the health, safety, or welfare of the people of this state;

(2) Establish a system for the distribution of the supply of energy or vital resource;

(3) Curtail, regulate, or direct the public and private transportation and use of the vital resource which is in short supply, to the extent necessary, so long as such regulation is not hazardous or detrimental to the health, safety, or welfare of the people of this state;

(4) Delegate any administrative authority vested in him or her to the Department of Environment and Energy or any other state agency or its respective director; and

(5) Provide for the temporary transfer of directors, personnel, or functions of state departments and agencies for the purpose of carrying out any emergency measures taken pursuant to sections 84-162 to 84-167.

Source: Laws 1980, LB 954, § 55; Laws 2019, LB302, § 175.

Operative date July 1, 2019.

ARTICLE 3

AUDITOR OF PUBLIC ACCOUNTS

Section

84-304. Auditor; powers and duties; assistant deputies; qualifications; powers and duties.

Section

84-304.02. Auditor; audit, financial, accounting, or retirement system plan reports; written review; copies; disposition.

84-304 Auditor; powers and duties; assistant deputies; qualifications; powers and duties.

It shall be the duty of the Auditor of Public Accounts:

(1) To give information electronically to the Legislature, whenever required, upon any subject relating to the fiscal affairs of the state or with regard to any duty of his or her office;

(2) To furnish offices for himself or herself and all fuel, lights, books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3)(a) To examine or cause to be examined, at such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons. Such examinations shall be done in accordance with generally accepted government auditing standards for financial audits and attestation engagements set forth in Government Auditing Standards (2011 Revision), published by the Comptroller General of the United States, Government Accountability Office, and except as provided in subdivision (10) of this section, subdivision (16) of section 50-1205, and section 84-322, shall not include performance audits, whether conducted pursuant to attestation engagements or performance audit standards as set forth in Government Auditing Standards (2011 Revision), published by the Comptroller General of the United States, Government Accountability Office.

(b) Any entity, excluding the state colleges and the University of Nebraska, that is audited or examined pursuant to subdivision (3)(a) of this section and that is the subject of a comment and recommendation in a management letter or report issued by the Auditor of Public Accounts shall, on or before six months after the issuance of such letter or report, provide to the Auditor of Public Accounts a detailed written description of any corrective action taken or to be taken in response to the comment and recommendation. The Auditor of Public Accounts may investigate and evaluate the corrective action. The Auditor of Public Accounts shall then electronically submit a report of any findings of such investigation and evaluation to the Governor, the appropriate standing committee of the Legislature, and the Appropriations Committee of the Legislature. The Auditor of Public Accounts shall also ensure that the report is delivered to the Appropriations Committee for entry into the record during the committee's budget hearing process;

(4)(a) To examine or cause to be examined, at the expense of the political subdivision, when the Auditor of Public Accounts determines such examination necessary or when requested by the political subdivision, the books, accounts, vouchers, records, and expenditures of any agricultural association formed under Chapter 2, article 20, any county agricultural society, any joint airport authority formed under the Joint Airport Authorities Act, any city or county airport authority, any bridge commission created pursuant to section 39-868, any cemetery district, any community redevelopment authority or limited

community redevelopment authority established under the Community Development Law, any development district, any drainage district, any health district, any local public health department as defined in section 71-1626, any historical society, any hospital authority or district, any county hospital, any housing agency as defined in section 71-1575, any irrigation district, any county or municipal library, any community mental health center, any railroad transportation safety district, any rural water district, any township, Wyuka Cemetery, the Educational Service Unit Coordinating Council, any entity created pursuant to the Interlocal Cooperation Act, any educational service unit, any village, any service contractor or subrecipient of state or federal funds, any political subdivision with the authority to levy a property tax or a toll, or any entity created pursuant to the Joint Public Agency Act.

For purposes of this subdivision, service contractor or subrecipient means any nonprofit entity that expends state or federal funds to carry out a state or federal program or function, but it does not include an individual who is a direct beneficiary of such a program or function or a licensed health care provider or facility receiving direct payment for medical services provided for a specific individual.

(b) The Auditor of Public Accounts may waive the audit requirement of subdivision (4)(a) of this section upon the submission by the political subdivision of a written request in a form prescribed by the auditor. The auditor shall notify the political subdivision in writing of the approval or denial of the request for a waiver.

(c) Through December 31, 2017, the Auditor of Public Accounts may conduct audits under this subdivision for purposes of sections 2-3228, 12-101, 13-2402, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987.

(d) Beginning on May 24, 2017, the Auditor of Public Accounts may conduct audits under this subdivision for purposes of sections 13-2402, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 18-814, 71-1631.02, and 79-987 and shall prescribe the form for the annual reports required in each of such sections. Such annual reports shall be published annually on the web site of the Auditor of Public Accounts;

(5) To report promptly to the Governor and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations conducted by the auditor, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts. The report submitted to the committee shall be submitted electronically. In addition, if, in the normal course of conducting an audit in accordance with subdivision (3) of this section, the auditor discovers any potential problems related to the effectiveness, efficiency, or performance of state programs, he or she shall immediately report them electronically to the Legislative Performance Audit Committee which may investigate the issue further, report it electronically to the appropriate standing committee of the Legislature, or both;

(6)(a) To examine or cause to be examined the books, accounts, vouchers, records, and expenditures of a fire protection district. The expense of the examination shall be paid by the political subdivision.

(b) Whenever the expenditures of a fire protection district are one hundred fifty thousand dollars or less per fiscal year, the fire protection district shall be

audited no more than once every five years except as directed by the board of directors of the fire protection district or unless the auditor receives a verifiable report from a third party indicating any irregularities or misconduct of officers or employees of the fire protection district, any misappropriation or misuse of public funds or property, or any improper system or method of bookkeeping or condition of accounts of the fire protection district. In the absence of such a report, the auditor may waive the five-year audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver of the five-year audit requirement. Upon approval of the request for waiver of the five-year audit requirement, a new five-year audit period shall begin.

(c) Whenever the expenditures of a fire protection district exceed one hundred fifty thousand dollars in a fiscal year, the auditor may waive the audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver. Upon approval of the request for waiver, a new five-year audit period shall begin for the fire protection district if its expenditures are one hundred fifty thousand dollars or less per fiscal year in subsequent years;

(7) To appoint two or more assistant deputies (a) whose entire time shall be devoted to the service of the state as directed by the auditor, (b) who shall be certified public accountants with at least five years' experience, (c) who shall be selected without regard to party affiliation or to place of residence at the time of appointment, (d) who shall promptly report to the auditor the fiscal condition shown by each examination, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts, and it shall be the duty of the auditor to file promptly with the Governor a duplicate of such report, and (e) who shall qualify by taking an oath which shall be filed in the office of the Secretary of State;

(8) To conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement to assure proper accounting by all such agencies, political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The auditor may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-1229 or this section and charge the political subdivision for conducting the audit. The fees charged by the auditor for conducting audits on a contractual basis shall be in an amount sufficient to pay the cost of the audit. The fees remitted to the auditor for such audits and services shall be deposited in the Auditor of Public Accounts Cash Fund;

(9) To develop and maintain an annual budget and actual financial information reporting system for political subdivisions that is accessible online by the public;

(10) When authorized, to conduct joint audits with the Legislative Performance Audit Committee as described in section 50-1205; and

(11) Unless otherwise specifically provided, to assess the interest rate on delinquent payments of any fees for audits and services owing to the Auditor of

Public Accounts at a rate of fourteen percent per annum from the date of billing unless paid within thirty days after the date of billing. For an entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act, any participating public agencies shall be jointly and severally liable for the fees and interest owed if such entity is defunct or unable to pay.

Source: R.S.1866, c. 4, § 4, p. 20; Laws 1907, c. 140, § 1, p. 447; R.S.1913, § 5546; C.S.1922, § 4848; C.S.1929, § 84-304; Laws 1939, c. 28, § 4, p. 142; C.S.Supp.,1941, § 84-304; R.S.1943, § 84-304; Laws 1951, c. 339, § 1, p. 1121; Laws 1953, c. 322, § 2, p. 1065; Laws 1965, c. 538, § 30, p. 1715; Laws 1965, c. 459, § 26, p. 1465; Laws 1967, c. 36, § 8, p. 164; Laws 1974, LB 280, § 3; Laws 1976, LB 759, § 2; Laws 1977, LB 193, § 4; Laws 1979, LB 414, § 5; Laws 1984, LB 473, § 25; Laws 1985, Second Spec. Sess., LB 29, § 5; Laws 1987, LB 183, § 6; Laws 1992, LB 573, § 14; Laws 1993, LB 579, § 4; Laws 1993, LB 516, § 4; Laws 1995, LB 205, § 1; Laws 1995, LB 509, § 1; Laws 1995, LB 572, § 1; Laws 1996, LB 900, § 1069; Laws 1997, LB 250, § 24; Laws 2000, LB 968, § 84; Laws 2000, LB 1304, § 1; Laws 2002, LB 568, § 11; Laws 2003, LB 607, § 20; Laws 2004, LB 1005, § 136; Laws 2004, LB 1118, § 3; Laws 2006, LB 588, § 10; Laws 2007, LB603, § 31; Laws 2008, LB822, § 4; Laws 2012, LB782, § 222; Laws 2013, LB40, § 3; Laws 2014, LB759, § 21; Laws 2015, LB539, § 8; Laws 2017, LB151, § 8; Laws 2017, LB415, § 45; Laws 2019, LB492, § 44.

Effective date September 1, 2019.

Cross References

Community Development Law, see section 18-2101.
Interlocal Cooperation Act, see section 13-801.
Joint Airport Authorities Act, see section 3-716.
Joint Public Agency Act, see section 13-2501.
Successors, duties relating to, see section 84-604.
Tax returns, audited when, see section 77-27,119.

84-304.02 Auditor; audit, financial, accounting, or retirement system plan reports; written review; copies; disposition.

The Auditor of Public Accounts, or a person designated by him or her, may prepare a written review of all audit, accounting, or financial reports required to be filed by a political subdivision of the state with the Auditor of Public Accounts and of public retirement system plan reports required to be submitted to the Auditor of Public Accounts pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 18-814, 19-3501, 23-1118, 23-3526, 71-1631.02, 79-987, and 84-304 and cause one copy of such written review to be mailed to the political subdivision involved and one copy to the accountant who prepared the report. Such written review shall specifically set forth wherein the audit, accounting, financial, or retirement system plan report fails to comply with the applicable minimum standards and the necessary action to be taken to bring the report into compliance with such standards. The Auditor of Public Accounts may, upon continued failure to comply with such standards, refuse to accept for filing an audit, accounting, financial, or retire-

ment system plan report or any future report submitted for filing by any political subdivision.

Source: Laws 1974, LB 922, § 2; Laws 1993, LB 310, § 16; Laws 2011, LB474, § 13; Laws 2015, LB539, § 9; Laws 2017, LB415, § 46; Laws 2019, LB492, § 45.
Effective date September 1, 2019.

ARTICLE 6 STATE TREASURER

Section

- 84-602.04. Taxpayer Transparency Act; web site; contents; link to Department of Administrative Services web site; contents; actions by state entity prohibited; Department of Administrative Services; duties.
- 84-612. Cash Reserve Fund; created; transfers; receipt of federal funds.
- 84-618. Treasury Management Cash Fund; created; use; investment.

84-602.04 Taxpayer Transparency Act; web site; contents; link to Department of Administrative Services web site; contents; actions by state entity prohibited; Department of Administrative Services; duties.

(1) The State Treasurer shall develop and maintain a single, searchable web site with information on state receipts, expenditures of state funds, and contracts which is accessible by the public at no cost to access as provided in this section. The web site shall be hosted on a server owned and operated by the State of Nebraska or approved by the Chief Information Officer. The naming convention for the web site shall identify the web site as a state government web site. The web site shall not include the treasurer's name, the treasurer's image, the treasurer's seal, or a welcome message.

(2)(a) The web site established, developed, and maintained by the State Treasurer pursuant to this section shall provide such information as will document the sources of all state receipts and the expenditure of state funds by all state entities.

(b) The State Treasurer shall, in appropriate detail, cause to be published on the web site:

(i) The identity, principal location, and amount of state receipts received or expended by the State of Nebraska and all of its state entities;

(ii) The funding or expending state entity;

(iii) The budget program source;

(iv) The amount, date, purpose, and recipient of all expenditures of state funds; and

(v) Such other relevant information as will further the intent of enhancing the transparency of state government financial operations to its citizens and taxpayers. The web site shall include data for fiscal year 2008-09 and each fiscal year thereafter, except that for any state entity that becomes subject to this section due to the changes made by Laws 2016, LB851, the web site shall include data for such state entity for fiscal year 2016-17 and each fiscal year thereafter.

(3) The data shall be available on the web site no later than thirty days after the end of the preceding fiscal year.

(4)(a) The web site described in this section shall include a link to the web site of the Department of Administrative Services. The department's web site shall contain:

(i) A data base that includes a copy of each active contract that is a basis for an expenditure of state funds, including any amendment to such contract and any document incorporated by reference in such contract. For purposes of this subdivision, amendment means an agreement to modify a contract which has been reduced to writing and signed by each party to the contract, an agreement to extend the duration of a contract, or an agreement to renew a contract. The data base shall be accessible by the public and searchable by vendor, by state entity, and by dollar amount. All state entities shall provide to the Department of Administrative Services, in electronic form, copies of such contracts for inclusion in the data base beginning with contracts that are active on and after January 1, 2014, except that for any state entity that becomes subject to this section due to the changes made by Laws 2016, LB851, such state entity shall provide copies of such contracts for inclusion in the data base beginning with contracts that are active on and after January 1, 2017; and

(ii) A data base that includes copies of all expired contracts which were previously included in the data base described in subdivision (4)(a)(i) of this section and which have not been disposed of pursuant to policies and procedures adopted under subdivision (4)(e) of this section. The data base required under this subdivision shall be accessible by the public and searchable by vendor, by state entity, and by dollar amount.

(b) The following shall be redacted or withheld from any contract before such contract is included in a data base pursuant to subdivision (4)(a) of this section:

(i) The social security number or federal tax identification number of any individual or business;

(ii) Protected health information as such term is defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2013;

(iii) Any information which may be withheld from the public under section 84-712.05; or

(iv) Any information that is confidential under state or federal law, rule, or regulation.

(c) The following contracts shall be exempt from the requirements of subdivision (4)(a) of this section:

(i) Contracts entered into by the Department of Health and Human Services that are letters of agreement for the purpose of providing specific services to a specifically named individual and his or her family;

(ii) Contracts entered into by the University of Nebraska or any of the Nebraska state colleges for the purpose of providing specific services or financial assistance to a specifically named individual and his or her family;

(iii) Contracts entered into by the Department of Veterans' Affairs under section 80-401 or 80-403 for the purpose of providing aid to a specifically named veteran and his or her family;

(iv) Contracts entered into by the Department of Environment and Energy for the purpose of providing financing from the Dollar and Energy Saving Loan program;

(v) Contracts entered into by the State Department of Education under sections 79-11,121 to 79-11,132 for the purpose of providing specific goods, services, or financial assistance on behalf of or to a specifically named individual;

(vi) Contracts entered into by the Commission for the Blind and Visually Impaired under the Commission for the Blind and Visually Impaired Act for the purpose of providing specific goods, services, or financial assistance on behalf of or to a specifically named individual;

(vii) Contracts of employment for employees of any state entity. The exemption provided in this subdivision shall not apply to contracts entered into by any state entity to obtain the services of an independent contractor; and

(viii) Contracts entered into by the Nebraska Investment Finance Authority for the purpose of providing a specific service or financial assistance, including, but not limited to, a grant or loan, to a specifically named individual and his or her family.

(d) No state entity shall structure a contract to avoid any of the requirements of subdivision (4)(a) of this section.

(e) The Department of Administrative Services shall adopt policies and procedures regarding the creation, maintenance, and disposal of records pursuant to section 84-1212.02 for the contracts contained in the data bases required under this section and the process by which state entities provide copies of the contracts required under this section.

(5) All state entities shall provide to the State Treasurer, at such times and in such form as designated by the State Treasurer, such information as is necessary to accomplish the purposes of the Taxpayer Transparency Act.

(6) Nothing in this section requires the disclosure of information which is considered confidential under state or federal law or is not a public record under section 84-712.05.

Source: Laws 2009, LB16, § 3; Laws 2013, LB429, § 2; Laws 2015, LB541, § 1; R.S.Supp.,2015, § 84-602.02; Laws 2016, LB694, § 1; Laws 2016, LB851, § 4; Laws 2019, LB123, § 1; Laws 2019, LB302, § 176.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB123, section 1, with LB302, section 176, to reflect all amendments.

Note: Changes made by LB302 became operative July 1, 2019. Changes made by LB123 became effective September 1, 2019.

Cross References

Commission for the Blind and Visually Impaired Act, see section 71-8601.

84-612 Cash Reserve Fund; created; transfers; receipt of federal funds.

(1) There is hereby created within the state treasury a fund known as the Cash Reserve Fund which shall be under the direction of the State Treasurer. The fund shall only be used pursuant to this section.

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred. Any transfers made pursuant to this subsection shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

(3) In addition to receiving transfers from other funds, the Cash Reserve Fund shall receive federal funds received by the State of Nebraska for undesignated general government purposes, federal revenue sharing, or general fiscal relief of the state.

(4) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer not to exceed forty million seven hundred fifteen thousand four hundred fifty-nine dollars in total from the Cash Reserve Fund to the Nebraska Capital Construction Fund between July 1, 2013, and June 30, 2018.

(5) The State Treasurer shall transfer the following amounts from the Cash Reserve Fund to the Nebraska Capital Construction Fund on such dates as directed by the budget administrator of the budget division of the Department of Administrative Services:

(a) Seven million eight hundred four thousand two hundred ninety-two dollars on or after June 15, 2016, but before June 30, 2016;

(b) Five million fifty-eight thousand four hundred five dollars on or after July 1, 2018, but before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services;

(c) Fifteen million three hundred seventy-eight thousand three hundred nine dollars on or after January 1, 2019, but before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services; and

(d) Fifty-four million seven hundred thousand dollars on or after July 1, 2019, but before June 15, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(6) The State Treasurer shall transfer seventy-five million two hundred fifteen thousand three hundred thirteen dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund on or before July 31, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(7) The State Treasurer shall transfer thirty-one million dollars from the Cash Reserve Fund to the General Fund after July 1, 2017, but before July 15, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(8) The State Treasurer shall transfer thirty-one million dollars from the Cash Reserve Fund to the General Fund after October 1, 2017, but before October 15, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(9) The State Treasurer shall transfer thirty-one million dollars from the Cash Reserve Fund to the General Fund after January 1, 2018, but before January 15, 2018, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(10) The State Treasurer shall transfer thirty-two million dollars from the Cash Reserve Fund to the General Fund after April 1, 2018, but before April 15, 2018, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(11) The State Treasurer shall transfer one hundred million dollars from the Cash Reserve Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(12) The State Treasurer shall transfer forty-eight million dollars from the Cash Reserve Fund to the General Fund after March 1, 2019, but before March 15, 2019, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1983, LB 59, § 5; Laws 1985, LB 713, § 2; Laws 1985, LB 501, § 2; Laws 1986, LB 739, § 1; Laws 1986, LB 870, § 1; Laws 1987, LB 131, § 1; Laws 1988, LB 1091, § 4; Laws 1989, LB 310, § 1; Laws 1991, LB 857, § 1; Laws 1991, LB 783, § 33; Laws 1992, LB 1268, § 1; Laws 1993, LB 38, § 4; Laws 1994, LB 1045, § 1; Laws 1996, LB 1290, § 6; Laws 1997, LB 401, § 5; Laws 1998, LB 63, § 1; Laws 1998, LB 988, § 1; Laws 1998, LB 1104, § 30; Laws 1998, LB 1134, § 5; Laws 1998, LB 1219, § 23; Laws 1999, LB 881, § 9; Laws 2000, LB 1214, § 2; Laws 2001, LB 541, § 6; Laws 2002, LB 1310, § 20; Laws 2003, LB 790, § 74; Laws 2003, LB 798, § 1; Laws 2004, LB 1090, § 2; Laws 2005, LB 427, § 2; Laws 2006, LB 1131, § 1; Laws 2006, LB 1256, § 9; Laws 2007, LB323, § 3; Laws 2008, LB846, § 21; Laws 2008, LB1094, § 8; Laws 2008, LB1116, § 9; Laws 2008, LB1165, § 2; Laws 2009, LB456, § 3; Laws 2009, First Spec. Sess., LB2, § 7; Laws 2010, LB317, § 1; Laws 2011, LB379, § 2; Laws 2012, LB131, § 1; Laws 2013, LB200, § 1; Laws 2014, LB130, § 2; Laws 2014, LB1016, § 3; Laws 2015, LB662, § 1; Laws 2016, LB957, § 13; Laws 2016, LB960, § 31; Laws 2017, LB332, § 1; Laws 2018, LB946, § 1; Laws 2019, LB299, § 1.

Effective date May 28, 2019.

84-618 Treasury Management Cash Fund; created; use; investment.

(1) The Treasury Management Cash Fund is created. A pro rata share of the budget appropriated for the treasury management functions of the State Treasurer and for the administration of the achieving a better life experience program as provided in sections 77-1401 to 77-1409 shall be charged to the income of each fund held in invested cash, and such charges shall be transferred to the Treasury Management Cash Fund. The allocation of charges may be made by any method determined to be reasonably related to actual costs incurred by the State Treasurer in carrying out the treasury management functions under section 84-602 and in carrying out the achieving a better life experience program as provided in sections 77-1401 to 77-1409. Approval of the agencies, boards, and commissions administering these funds shall not be required.

(2) It is the intent of this section to have funds held in invested cash be charged a pro rata share of such expenses when this is not prohibited by statute or the Constitution of Nebraska.

(3) The Treasury Management Cash Fund shall be used for the treasury management functions of the State Treasurer and for the administration of the achieving a better life experience program as provided in sections 77-1401 to 77-1409. To the extent permitted by section 529A as defined in section 77-1401,

the fund may receive gifts for administration, operation, and maintenance of a program established under sections 77-1403 to 77-1409.

(4) Transfers may be made from the Treasury Management Cash Fund to the General Fund at the direction of the Legislature. Any money in the Treasury Management Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) On or before July 5, 2019, or as soon thereafter as possible, the State Treasurer shall transfer eighty-two thousand one hundred sixty-seven dollars from the Treasury Management Cash Fund to the General Fund. On or before July 1, 2020, the State Treasurer shall transfer twenty-seven thousand six hundred eighty-two dollars from the Treasury Management Cash Fund to the General Fund.

Source: Laws 2003, LB 424, § 1; Laws 2015, LB591, § 15; Laws 2019, LB186, § 24.

Operative date May 31, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 7

GENERAL PROVISIONS AS TO STATE OFFICERS

Section

84-712.05. Records which may be withheld from the public; enumerated.

84-712.05 Records which may be withheld from the public; enumerated.

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

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

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

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

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotia-

tions, or claims made by or against the public body or which are confidential communications as defined in section 27-503;

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

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

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

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

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

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

(9) Information that relates details of physical and cyber assets of critical energy infrastructure or critical electric infrastructure, including (a) specific engineering, vulnerability, or detailed design information about proposed or existing critical energy infrastructure or critical electric infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy, (ii) could be useful to a person in planning an attack on such critical infrastructure, and (iii) does not simply give the general location of the critical infrastructure and (b) the identity of personnel whose primary job function makes such personnel responsible for (i) providing or granting individuals access to physical or cyber assets or (ii) operating and maintaining physical or cyber assets, if a reasonable person, knowledgeable of the electric utility or energy industry, would conclude that the public disclosure of such identity could create a substantial likelihood of risk to such physical or cyber assets. Subdivision (9)(b) of this section shall not apply to the identity of a

chief executive officer, general manager, vice president, or board member of a public entity that manages critical energy infrastructure or critical electric infrastructure. The lawful custodian of the records must provide a detailed job description for any personnel whose identity is withheld pursuant to subdivision (9)(b) of this section. For purposes of subdivision (9) of this section, critical energy infrastructure and critical electric infrastructure mean existing and proposed systems and assets, including a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of such matters;

(10) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

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

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

(13) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

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

(15) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the

purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(16) Library, archive, and museum materials acquired from nongovernmental entities and preserved solely for reference, research, or exhibition purposes, for the duration specified in subdivision (16)(b) of this section, if:

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

(b) The donor, seller, testator, or transferor conditions such gift, purchase, bequest, or transfer on the materials being kept confidential for a specified period of time;

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

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

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

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

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

(22) All prescription drug information submitted pursuant to section 71-2454, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system; and

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

Source: Laws 1979, LB 86, § 5; Laws 1983, LB 108, § 1; Laws 1983, LB 565, § 1; Laws 1993, LB 579, § 6; Laws 1993, LB 590, § 6; Laws 1993, LB 719, § 2; Laws 1994, LB 1061, § 7; Laws 1994, LB 1224, § 88; Laws 1995, LB 343, § 7; Laws 1995, LB 509, § 6; Laws 1999, LB 137, § 1; Laws 2002, LB 276, § 7; Laws 2004, LB 236, § 1; Laws 2004, LB 868, § 3; Laws 2005, LB 361, § 37;

Laws 2007, LB389, § 1; Laws 2009, LB188, § 8; Laws 2009, LB658, § 7; Laws 2011, LB230, § 1; Laws 2013, LB410, § 17; Laws 2016, LB447, § 45; Laws 2016, LB471, § 3; Laws 2016, LB1109, § 1; Laws 2018, LB859, § 1; Laws 2018, LB902, § 1; Laws 2019, LB16, § 1; Laws 2019, LB33, § 6; Laws 2019, LB375, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB16, section 1, with LB33, section 6, and LB375, section 1, to reflect all amendments.

Note: Changes made by LB33 became effective March 7, 2019. Changes made by LB16 and LB375 became effective September 1, 2019.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

Patient Safety Improvement Act, see section 71-8701.

Unmarked Human Burial Sites and Skeletal Remains Protection Act, see section 12-1201.

ARTICLE 12 PUBLIC RECORDS

(a) RECORDS MANAGEMENT ACT

Section

84-1227. Records Management Cash Fund; created; use; investment.

(a) RECORDS MANAGEMENT ACT

84-1227 Records Management Cash Fund; created; use; investment.

There is hereby established in the state treasury a special fund to be known as the Records Management Cash Fund which, when appropriated by the Legislature, shall be expended by the Secretary of State for the purposes of providing records management services and assistance to state and local agencies, for development and maintenance of the portal for providing electronic access to public records or electronic information and services, and for grants to a state or local agency as provided in subdivision (1)(j) of section 84-1204. All fees and charges for the purpose of records management services and analysis received by the Secretary of State from the local agencies shall be remitted to the State Treasurer for credit to such fund. Transfers may be made from the fund to the General Fund, the Secretary of State Administration Cash Fund, or the Election Administration Fund at the direction of the Legislature. The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer five hundred thousand dollars from the Records Management Cash Fund to the Information Management Revolving Fund on or before June 30, 2016. Any money in the Records Management Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1984, LB 527, § 3; Laws 1995, LB 7, § 149; Laws 1997, LB 590, § 14; Laws 2003, LB 257, § 2; Laws 2009, First Spec. Sess., LB3, § 93; Laws 2012, LB719, § 30; Laws 2016, LB957, § 14; Laws 2018, LB945, § 27; Laws 2019, LB298, § 20.
Effective date May 28, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 13

STATE EMPLOYEES RETIREMENT ACT

Section

- 84-1307. Retirement system; membership; requirements; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.
- 84-1309.02. Cash balance benefit; election; effect; administrative services agreements; authorized.
- 84-1310.01. Defined contribution benefit; employee account; investment options; procedures; administration.
- 84-1311.03. Defined contribution benefit; employer account; investment options; procedures; administration.
- 84-1319. Future service retirement benefits; when payable; how computed; selection of annuity; board; deferment of benefits; certain required minimum distributions; election authorized.
- 84-1321.01. Termination of employment; account forfeited; when; State Employer Retirement Expense Fund; created; use; investment.
- 84-1322. Employees; reemployment; status; how treated; reinstatement; repay amount received.
- 84-1323. Members; death before retirement; death benefit; amount; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.
- 84-1323.02. Beneficiary designation; order of priority.
- 84-1331. Act, how cited.

84-1307 Retirement system; membership; requirements; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.

(1) The membership of the retirement system shall be composed of all persons who are or were employed by the State of Nebraska and who maintain an account balance with the retirement system.

(2) The following employees of the State of Nebraska are authorized to participate in the retirement system: (a) All permanent full-time employees who have attained the age of eighteen years shall begin participation in the retirement system upon employment; and (b) all permanent part-time employees who have attained the age of eighteen years may exercise the option to begin participation in the retirement system within the first thirty days of employment. An employee who exercises the option to begin participation in the retirement system pursuant to this section shall remain in the retirement system until his or her termination of employment or retirement, regardless of any change of status as a permanent or temporary employee.

(3) On and after July 1, 2010, no employee shall be authorized to participate in the retirement system provided for in the State Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(4) For purposes of this section, (a) permanent full-time employees includes employees of the Legislature or Legislative Council who work one-half or more of the regularly scheduled hours during each pay period of the legislative session and (b) permanent part-time employees includes employees of the Legislature or Legislative Council who work less than one-half of the regularly scheduled hours during each pay period of the legislative session.

(5)(a) Within the first one hundred eighty days of employment, a full-time employee may apply to the board for vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. The board may adopt and promulgate rules and regulations governing the assessment and granting of vesting credit.

(b) If the contributory retirement plan or contract let pursuant to section 48-609, as such section existed prior to January 1, 2018, is terminated, employees of the Department of Labor who are active participants in such contributory retirement plan or contract on the date of termination of such plan or contract shall be granted vesting credit for their years of participation in such plan or contract.

(6) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public employment system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

(7) State agencies shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system immediately upon becoming an employee. Information necessary to determine membership in the retirement system shall be provided by the employer.

Source: Laws 1963, c. 532, § 7, p. 1670; Laws 1969, c. 842, § 1, p. 3177; Laws 1973, LB 492, § 1; Laws 1983, LB 219, § 1; Laws 1986, LB 325, § 16; Laws 1986, LB 311, § 30; Laws 1990, LB 834, § 1; Laws 1995, LB 501, § 11; Laws 1996, LB 1076, § 38; Laws 1997, LB 624, § 36; Laws 1998, LB 1191, § 71; Laws 1999, LB 703, § 21; Laws 2000, LB 1192, § 24; Laws 2002, LB 407, § 55; Laws 2002, LB 687, § 20; Laws 2004, LB 1097, § 33; Laws 2006, LB 366, § 8; Laws 2008, LB1147, § 13; Laws 2009, LB188, § 10; Laws 2010, LB950, § 21; Laws 2011, LB509, § 45; Laws 2013, LB263, § 36; Laws 2017, LB172, § 86; Laws 2019, LB34, § 21. Effective date April 18, 2019.

84-1309.02 Cash balance benefit; election; effect; administrative services agreements; authorized.

(1) It is the intent of the Legislature that, in order to improve the competitiveness of the retirement plan for state employees, a cash balance benefit shall be added to the State Employees Retirement Act on and after January 1, 2003. Each member who is employed and participating in the retirement system prior to January 1, 2003, may either elect to continue participation in the defined contribution benefit as provided in the act prior to January 1, 2003, or elect to participate in the cash balance benefit as set forth in this section. An active member shall make a one-time election beginning September 1, 2012, through October 31, 2012, in order to participate in the cash balance benefit. If no such

election is made, the member shall be treated as though he or she elected to continue participating in the defined contribution benefit as provided in the act prior to January 1, 2003. Members who elect to participate in the cash balance benefit beginning September 1, 2012, through October 31, 2012, shall commence participation in the cash balance benefit on January 2, 2013. Any member who made the election prior to April 7, 2012, does not have to make another election of the cash balance benefit beginning September 1, 2012, through October 31, 2012.

(2) For a member employed and participating in the retirement system beginning on and after January 1, 2003, or a member employed and participating in the retirement system on January 1, 2003, who, prior to April 7, 2012, or beginning September 1, 2012, through October 31, 2012, elects to convert his or her employee and employer accounts to the cash balance benefit:

(a) The employee cash balance account within the State Employees Retirement Fund shall, at any time, be equal to the following:

(i) The initial employee account balance, if any, transferred from the defined contribution plan account described in section 84-1310; plus

(ii) Employee contribution credits deposited in accordance with section 84-1308; plus

(iii) Interest credits credited in accordance with subdivision (19) of section 84-1301; plus

(iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319; and

(b) The employer cash balance account shall, at any time, be equal to the following:

(i) The initial employer account balance, if any, transferred from the defined contribution plan account described in section 84-1311; plus

(ii) Employer contribution credits deposited in accordance with section 84-1309; plus

(iii) Interest credits credited in accordance with subdivision (19) of section 84-1301; plus

(iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319.

(3) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees. The board may develop a schedule for the allocation of the administrative services agreements costs for accounting or record-keeping services and may assess the costs so that each member pays a reasonable fee as determined by the board.

Source: Laws 2002, LB 687, § 21; Laws 2003, LB 451, § 25; Laws 2005, LB 364, § 17; Laws 2006, LB 366, § 10; Laws 2006, LB 1019, § 16; Laws 2007, LB328, § 7; Laws 2009, LB188, § 11; Laws 2010, LB950, § 22; Laws 2011, LB509, § 46; Laws 2012, LB916, § 35; Laws 2017, LB415, § 48; Laws 2019, LB34, § 22.
Effective date April 18, 2019.

84-1310.01 Defined contribution benefit; employee account; investment options; procedures; administration.

(1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employee account to various investment options.

(a) Prior to January 1, 2021, the investment options shall include, but not be limited to, the following:

(i) An investor select account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy substantially similar to the investment allocations made by the state investment officer for the defined benefit plans under the retirement systems described in subdivision (1)(a) of section 84-1503. Investments shall most likely include domestic and international equities, fixed income investments, and real estate, as well as potentially additional asset classes;

(ii) A stable return account which shall be invested by or under the direction of the state investment officer in a stable value strategy that provides capital preservation and consistent, steady returns;

(iii) An equities account which shall be invested by or under the direction of the state investment officer in equities;

(iv) A balanced account which shall be invested by or under the direction of the state investment officer in equities and fixed income instruments;

(v) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of common stocks designed to closely duplicate the total return of the Standard and Poor's division of The McGraw-Hill Companies, Inc., 500 Index;

(vi) A fixed income account which shall be invested by or under the direction of the state investment officer in fixed income instruments;

(vii) A money market account which shall be invested by or under the direction of the state investment officer in short-term fixed income securities; and

(viii) Beginning on July 1, 2006, an age-based account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy that changes based upon the age of the member. The board shall develop an account mechanism that changes the investments as the employee nears retirement age. The asset allocation and asset classes utilized in the investments shall move from aggressive, to moderate, and then to conservative as retirement age approaches.

If a member fails to select an option or combination of options prior to January 1, 2021, all of his or her funds shall be placed in the option described in subdivision (a)(ii) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(b) On or after January 1, 2021, the investment options shall include, but not be limited to, the following:

(i) An investor select account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy substantially similar to the investment allocations made by the state investment

officer for the defined benefit plans under the retirement systems described in subdivision (1)(a) of section 84-1503. Investments shall most likely include domestic and international equities, fixed income investments, and real estate, as well as potentially additional asset classes;

(ii) A stable return account which shall be invested by or under the direction of the state investment officer in a stable value strategy that provides capital preservation and consistent, steady returns;

(iii) An equities account which shall be invested by or under the direction of the state investment officer in equities;

(iv) A fixed income account which shall be invested by or under the direction of the state investment officer in fixed income instruments; and

(v) A life-cycle fund which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy that adjusts from a position of higher risk to one of lower risk as the member ages.

If the member fails to select an option or combination of options pursuant to this subdivision (b), all of his or her funds shall be placed in the option described in subdivision (b)(v) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1)(a) of section 84-1323 or his or her beneficiary may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board may adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Source: Laws 1984, LB 751, § 11; Laws 1991, LB 549, § 66; Laws 1994, LB 833, § 47; Laws 1996, LB 847, § 44; Laws 1999, LB 703, § 22; Laws 2000, LB 1200, § 5; Laws 2001, LB 408, § 26; Laws 2002, LB 407, § 56; Laws 2002, LB 687, § 23; Laws 2005, LB 503, § 16; Laws 2008, LB1147, § 14; Laws 2010, LB950, § 23; Laws 2012, LB916, § 36; Laws 2014, LB759, § 22; Laws 2018, LB1005, § 44; Laws 2019, LB32, § 3.
Effective date September 1, 2019.

84-1311.03 Defined contribution benefit; employer account; investment options; procedures; administration.

(1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employer account to various investment options. Such investment options shall be the same as the investment options of the employee account as provided in subsection (1) of section 84-1310.01. If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in the investment option described in subdivision (1)(a)(v) or (1)(b)(v) of section 84-1310.01, whichever option is applicable based on the date of contribution. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1)(a) of section 84-1323 or his or her beneficiary may transfer any portion of his or her funds among the options. The board may adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Source: Laws 1999, LB 687, § 4; Laws 2000, LB 1200, § 6; Laws 2001, LB 408, § 27; Laws 2002, LB 407, § 57; Laws 2002, LB 687, § 25; Laws 2004, LB 1097, § 34; Laws 2005, LB 503, § 17; Laws 2008, LB1147, § 15; Laws 2010, LB950, § 24; Laws 2012, LB916, § 37; Laws 2018, LB1005, § 45; Laws 2019, LB32, § 4. Effective date September 1, 2019.

84-1319 Future service retirement benefits; when payable; how computed; selection of annuity; board; deferment of benefits; certain required minimum distributions; election authorized.

(1) The future service retirement benefit shall be an annuity, payable monthly with the first payment made no earlier than the annuity start date, which shall be the actuarial equivalent of the retirement value as specified in section 84-1318 based on factors determined by the board, except that gender shall not be a factor when determining the amount of such payments except as provided in this section.

Except as provided in section 42-1107, at any time before the annuity start date, the retiring employee may choose to receive his or her annuity either in the form of an annuity as provided under subsection (4) of this section or any optional form that is determined acceptable by the board.

Except as provided in section 42-1107, in lieu of the future service retirement annuity, a retiring employee may receive a benefit not to exceed the amount in his or her employer and employee accounts as of the date of final account value payable in a lump sum and, if the employee chooses not to receive the entire amount in such accounts, an annuity equal to the actuarial equivalent of the remainder of the retirement value, and the employee may choose any form of such annuity as provided for by the board.

In any case, the amount of the monthly payment shall be such that the annuity chosen shall be the actuarial equivalent of the retirement value as specified in section 84-1318 except as provided in this section.

(2) Except as provided in subsection (4) of this section, the monthly annuity income payable to a member retiring on or after January 1, 1984, shall be as follows:

He or she shall receive at retirement the amount which may be purchased by the accumulated contributions based on annuity rates in effect on the annuity start date which do not utilize gender as a factor, except that such amounts shall not be less than the retirement income which can be provided by the sum of the amounts derived pursuant to subdivisions (a) and (b) of this subsection as follows:

(a) The income provided by the accumulated contributions made prior to January 1, 1984, based on male annuity purchase rates in effect on the date of purchase; and

(b) The income provided by the accumulated contributions made on and after January 1, 1984, based on the annuity purchase rates in effect on the date of purchase which do not use gender as a factor.

(3) Any amounts, in excess of contributions, which may be required in order to purchase the retirement income specified in subsection (2) of this section shall be withdrawn from the State Equal Retirement Benefit Fund.

(4)(a) The normal form of payment shall be a single life annuity with five-year certain, which is an annuity payable monthly during the remainder of the member's life with the provision that, in the event of the member's death before sixty monthly payments have been made, the monthly payments will continue until sixty monthly payments have been made in total pursuant to section 84-1323.02.

Such annuity shall be equal to the actuarial equivalent of the member cash balance account or the sum of the employee and employer accounts, whichever is applicable, as of the date of final account value. As a part of the annuity, the normal form of payment may include a two and one-half percent cost-of-living adjustment purchased by the member, if the member elects such a payment option.

Except as provided in section 42-1107, a member may elect a lump-sum distribution of his or her member cash balance account as of the date of final account value upon termination of service or retirement.

For a member employed and participating in the retirement system prior to January 1, 2003, who has elected to participate in the cash balance benefit

pursuant to section 84-1309.02, or for a member employed and participating in the retirement system beginning on and after January 1, 2003, the balance of his or her member cash balance account as of the date of final account value shall be converted to an annuity using an interest rate that is recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The interest rate and actuarial factors in effect on the member's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate of return.

For an employee who is a member prior to January 1, 2003, who has elected not to participate in the cash balance benefit pursuant to section 84-1309.02, and who, at the time of retirement, chooses the annuity option rather than the lump-sum option, his or her employee and employer accounts as of the date of final account value shall be converted to an annuity using an interest rate that is equal to the lesser of (i) the Pension Benefit Guaranty Corporation initial interest rate for valuing annuities for terminating plans as of the beginning of the year during which payment begins plus three-fourths of one percent or (ii) the interest rate to calculate the retirement benefits for the cash balance plan members.

(b) For the calendar year beginning January 1, 2003, and each calendar year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level-payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of January 1, 2003, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the State Employees Retirement Act, there shall be a supplemental appropriation sufficient to pay for the difference between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

(c) If the unfunded accrued actuarial liability under the entry age actuarial cost method is less than zero on an actuarial valuation date, and on the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board may elect to pay a dividend to all members participating in the cash balance option in an amount that would not increase the actuarial contribution rate above ninety percent of the actual contribution rate. Dividends shall be credited to the employee cash balance account and the employer cash balance account based

on the account balances on the actuarial valuation date. In the event a dividend is granted and paid after the actuarial valuation date, interest for the period from the actuarial valuation date until the dividend is actually paid shall be paid on the dividend amount. The interest rate shall be the interest credit rate earned on regular contributions.

(5) At the option of the retiring member, any lump sum or annuity provided under this section or section 84-1320 may be deferred to commence at any time, except that no benefit shall be deferred later than April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. Such election by the retiring member may be made at any time prior to the commencement of the lump-sum or annuity payments.

(6) A participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Internal Revenue Code, and who would have satisfied that requirement by receiving distributions that are either equal to the 2009 required minimum distributions or one or more payments in a series of substantially equal distributions, including the 2009 required minimum distribution, made at least annually and expected to last for the life or life expectancy of the participant, the joint lives or joint life expectancy of the participant and the participant's designated beneficiary, or for a period of at least ten years, shall receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries shall be given the opportunity to elect to stop receiving the distributions described in this subsection.

Source: Laws 1963, c. 532, § 19, p. 1674; Laws 1973, LB 498, § 5; Laws 1983, LB 210, § 2; Laws 1984, LB 751, § 7; Laws 1986, LB 325, § 18; Laws 1986, LB 311, § 33; Laws 1987, LB 308, § 1; Laws 1987, LB 60, § 4; Laws 1991, LB 549, § 70; Laws 1992, LB 543, § 2; Laws 1994, LB 1306, § 8; Laws 1996, LB 1273, § 31; Laws 2002, LB 687, § 27; Laws 2003, LB 451, § 29; Laws 2006, LB 1019, § 17; Laws 2007, LB328, § 9; Laws 2009, LB188, § 14; Laws 2012, LB916, § 39; Laws 2013, LB263, § 40; Laws 2017, LB415, § 49; Laws 2019, LB34, § 23.
Effective date April 18, 2019.

84-1321.01 Termination of employment; account forfeited; when; State Employer Retirement Expense Fund; created; use; investment.

(1) For a member who has terminated employment and is not vested, the balance of the member's employer account or employer cash balance account shall be forfeited. The forfeited account shall be credited to the State Employees Retirement Fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, which charges shall be credited to the State Employees Defined Contribution Retirement Expense Fund, if the member participated in the defined contribution option, or to the State Employees Cash Balance Retirement Expense Fund, if the member participated in the cash balance option, and the remainder, if any, shall then be used to restore employer accounts or employer cash balance accounts. Except as provided in subsection (3) of section 84-1314 and subdivision (4)(c) of section 84-1319, no forfeited amounts shall be

applied to increase the benefits any member would otherwise receive under the State Employees Retirement Act.

(2) If a member ceases to be an employee due to the termination of his or her employment by the state and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account or employer cash balance account and transactions for payment of benefits under sections 84-1317 and 84-1321 shall be suspended pending the final outcome of the grievance or other appeal.

(3) The State Employer Retirement Expense Fund is created. The fund shall be administered by the Public Employees Retirement Board. Prior to July 1, 2012, the fund shall be used to meet expenses of the State Employees Retirement System of the State of Nebraska whether such expenses are incurred in administering the member's employer account or in administering the member's employer cash balance account when the funds available in the State Employees Defined Contribution Retirement Expense Fund or State Employees Cash Balance Retirement Expense Fund make such use reasonably necessary. On July 1, 2012, or as soon as practicable thereafter, any money in the State Employer Retirement Expense Fund shall be transferred by the State Treasurer to the State Employees Retirement Fund and credited to the cash balance benefit established in section 84-1309.02.

(4) Prior to July 1, 2012, the director of the Nebraska Public Employees Retirement Systems shall certify to the Accounting Administrator of the Department of Administrative Services when accumulated employer account forfeiture funds are available to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts referred to in subsection (1) of this section. Following such certification, the Accounting Administrator shall transfer the amount reduced from the state contribution from the Imprest Payroll Distributive Fund to the State Employer Retirement Expense Fund. Expenses incurred as a result of the state depositing amounts into the State Employer Retirement Expense Fund shall be deducted prior to any additional expenses being allocated. Any remaining amount shall be allocated in accordance with subsection (3) of this section. Any money in the State Employer Retirement Expense Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1997, LB 624, § 40; Laws 2000, LB 1200, § 8; Laws 2002, LB 687, § 29; Laws 2003, LB 451, § 32; Laws 2005, LB 364, § 19; Laws 2007, LB328, § 10; Laws 2010, LB950, § 26; Laws 2011, LB509, § 48; Laws 2012, LB916, § 40; Laws 2013, LB263, § 42; Laws 2019, LB34, § 24.
Effective date April 18, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

84-1322 Employees; reemployment; status; how treated; reinstatement; repay amount received.

(1) Prior to January 1, 2020, except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall

upon reemployment be considered a new employee with respect to the State Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

(2)(a) A member who ceases to be an employee before becoming eligible for retirement under section 84-1317 and again becomes a permanent full-time or permanent part-time state employee prior to having a five-year break in service shall immediately be reenrolled in the retirement system and resume making contributions. For purposes of vesting employer contributions made prior to and after reentry into the retirement system under subsection (3) of section 84-1321, years of participation include years of participation prior to such employee's original termination. For a member who is not vested and has received a termination benefit pursuant to section 84-1321, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 84-1321. This subsection shall apply whether or not the person was a state employee on April 20, 1986, or July 17, 1986.

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 84-1321. A reemployed member who elects to repay all or a portion of the value of the termination benefit withdrawn pursuant to section 84-1321 shall repay the actual earnings on such value. Repayment of the termination benefit shall commence within three years after reemployment and shall be completed within five years after reemployment or prior to termination of employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

(c) The value of the member's forfeited employer account or employer cash balance account, as of the date of forfeiture, shall be restored in a ratio equal to the amount of the benefit that the member has repaid divided by the termination benefit received. The employer account or employer cash balance account shall be restored first out of the current forfeiture amounts and then by additional employer contributions.

(3) For a member who retired pursuant to section 84-1317 and becomes a permanent full-time employee or permanent part-time employee with the state more than one hundred twenty days after his or her retirement date, the member shall continue receiving retirement benefits. Such a retired member or a retired member who received a lump-sum distribution of his or her benefit shall be considered a new employee as of the date of reemployment and shall not receive credit for any service prior to the member's retirement for purposes of the act.

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the state shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending.

(5) Beginning January 1, 2020, if a contributing member of the retirement system ceases to be an employee and returns to service in any capacity with the state prior to having a one-hundred-twenty-day break in service, the member:

(a) Shall not be deemed to have had a bona fide separation of service;

(b) Shall be immediately reenrolled in:

(i) The defined contribution benefit if the member was contributing to the defined contribution benefit prior to ceasing employment; or

(ii) The cash balance benefit in which the member was participating prior to ceasing employment if the member was contributing to the cash balance benefit prior to ceasing employment;

(c) Shall immediately resume making contributions;

(d) Shall make up any missed contributions based upon services rendered and compensation received;

(e) Shall have all distributions from the retirement system canceled; and

(f) Shall repay the gross distributions from the retirement system.

(6)(a) Beginning January 1, 2020, if a contributing member of the retirement system ceases to be an employee and returns to permanent full-time or permanent part-time service in any capacity with the state after having a one-hundred-twenty-day break in service, the member:

(i) Shall be immediately reenrolled in:

(A) The defined contribution benefit if the member was contributing to the defined contribution benefit prior to ceasing employment; or

(B) The cash balance benefit in which the member was participating prior to ceasing employment if the member was contributing to the cash balance benefit prior to ceasing employment;

(ii) Shall immediately resume making contributions;

(iii) Shall continue receiving any annuity elected after the member ceased employment and before the member was reemployed; and

(iv) Shall be prohibited from taking any distributions from the retirement system until the employee again terminates employment with the state.

(b) For the purposes of vesting employer contributions made prior to and after reentry into the retirement system, the member's years of participation prior to the date the member originally ceased employment and the years of participation after the member is reenrolled in the retirement system shall be included as years of participation, except that if the member has taken a distribution, the years of participation prior to the date the member originally ceased employment shall be limited in a ratio equal to the value of the distribution that the member repays divided by the total value of the distribution taken as described in subdivision (6)(c) of this section.

(c) A reemployed member may repay all or a portion of the value of a distribution except for an annuity elected after the member ceased employment and before the member was reemployed. Repayment of such a distribution shall commence within three years after reemployment and shall be completed within five years after reemployment or prior to the member again ceasing employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code. If the member fails to repay all of the value of such a distribution prior to the member again ceasing employment, the member shall be forever barred from repaying the value of such a distribution taken between

the periods of employment. The value of the member's forfeited employer account or employer cash balance account, as of the date of forfeiture, shall be restored in a ratio equal to the amount of the distribution repaid by the member divided by the amount of the distribution taken. The employer account or employer cash balance account shall be restored first out of the current forfeiture amounts and then by additional employer contributions.

Source: Laws 1963, c. 532, § 22, p. 1676; Laws 1986, LB 325, § 21; Laws 1986, LB 311, § 36; Laws 1991, LB 549, § 72; Laws 1997, LB 624, § 41; Laws 1999, LB 703, § 24; Laws 2002, LB 407, § 60; Laws 2002, LB 687, § 30; Laws 2003, LB 451, § 33; Laws 2004, LB 1097, § 35; Laws 2007, LB328, § 11; Laws 2008, LB1147, § 16; Laws 2011, LB509, § 49; Laws 2019, LB34, § 25.
Effective date April 18, 2019.

84-1323 Members; death before retirement; death benefit; amount; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.

(1)(a) In the event of a member's death before the member's retirement date, the death benefit shall be equal to (i) for participants in the defined contribution benefit, the total of the employee account and the employer account and (ii) for participants in the cash balance benefit, the benefit provided in section 84-1309.02.

(b) Except as provided in section 42-1107, the death benefit shall be paid pursuant to section 84-1323.02.

(c) If the beneficiary is not the member's surviving spouse, the death benefit shall be paid as a lump-sum payment or payments, except that the entire account must be distributed by the fifth anniversary of the member's death. If the sole primary beneficiary is the member's surviving spouse, the surviving spouse may elect to receive an annuity calculated as if the member retired and selected a one-hundred-percent joint and survivor annuity effective on the annuity purchase date. If the surviving spouse does not elect the annuity option within one hundred eighty days after the death of the member, the surviving spouse shall receive a lump-sum payment or payments, except that the entire account must be distributed by the fifth anniversary of the member's death.

(2) A lump-sum death benefit paid to the member's beneficiary, other than the member's estate, that is an eligible distribution may be distributed in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(3) For any member whose death occurs on or after January 1, 2007, while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the member's beneficiary shall be entitled to any additional death benefit that would have been provided, other than the accrual of any benefit relating to the period of qualified military service. The additional death benefit shall be determined as if the member had returned to employment with the State of Nebraska and such employment had terminated on the date of the member's death.

Source: Laws 1963, c. 532, § 23, p. 1676; Laws 1973, LB 498, § 7; Laws 1984, LB 751, § 10; Laws 1994, LB 1306, § 10; Laws 1996, LB 1273, § 33; Laws 2002, LB 687, § 31; Laws 2003, LB 451, § 34;

Laws 2004, LB 1097, § 36; Laws 2009, LB188, § 16; Laws 2012, LB916, § 41; Laws 2019, LB34, § 26.
Effective date April 18, 2019.

84-1323.02 Beneficiary designation; order of priority.

(1) Except as provided in section 42-1107, in the event of a member's death, the death benefit shall be paid to the following, in order of priority:

- (a) To the member's surviving designated beneficiary on file with the board;
- (b) To the spouse married to the member on the member's date of death if there is no surviving designated beneficiary on file with the board; or
- (c) To the member's estate if the member is not married on the member's date of death and there is no surviving designated beneficiary on file with the board.

(2) The priority designations described in subsection (1) of this section shall not apply if the member has retired under a joint and survivor benefit option.

Source: Laws 2019, LB34, § 28.

Effective date April 18, 2019.

84-1331 Act, how cited.

Sections 84-1301 to 84-1331 shall be known and may be cited as the State Employees Retirement Act.

Source: Laws 1963, c. 532, § 31, p. 1677; Laws 1984, LB 751, § 12; Laws 1991, LB 549, § 73; Laws 1994, LB 833, § 53; Laws 1995, LB 501, § 13; Laws 1996, LB 847, § 50; Laws 1996, LB 1076, § 43; Laws 1997, LB 623, § 45; Laws 1997, LB 624, § 42; Laws 1998, LB 1191, § 77; Laws 1999, LB 687, § 6; Laws 2002, LB 407, § 62; Laws 2002, LB 687, § 32; Laws 2009, LB188, § 18; Laws 2019, LB34, § 27.

Effective date April 18, 2019.

ARTICLE 14

PUBLIC MEETINGS

Section

84-1411. Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

84-1411 Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

(1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public

reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of more than one county in this state, of the governing body of a public power and irrigation district having a chartered territory of more than one county in this state, of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, or of a community college board of governors may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

(a) Reasonable advance publicized notice is given;

(b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;

(d) At least one member of the state entity, advisory committee, board, council, or governing body is present at each site of the videoconference or telephone conference, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site; and

(e)(i) Except as provided in subdivision (2)(e)(ii) of this section, no more than one-half of the state entity's, advisory committee's, board's, council's, or governing body's meetings in a calendar year are held by videoconference or telephone conference; or

(ii) In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, such organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conferencing.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(3) A meeting of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, of a community college board of governors, of the governing body of a public power district, of the governing body of a public power and irrigation district, or of the Nebraska Brand Committee may be held by telephone conference call if:

(a) The territory represented by the educational service unit, member educational service units, community college board of governors, public power district, public power and irrigation district, Nebraska Brand Committee, or member public agencies of the entity or pool covers more than one county;

(b) Reasonable advance publicized notice is given which identifies each telephone conference location at which there will be present: (i) A member of the educational service unit board, council, community college board of governors, governing body of a public power district, governing body of a public power and irrigation district, Nebraska Brand Committee, or entity's or pool's governing body; or (ii) A nonvoting designee designated under subdivision (3)(f) of this section;

(c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or entity or pool or at a place which will accommodate the anticipated audience;

(d) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(f) At least one member of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site;

(g) The telephone conference call lasts no more than five hours; and

(h) No more than one-half of the board's, council's, governing body's, committee's, entity's, or pool's meetings in a calendar year are held by telephone conference call, except that:

(i) The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing; and

(ii) An organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act may hold more than one-half of its meetings by telephone conference call if the organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conference call.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

Source: Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510, § 1; Laws 2017, LB318, § 1; Laws 2019, LB212, § 5.
Effective date September 1, 2019.

Cross References

Intergovernmental Risk Management Act, see section 44-4301.

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Municipal Cooperative Financing Act, see section 18-2401.

ARTICLE 15
PUBLIC EMPLOYEES RETIREMENT BOARD

Section

84-1502. Board; chairperson; secretary; election; meetings; compensation.

84-1503. Board; duties; director; duties.

84-1502 Board; chairperson; secretary; election; meetings; compensation.

(1) Within thirty days after its appointment, the Public Employees Retirement Board shall meet and select a chairperson and secretary. Thereafter, the chairperson and the secretary shall be elected in January of each year.

(2) The board shall meet upon call of the chairperson or upon the request of three members of the board filed with the board office. Meetings of the board shall be held in this state and may be held by telecommunication equipment if the requirements of the Open Meetings Act are met.

(3) The members of the board, except the state investment officer, shall be paid seventy-five dollars per diem, and all members shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties as board members as provided in sections 81-1174 to 81-1177.

Source: Laws 1971, LB 987, § 2; Laws 1986, LB 311, § 39; Laws 2004, LB 821, § 41; Laws 2005, LB 503, § 18; Laws 2019, LB33, § 7.
Effective date March 7, 2019.

Cross References

Open Meetings Act, see section 84-1407.

84-1503 Board; duties; director; duties.

(1) It shall be the duty of the Public Employees Retirement Board:

(a) To administer the retirement systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, and the State Employees Retirement Act. The agency for the administration of the retirement systems and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems;

(b) To appoint a director to administer the systems under the direction of the board. The appointment shall be subject to the approval of the Governor and a majority of the Legislature. The director shall be qualified by training and have at least five years of experience in the administration of a qualified public or private employee retirement plan. The director shall not be a member of the board. The salary of the director shall be set by the board. The director shall serve without term and may be removed by the board;

(c) To provide for an equitable allocation of expenses among the retirement systems administered by the board, and all expenses shall be provided from the investment income earned by the various retirement funds unless alternative sources of funds to pay expenses are specified by law;

(d) To administer the deferred compensation program authorized in section 84-1504;

(e) To hire an attorney, admitted to the Nebraska State Bar Association, to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection;

(f) To hire an internal auditor to perform the duties described in section 84-1503.04 who meets the minimum standards as described in section 84-304.03;

(g) To adopt and implement procedures for reporting information by employers, as well as testing and monitoring procedures in order to verify the accuracy of such information. The information necessary to determine membership shall be provided by the employer. The board may adopt and promulgate rules and regulations and prescribe such forms necessary to carry out this subdivision. Nothing in this subdivision shall be construed to require the board to conduct onsite audits of political subdivisions for compliance with statutes, rules, and regulations governing the retirement systems listed in subdivision (1)(a) of this section regarding membership and contributions; and

(h) To prescribe and furnish forms for the public retirement system plan reports required to be filed pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987 through December 31, 2017.

(2) In administering the retirement systems listed in subdivision (1)(a) of this section, it shall be the duty of the board:

(a) To determine, based on information provided by the employer, the prior service annuity, if any, for each person who is an employee of the county on the date of adoption of the retirement system;

(b) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the individual's employer;

(c) To adopt and promulgate rules and regulations, as the board may deem necessary, for the management of the board;

(d) To keep a complete record of all proceedings taken at any meeting of the board;

(e) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, actuarial services on behalf of the State of Nebraska as may be necessary in the administration and development of the retirement systems, including, but not limited to, preparation of an annual actuarial valuation report of each of the defined benefit and cash balance plans administered by the board. Such annual valuation reports shall be presented by the actuary to the Nebraska Retirement Systems Committee of the Legislature at a public hearing or hearings. Any contract for actuarial services shall contain a provision allowing the actuary, without prior approval of the board, to perform actuarial studies of the systems as requested by entities other than the board, if notice, which does not identify the entity or substance of the request, is given to the board, all costs are paid by the requesting entity, results are provided to the board, the Nebraska Retirement Systems Committee of the Legislature, and the Legislative Fiscal Analyst upon being made public, and such actuarial studies do not interfere with the actuary's ongoing responsibility to the board. The term of the contract shall be for up to three years. A competitive, formal, and sealed bidding process shall be completed at least once every three years, unless the board determines that

such a process would not be cost effective under the circumstances and that the actuarial services performed have been satisfactory, in which case the contract may also contain an option for renewal without a competitive, formal, and sealed bidding process for up to two additional three-year periods. An actuary under contract for the State of Nebraska shall be a member of the American Academy of Actuaries and meet the academy's qualification standards to render a statement of actuarial opinion;

(f) To direct the State Treasurer to transfer funds, as an expense of the retirement systems, to the Legislative Council Retirement Study Fund. Such transfer shall occur beginning on or after July 1, 2005, and at intervals of not less than five years and not more than fifteen years and shall be in such amounts as the Legislature shall direct;

(g) To adopt and promulgate rules and regulations, as the board may deem necessary, to carry out the provisions of each retirement system described in subdivision (1)(a) of this section, which includes, but is not limited to, the crediting of military service, direct rollover distributions, and the acceptance of rollovers;

(h) To obtain auditing services for a separate compliance audit of the retirement systems to be completed by December 31, 2020, and from time to time thereafter at the request of the Nebraska Retirement Systems Committee of the Legislature, to be completed not more than every four years but not less than every ten years. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts. The compliance audit shall include, but not be limited to, an examination of records, files, and other documents and an evaluation of all policies and procedures to determine compliance with all state and federal laws. A copy of the compliance audit shall be given to the Governor, the board, and the Nebraska Retirement Systems Committee of the Legislature and shall be presented to the committee at a public hearing;

(i) To adopt and promulgate rules and regulations, as the board may deem necessary, for the adjustment of contributions or benefits, which includes, but is not limited to: (i) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (ii) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment to contributions or benefits; (iii) establishing materiality and de minimus amounts for agency transactions, adjustments, and inactive account closures; and (iv) notice provided to all affected persons. Following an adjustment, a timely notice shall be sent that describes the adjustment and the process for disputing an adjustment to contributions or benefits;

(j)(i) To amend the deferred compensation plan to require that in the event of a member's death except as provided in section 42-1107, the death benefit shall be paid to the following, in order of priority:

(A) To the member's surviving designated beneficiary on file with the board;

(B) To the spouse married to the member on the member's date of death if there is no surviving designated beneficiary on file with the board; or

(C) To the member's estate if the member is not married on the member's date of death and there is no surviving designated beneficiary on file with the board; and

(ii) The priority designations described in subdivision (2)(j)(i) of this section shall not apply if the member has retired under a joint and survivor benefit option;

(k) To make a thorough investigation through the director or the director's designee, of any overpayment of a benefit, when in the judgment of the director such investigation is necessary, including, but not limited to, circumstances in which benefit payments are made after the death of a member or beneficiary and the retirement system is not made aware of such member's or beneficiary's death. In connection with any such investigation, the board, through the director or the director's designee, shall have the power to compel the attendance of witnesses and the production of books, papers, records, and documents, whether in hardcopy, electronic form, or otherwise, and issue subpoenas for such purposes. Such subpoenas shall be served in the same manner and have the same effect as subpoenas from district courts; and

(l) To administer all retirement system plans in a manner which will maintain each plan's status as a qualified plan pursuant to the Internal Revenue Code, as defined in section 49-801.01, including: Section 401(a)(9) of the Internal Revenue Code relating to the time and manner in which benefits are required to be distributed, including the incidental death benefit distribution requirement of section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to the specification of actuarial assumptions; section 401(a)(31) of the Internal Revenue Code relating to direct rollover distributions from eligible retirement plans; section 401(a)(37) of the Internal Revenue Code relating to the death benefit of a member whose death occurs while performing qualified military service; and section 401(a) of the Internal Revenue Code by meeting the requirements of section 414(d) of the Internal Revenue Code relating to the establishment of retirement plans for governmental employees of a state or political subdivision thereof. The board may adopt and promulgate rules and regulations necessary or appropriate to maintain such status including, but not limited to, rules or regulations which restrict discretionary or optional contributions to a plan or which limit distributions from a plan.

(3) By March 31 of each year prior to 2020, and by April 10 of each year beginning in 2020, the board shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee of the Legislature at a public hearing. The plan shall include, but not be limited to, the board's funding policy, the administrative costs and other fees associated with each fund and plan overseen by the board, member education and informational programs, the director's duties and limitations, an organizational structure of the office of the Nebraska Public Employees Retirement Systems, and the internal control structure of such office to ensure compliance with state and federal laws.

(4)(a) Beginning in 2016, and at least every four years thereafter in even-numbered years or at the request of the Nebraska Retirement Systems Committee of the Legislature, the board shall obtain an experience study. Within thirty business days after presentation of the experience study to the board, the actuary shall present the study to the Nebraska Retirement Systems Committee at a public hearing. If the board does not adopt all of the recommendations in the experience study, the board shall provide a written explanation of its decision to the Nebraska Retirement Systems Committee and the Governor.

The explanation shall be delivered within ten business days after formal action by the board to not adopt one or more of the recommendations.

(b) The director shall provide an electronic copy of the first draft and a final draft of the experience study and annual valuation reports to the Nebraska Retirement Systems Committee and the Governor when the director receives the drafts from the actuary. The drafts shall be deemed confidential information. The draft copies obtained by the Nebraska Retirement Systems Committee and the Governor pursuant to this section shall not be considered public records subject to sections 84-712 to 84-712.09.

(c) For purposes of this subsection, business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. A business day shall not include a Saturday or a Sunday or a day during which the Nebraska Public Employees Retirement Systems office is closed.

(5) It shall be the duty of the board to direct the State Treasurer to transfer funds, as an expense of the retirement system provided for under the Class V School Employees Retirement Act, to and from the Class V Retirement System Payment Processing Fund and the Class V School Employees Retirement Fund for the benefit of a retirement system provided for under the Class V School Employees Retirement Act to implement the provisions of section 79-986. The agency for the administration of this provision and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems.

(6) Pursuant to section 79-9,121, it shall be the duty of the board to carry out the work plan, file the report, and contract with, bill, and receive payment from the employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, for all services performed in the conduct, completion, and report of such work plan regarding the transfer of management of any such Class V school employees retirement system.

Source: Laws 1971, LB 987, § 3; Laws 1973, LB 216, § 3; Laws 1973, LB 498, § 10; Laws 1979, LB 416, § 3; Laws 1983, LB 70, § 1; Laws 1984, LB 751, § 13; Laws 1986, LB 311, § 40; Laws 1987, LB 549, § 14; Laws 1988, LB 1170, § 22; Laws 1991, LB 549, § 74; Laws 1992, LB 672, § 33; Laws 1994, LB 833, § 54; Laws 1994, LB 1306, § 11; Laws 1995, LB 502, § 3; Laws 1996, LB 847, § 52; Laws 1996, LB 1076, § 44; Laws 1998, LB 1191, § 78; Laws 1999, LB 849, § 33; Laws 2000, LB 1192, § 25; Laws 2001, LB 808, § 21; Laws 2002, LB 407, § 63; Laws 2003, LB 451, § 35; Laws 2005, LB 503, § 19; Laws 2011, LB474, § 14; Laws 2011, LB509, § 51; Laws 2012, LB916, § 43; Laws 2013, LB263, § 43; Laws 2014, LB1042, § 11; Laws 2015, LB40, § 16; Laws 2016, LB447, § 47; Laws 2017, LB415, § 52; Laws 2018, LB1005, § 49; Laws 2019, LB31, § 6; Laws 2019, LB33, § 8; Laws 2019, LB34, § 29.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB31, section 6, with LB33, section 8, and LB34, section 29, to reflect all amendments.

Note: Changes made by LB33 became effective March 7, 2019. Changes made by LB34 became effective April 18, 2019. Changes made by LB31 became effective May 2, 2019.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

County Employees Retirement Act, see section 23-2331.

Judges Retirement Act, see section 24-701.01.

Nebraska State Patrol Retirement Act, see section 81-2014.01.

School Employees Retirement Act, see section 79-901.

State Employees Retirement Act, see section 84-1331.

CHAPTER 85

STATE UNIVERSITY, STATE COLLEGES, AND POSTSECONDARY EDUCATION

Article.

1. University of Nebraska. 85-1,134, 85-1,136.
5. Tuition and Fees at State Educational Institutions. 85-502, 85-502.01.
14. Coordinating Commission for Postsecondary Education.
 - (a) Coordinating Commission for Postsecondary Education Act. 85-1418.
15. Community Colleges. 85-1503, 85-1509.
18. Educational Savings Plan Trust. 85-1802 to 85-1817.
20. Community College Gap Assistance Program Act. 85-2002.
27. Veteran and Active Duty Supportive Postsecondary Institution Act. 85-2701 to 85-2705.
28. Meadowlark Act. 85-2801 to 85-2805.

ARTICLE 1

UNIVERSITY OF NEBRASKA

Section

- 85-1,134. Stipends authorized.
85-1,136. Sections; when operative.

85-1,134 Stipends authorized.

Any person who competes in the sport of football for the University of Nebraska-Lincoln may be granted a stipend, the amount of which shall be determined by the university. In addition, the university may in its discretion grant a stipend to persons who compete in sports other than football which participate in Big Ten Conference competition.

Source: Laws 2003, LB 688, § 4; Laws 2019, LB102, § 1.
Effective date September 1, 2019.

Note: For the operative date for this section, see section 85-1,136.

85-1,136 Sections; when operative.

Sections 85-1,131 to 85-1,137 shall become operative whenever laws granting a similar stipend or similarly restricting hours of participation are enacted in at least four other states which have teams that compete in the Big Ten Conference or its successor.

Source: Laws 2003, LB 688, § 6; Laws 2019, LB102, § 2.
Effective date September 1, 2019.

ARTICLE 5

TUITION AND FEES AT STATE EDUCATIONAL INSTITUTIONS

Section

- 85-502. State postsecondary educational institution; residence requirements.
85-502.01. Public college or university; veteran; spouse or dependent of veteran; eligible recipient under federal law; person entitled to rehabilitation under federal law; resident student; requirements.

85-502 State postsecondary educational institution; residence requirements.

Rules and regulations established by the governing board of each state postsecondary educational institution shall require as a minimum that a person is not deemed to have established a residence in this state, for purposes of sections 85-501 to 85-504, unless:

(1) Such person is of legal age or is an emancipated minor and has established a home in Nebraska where he or she is habitually present for a minimum period of one hundred eighty days, with the bona fide intention of making this state his or her permanent residence, supported by documentary proof;

(2) The parents, parent, or guardian having custody of a minor registering in the educational institution have established a home in Nebraska where such parents, parent, or guardian are or is habitually present with the bona fide intention to make this state their, his, or her permanent residence, supported by documentary proof. If a student has matriculated in any state postsecondary educational institution while his or her parents, parent, or guardian had an established home in this state, and the parents, parent, or guardian ceases to reside in the state, such student shall not thereby lose his or her resident status if such student has the bona fide intention to make this state his or her permanent residence, supported by documentary proof;

(3) Such student is of legal age and is a dependent for federal income tax purposes of a parent or former guardian who has established a home in Nebraska where he or she is habitually present with the bona fide intention of making this state his or her permanent residence, supported by documentary proof;

(4) Such student is a nonresident of this state prior to marriage and marries a person who has established a home in Nebraska where he or she is habitually present with the bona fide intention of making this state his or her permanent residence, supported by documentary proof;

(5) Except as provided in subdivision (9) of this section, such student, if an alien, has applied to or has a petition pending with the United States Immigration and Naturalization Service to attain lawful status under federal immigration law and has established a home in Nebraska for a period of at least one hundred eighty days where he or she is habitually present with the bona fide intention to make this state his or her permanent residence, supported by documentary proof;

(6) Such student is a staff member or a dependent of a staff member of the University of Nebraska, one of the Nebraska state colleges, or one of the community college areas who joins the staff immediately prior to the beginning of a term from an out-of-state location;

(7)(a) Such student is on active duty with the armed services of the United States and has been assigned a permanent duty station in Nebraska; or

(b) Such student is a spouse or legal dependent of a person who was on active duty with the armed services of the United States assigned to a permanent duty station in Nebraska at the time such student was accepted for admission to the state postsecondary educational institution and such student remains continually enrolled at such state postsecondary educational institution;

(8) Such student is currently serving in the Nebraska National Guard; or

(9)(a) Such student resided with his or her parent, guardian, or conservator while attending a public or private high school in this state and:

(i) Graduated from a public or private high school in this state or received the equivalent of a high school diploma in this state;

(ii) Resided in this state for at least three years before the date the student graduated from the high school or received the equivalent of a high school diploma;

(iii) Registered as an entering student in a state postsecondary educational institution not earlier than the 2006 fall semester; and

(iv) Provided to the state postsecondary educational institution an affidavit stating that he or she will file an application to become a permanent resident at the earliest opportunity he or she is eligible to do so.

(b) If the parent, guardian, or conservator with whom the student resided ceases to reside in the state, such student shall not lose his or her resident status under this subdivision if the student has the bona fide intention to make this state his or her permanent residence, supported by documentary proof.

Source: Laws 1923, c. 57, § 4, p. 179; C.S.1929, § 85-504; R.S.1943, § 85-502; Laws 1951, c. 348, § 1, p. 1137; Laws 1961, c. 458, § 1, p. 1397; Laws 1965, c. 582, § 1, p. 1877; Laws 1971, LB 408, § 1; Laws 1980, LB 304, § 2; Laws 1982, LB 796, § 1; Laws 2006, LB 239, § 1; Laws 2016, LB734, § 1; Laws 2019, LB6, § 1.

Effective date September 1, 2019.

85-502.01 Public college or university; veteran; spouse or dependent of veteran; eligible recipient under federal law; person entitled to rehabilitation under federal law; resident student; requirements.

(1) A person who enrolls in a public college or university in this state and who is (a) a veteran as defined in Title 38 of the United States Code and was discharged or released from a period of not fewer than ninety days of service in the active military, naval, or air service less than three years before the date of initial enrollment, (b) a spouse or dependent of such a veteran, (c) an eligible recipient entitled to educational assistance as provided in 38 U.S.C. 3319 while the transferor is on active duty in the uniformed services or as provided in 38 U.S.C. 3311(b)(9), as such sections existed on January 1, 2019, or (d) entitled to rehabilitation pursuant to 38 U.S.C. 3102(a), as such section existed on January 1, 2019, shall be considered a resident student notwithstanding the provisions of section 85-502 if the person is registered to vote in Nebraska and demonstrates objective evidence of intent to be a resident of Nebraska, except that a person who is under eighteen years of age is not required to register to vote in Nebraska.

(2) For purposes of this section, objective evidence of intent to be a resident of Nebraska includes a Nebraska driver's license, a Nebraska state identification card, a Nebraska motor vehicle registration, or documentation that the individual is registered to vote in Nebraska.

Source: Laws 2014, LB740, § 1; Laws 2015, LB109, § 1; Laws 2017, LB512, § 24; Laws 2019, LB122, § 1.

Effective date March 8, 2019.

ARTICLE 14**COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION****(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT**

Section

85-1418. Program or capital construction project; state funds; restrictions on use; district court of Lancaster County; jurisdiction; appeals; procedure.

(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT**85-1418 Program or capital construction project; state funds; restrictions on use; district court of Lancaster County; jurisdiction; appeals; procedure.**

(1) No state warrant shall be issued by the Department of Administrative Services or used by any public institution for the purpose of funding any program or capital construction project which has not been approved or which has been disapproved by the commission pursuant to the Coordinating Commission for Postsecondary Education Act. If state funding for any such program or project cannot be or is not divided into warrants separate from other programs or projects, the department shall reduce a warrant to the public institution which includes funding for the program or project by the amount of tax funds designated by the Legislature which are budgeted in that fiscal year by the public institution for use for the program or project.

(2) The district court of Lancaster County shall have jurisdiction to enforce an order or decision of the commission entered pursuant to the Coordinating Commission for Postsecondary Education Act and to enforce this section.

(3) Any person or public institution aggrieved by a final order of the commission entered pursuant to section 85-1413, 85-1414, or 85-1416 shall be entitled to judicial review of the order. Proceedings for review shall be instituted by filing a petition in the district court of Lancaster County within thirty days after public notice of the final decision by the commission is given. The filing of the petition or the service of summons upon the commission shall not stay enforcement of such order. The review shall be conducted by the court without a jury on the record of the commission. The court shall have jurisdiction to enjoin enforcement of any order of the commission which is (a) in violation of constitutional provisions, (b) in excess of the constitutional or statutory authority of the commission, (c) made upon unlawful procedure, or (d) affected by other error of law.

(4) A party may secure a review of any final judgment of the district court by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals in civil cases and shall be heard de novo on the record.

Source: Laws 1991, LB 663, § 21; Laws 1992, LB 360, § 40; Laws 1993, LB 239, § 22; Laws 2007, LB342, § 39; Laws 2010, LB1072, § 5; Laws 2011, LB59, § 4; Laws 2012, LB946, § 14; Laws 2013, LB211, § 2; Laws 2014, LB546, § 6; Laws 2019, LB3, § 2. Effective date September 1, 2019.

ARTICLE 15
COMMUNITY COLLEGES

Section

85-1503. Terms, defined.

85-1509. Board; members; expenses; insurance coverage.

85-1503 Terms, defined.

For purposes of sections 85-1501 to 85-1540, unless the context otherwise requires:

(1) Community college means an educational institution operating and offering programs pursuant to such sections;

(2) Community college area means an area established by section 85-1504;

(3) Board means the Community College Board of Governors for each community college area;

(4) Full-time equivalent student means, in the aggregate, the equivalent of a registered student who in a twelve-month period is enrolled in (a) thirty semester credit hours or forty-five quarter credit hours of classroom, laboratory, clinical, practicum, or independent study course work or cooperative work experience or (b) nine hundred contact hours of classroom or laboratory course work for which credit hours are not offered or awarded. Avocational and recreational community service programs or courses are not included in determining full-time equivalent students or student enrollment. The number of credit and contact hours to be counted by any community college area in which a tribally controlled community college is located shall include credit and contact hours awarded by such tribally controlled community college to students for which such institution received no federal reimbursement pursuant to the federal Tribally Controlled Colleges and Universities Assistance Act of 1978, 25 U.S.C. 1801 et seq.;

(5) Contact hour means an educational activity consisting of sixty minutes minus break time and required time to change classes;

(6) Credit hour means the unit used to ascertain the educational value of course work offered by the institution to students enrolling for such course work, earned by such students upon successful completion of such course work, and for which tuition is charged. A credit hour may be offered and earned in any of several instructional delivery systems, including, but not limited to, classroom hours, laboratory hours, clinical hours, practicum hours, cooperative work experience, and independent study. A credit hour shall consist of a minimum of: (a) Ten quarter or fifteen semester classroom contact hours per term of enrollment; (b) twenty quarter or thirty semester academic transfer and academic support laboratory hours per term of enrollment; (c) thirty quarter or forty-five semester vocational laboratory hours per term of enrollment; (d) thirty quarter or forty-five semester clinical or practicum contact hours per term of enrollment; or (e) forty quarter or sixty semester cooperative work experience contact hours per term of enrollment. An institution may include in a credit hour more classroom, laboratory, clinical, practicum, or cooperative work experience hours than the minimum required in this subdivision. The institution shall publish in its catalog, or otherwise make known to the student in writing prior to the student enrolling or paying tuition for any courses, the number of credit or contact hours offered in each such course. Such published

credit or contact hour offerings shall be used to determine whether a student is a full-time equivalent student pursuant to subdivision (4) of this section;

(7) Classroom hour means a minimum of fifty minutes of formalized instruction on campus or off campus in which a qualified instructor applying any combination of instructional methods such as lecture, directed discussion, demonstration, or the presentation of audiovisual materials is responsible for providing an educational experience to students;

(8) Laboratory hour means a minimum of fifty minutes of educational activity on campus or off campus in which students conduct experiments, perfect skills, or practice procedures under the direction of a qualified instructor;

(9) Clinical hour means a minimum of fifty minutes of educational activity on campus or off campus during which the student is assigned practical experience under constant supervision at a health-related agency, receives individual instruction in the performance of a particular function, and is observed and critiqued in the repeat performance of such function. Adjunct professional personnel, who may or may not be paid by the college, may be used for the directed supervision of students and for the delivery of part of the didactic phase of the experience;

(10) Practicum hour means a minimum of fifty minutes of educational activity on campus or off campus during which the student is assigned practical experiences, receives individual instruction in the performance of a particular function, and is observed and critiqued by an instructor in the repeat performance of such function. Adjunct professional personnel, who may or may not be paid by the college, may be used for the directed supervision of the students;

(11) Cooperative work experience means an internship or on-the-job training, designed to provide specialized skills and educational experiences, which is coordinated, supervised, observed, and evaluated by qualified college staff or faculty and may be completed on campus or off campus, depending on the nature of the arrangement;

(12) Independent study means an arrangement between an instructor and a student in which the instructor is responsible for assigning work activity or skill objectives to the student, personally providing needed instruction, assessing the student's progress, and assigning a final grade. Credit hours shall be assigned according to the practice of assigning credits in similar courses;

(13) Full-time equivalent student enrollment total means the total of full-time equivalent students enrolled in a community college in any fiscal year;

(14) General academic transfer course means a course offering in a one-year or two-year degree-credit program, at the associate degree level or below, intended by the offering institution for transfer into a baccalaureate program. The completion of the specified courses in a general academic transfer program may include the award of a formal degree;

(15) Applied technology or occupational course means a course offering in an instructional program, at the associate degree level or below, intended to prepare individuals for immediate entry into a specific occupation or career. The primary intent of the institutions offering an applied technology or occupational program shall be that such program is for immediate job entry. The completion of the specified courses in an applied technology or occupational program may include the award of a formal degree, diploma, or certificate;

(16) Academic support course means a general education academic course offering which may be necessary to support an applied technology or occupational program;

(17) Class 1 course means an applied technology or occupational course offering which requires the use of equipment, facilities, or instructional methods easily adaptable for use in a general academic transfer program classroom or laboratory;

(18) Class 2 course means an applied technology or occupational course offering which requires the use of specialized equipment, facilities, or instructional methods not easily adaptable for use in a general academic transfer program classroom or laboratory;

(19) Reimbursable educational unit means a full-time equivalent student multiplied by (a) for a general academic transfer course or an academic support course, a factor of one, (b) for a Class 1 course, a factor of one and fifty-hundredths, (c) for a Class 2 course, a factor of two, (d) for a tribally controlled community college general academic transfer course or academic support course, a factor of two, (e) for a tribally controlled community college Class 1 course, a factor of three, and (f) for a tribally controlled community college Class 2 course, a factor of four;

(20) Reimbursable educational unit total means the total of all reimbursable educational units accumulated in a community college area in any fiscal year;

(21) Special instructional term means any term which is less than fifteen weeks for community colleges using semesters or ten weeks for community colleges using quarters;

(22) Statewide reimbursable full-time equivalent total means the total of all reimbursable full-time equivalents accumulated statewide for the community college in any fiscal year;

(23) Tribally controlled community college means an educational institution operating and offering programs pursuant to the federal Tribally Controlled Colleges and Universities Assistance Act of 1978, 25 U.S.C. 1801 et seq.; and

(24) Tribally controlled community college state aid amount means the quotient of the amount of state aid to be distributed pursuant to subdivisions (1) and (3) of section 85-2234 for such fiscal year to a community college area in which a tribally controlled community college is located divided by the reimbursable educational unit total for such community college area for the fiscal year immediately preceding the fiscal year for which aid is being calculated, with such quotient then multiplied by the reimbursable educational units derived from credit and contact hours awarded by a tribally controlled community college to students for which such institution received no federal reimbursement pursuant to the federal Tribally Controlled Colleges and Universities Assistance Act of 1978, 25 U.S.C. 1801 et seq., for the fiscal year immediately preceding the fiscal year for which aid is being calculated.

Source: Laws 1975, LB 344, § 2; Laws 1977, LB 459, § 10; Laws 1979, LB 363, § 1; Laws 1984, LB 890, § 1; Laws 1987, LB 329, § 1; Laws 1988, LB 802, § 30; Laws 1991, LB 663, § 45; Laws 1992, LB 921, § 1; R.S.Supp.,1992, § 79-2637; Laws 1993, LB 239, § 25; Laws 1995, LB 241, § 1; Laws 1997, LB 269, § 68; Laws 1999, LB 67, § 1; Laws 2005, LB 38, § 3; Laws 2007, LB342, § 40; Laws 2010, LB1072, § 7; Laws 2011, LB59, § 5; Laws

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2012, LB946, § 16; Laws 2015, LB100, § 1; Laws 2019, LB3, § 3.

Effective date September 1, 2019.

85-1509 Board; members; expenses; insurance coverage.

(1) Members of a board shall not receive a per diem. The board may reimburse members for their actual and necessary expenses incurred while carrying out their duties. Mileage expenses shall be computed at the rate provided in section 81-1176. Sections 81-1174, 81-1175, and 81-1177 shall serve as guidelines for the board when determining allowable expenses and reimbursement for such expenses.

(2) A board may permit its members to participate in any hospitalization, medical, surgical, accident, sickness, or term life insurance coverage offered to the employees of such community college area. A board member electing to participate in any such insurance coverage shall pay both the employee and the employer portions of the premium for such insurance coverage. A board which opts to permit its members to participate in insurance coverage pursuant to this subsection shall report quarterly at a meeting of the board a list of the board members who have elected to participate in such insurance coverage. The list shall be made available in the office of the board for review by the public upon request.

Source: Laws 1993, LB 239, § 31; Laws 2019, LB256, § 1.

Effective date March 13, 2019.

ARTICLE 18

EDUCATIONAL SAVINGS PLAN TRUST

Section

85-1802. Terms, defined.

85-1804. Nebraska educational savings plan trust; created; State Treasurer; Nebraska Investment Council; powers and duties.

85-1806. Participation agreements; terms and conditions.

85-1807. Deposit of funds; College Savings Plan Program Fund; College Savings Plan Administrative Fund; College Savings Plan Expense Fund; created; use; investment; State Treasurer; report.

85-1809. Ownership rights under participation agreement.

85-1813. Assets of trust; how treated.

85-1815. College Savings Incentive Cash Fund; created; use; investment.

85-1816. Employer Matching Contribution Incentive Program; created; purpose; employer; application; State Treasurer; powers and duties.

85-1817. College Savings Plan Low-Income Matching Scholarship Program; established; participation; eligibility; application; State Treasurer; duties.

85-1802 Terms, defined.

For purposes of sections 85-1801 to 85-1817:

(1) Administrative fund means the College Savings Plan Administrative Fund created in section 85-1807;

(2) Beneficiary means the individual designated by a participation agreement to benefit from advance payments of qualified higher education expenses on behalf of the beneficiary;

(3) Benefits means the payment of qualified higher education expenses on behalf of a beneficiary by the Nebraska educational savings plan trust during the beneficiary's attendance at an eligible educational institution;

(4) Eligible educational institution means an institution described in 20 U.S.C. 1088 which is eligible to participate in a program under Title IV of the federal Higher Education Act of 1965;

(5) Expense fund means the College Savings Plan Expense Fund created in section 85-1807;

(6) Nebraska educational savings plan trust means the trust created in section 85-1804;

(7) Nonqualified withdrawal refers to (a) a distribution from an account to the extent it is not used to pay the qualified higher education expenses of the beneficiary, (b) a qualified rollover permitted by section 529 of the Internal Revenue Code where the funds are transferred to a qualified tuition program sponsored by another state or entity, or (c) a distribution from an account to pay the costs of attending kindergarten through grade twelve;

(8) Participant or account owner means an individual, an individual's legal representative, or any other legal entity authorized to establish a savings account under section 529 of the Internal Revenue Code who has entered into a participation agreement for the advance payment of qualified higher education expenses on behalf of a beneficiary. For purposes of section 77-2716, as to contributions by a custodian to a custodial account established pursuant to the Nebraska Uniform Transfers to Minors Act or similar law in another state, which account has been established under a participation agreement, participant includes the parent or guardian of a minor, which parent or guardian is also the custodian of the account;

(9) Participation agreement means an agreement between a participant and the Nebraska educational savings plan trust entered into under sections 85-1801 to 85-1817;

(10) Program fund means the College Savings Plan Program Fund created in section 85-1807;

(11) Qualified higher education expenses means the certified costs of tuition and fees, books, supplies, and equipment required for enrollment or attendance at an eligible educational institution. Reasonable room and board expenses, based on the minimum amount applicable for the eligible educational institution during the period of enrollment, shall be included as qualified higher education expenses for those students enrolled on at least a half-time basis. In the case of a special needs beneficiary, expenses for special needs services incurred in connection with enrollment or attendance at an eligible educational institution shall be included as qualified higher education expenses. Expenses paid or incurred in 2009 or 2010 for the purchase of computer technology or equipment or Internet access and related services, subject to the limitations set forth in section 529 of the Internal Revenue Code, shall be included as qualified higher education expenses. Qualified higher education expenses does not include any amounts in excess of those allowed by section 529 of the Internal Revenue Code;

(12) Section 529 of the Internal Revenue Code means such section of the code and the regulations interpreting such section; and

(13) Tuition and fees means the quarter or semester charges imposed to attend an eligible educational institution.

Source: Laws 2000, LB 1003, § 2; Laws 2001, LB 750, § 1; Laws 2010, LB197, § 3; Laws 2012, LB1104, § 4; Laws 2013, LB296, § 2; Laws 2019, LB610, § 8.

Effective date September 1, 2019.

Cross References

Nebraska Uniform Transfers to Minors Act, see section 43-2701.

85-1804 Nebraska educational savings plan trust; created; State Treasurer; Nebraska Investment Council; powers and duties.

The Nebraska educational savings plan trust is created. The State Treasurer is the trustee of the trust and as such is responsible for the administration, operation, and maintenance of the program and has all powers necessary to carry out and effectuate the purposes, objectives, and provisions of sections 85-1801 to 85-1817 pertaining to the administration, operation, and maintenance of the trust and program, except that the state investment officer shall have fiduciary responsibility to make all decisions regarding the investment of the money in the administrative fund, expense fund, and program fund, including the selection of all investment options and the approval of all fees and other costs charged to trust assets except costs for administration, operation, and maintenance of the trust as appropriated by the Legislature, pursuant to the directions, guidelines, and policies established by the Nebraska Investment Council. The State Treasurer may adopt and promulgate rules and regulations to provide for the efficient administration, operation, and maintenance of the trust and program. The State Treasurer shall not adopt and promulgate rules and regulations that in any way interfere with the fiduciary responsibility of the state investment officer to make all decisions regarding the investment of money in the administrative fund, expense fund, and program fund. The State Treasurer or his or her designee shall have the power to:

(1) Enter into agreements with any eligible educational institution, the state, any federal or other state agency, or any other entity to implement sections 85-1801 to 85-1817, except agreements which pertain to the investment of money in the administrative fund, expense fund, or program fund;

(2) Carry out the duties and obligations of the trust;

(3) Carry out studies and projections to advise participants regarding present and estimated future qualified higher education expenses and levels of financial participation in the trust required in order to enable participants to achieve their educational funding objectives;

(4) Participate in any federal, state, or local governmental program for the benefit of the trust;

(5) Procure insurance against any loss in connection with the property, assets, or activities of the trust as provided in section 81-8,239.01;

(6) Enter into participation agreements with participants;

(7) Make payments to eligible educational institutions pursuant to participation agreements on behalf of beneficiaries;

(8) Make distributions to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in sections 85-1801 to 85-1817;

(9) Contract for goods and services and engage personnel as necessary, including consultants, actuaries, managers, legal counsels, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice regarding trust administration and operation, except contracts which pertain to the investment of the administrative, expense, or program funds; and

(10) Establish, impose, and collect administrative fees and charges in connection with transactions of the trust, and provide for reasonable service charges, including penalties for cancellations and late payments with respect to participation agreements.

The Nebraska Investment Council may adopt and promulgate rules and regulations to provide for the prudent investment of the assets of the trust. The council or its designee also has the authority to select and enter into agreements with individuals and entities to provide investment advice and management of the assets held by the trust, establish investment guidelines, objectives, and performance standards with respect to the assets held by the trust, and approve any fees, commissions, and expenses, which directly or indirectly affect the return on assets.

Source: Laws 2000, LB 1003, § 4; Laws 2001, LB 750, § 2; Laws 2003, LB 574, § 28; Laws 2010, LB197, § 4; Laws 2012, LB1104, § 5; Laws 2019, LB610, § 9.
Effective date September 1, 2019.

85-1806 Participation agreements; terms and conditions.

The Nebraska educational savings plan trust may enter into participation agreements with participants on behalf of beneficiaries pursuant to the following terms and conditions:

(1) A participation agreement shall authorize a participant to make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of a beneficiary as allowed by section 529 of the Internal Revenue Code. A participant shall not be required to make an annual contribution on behalf of a beneficiary, shall not be subject to minimum contribution requirements, and shall not be required to maintain a minimum account balance. The maximum contribution shall not exceed the amount allowed under section 529 of the Internal Revenue Code. The State Treasurer may set a maximum cumulative contribution, as necessary, to maintain compliance with section 529 of the Internal Revenue Code. Participation agreements may be amended to provide for adjusted levels of contributions based upon changed circumstances or changes in educational plans or to ensure compliance with section 529 of the Internal Revenue Code or any other applicable laws and regulations;

(2) Beneficiaries designated in participation agreements shall meet the requirements established by the trustee and section 529 of the Internal Revenue Code;

(3) Payment of benefits provided under participation agreements shall be made in a manner consistent with section 529 of the Internal Revenue Code;

(4) The execution of a participation agreement by the trust shall not guarantee in any way that qualified higher education expenses will be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will (a) be admitted to an eligible educational institution, (b) if admitted, be determined a resident for tuition purposes by the eligible educational institution, (c) be allowed to continue attendance at the eligible educational institution following admission, or (d) graduate from the eligible educational institution;

(5) A beneficiary under a participation agreement may be changed as permitted under the rules and regulations adopted under sections 85-1801 to 85-1817 and consistent with section 529 of the Internal Revenue Code upon written request of the participant as long as the substitute beneficiary is eligible for participation. Participation agreements may otherwise be freely amended throughout their term in order to enable participants to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters as authorized by rule and regulation; and

(6) Each participation agreement shall provide that the participation agreement may be canceled upon the terms and conditions and upon payment of applicable fees and costs set forth and contained in the rules and regulations.

Source: Laws 2000, LB 1003, § 6; Laws 2001, LB 750, § 3; Laws 2012, LB1104, § 6; Laws 2019, LB610, § 10.
Effective date September 1, 2019.

85-1807 Deposit of funds; College Savings Plan Program Fund; College Savings Plan Administrative Fund; College Savings Plan Expense Fund; created; use; investment; State Treasurer; report.

(1) The State Treasurer shall deposit money received by the Nebraska educational savings plan trust into three funds: The College Savings Plan Program Fund, the College Savings Plan Expense Fund, and the College Savings Plan Administrative Fund. The State Treasurer shall deposit money received by the trust into the appropriate fund. The State Treasurer and Accounting Administrator of the Department of Administrative Services shall determine the state fund types necessary to comply with section 529 of the Internal Revenue Code and state policy. The money in the funds shall be invested by the state investment officer pursuant to policies established by the Nebraska Investment Council. The program fund, the expense fund, and the administrative fund shall be separately administered. The Nebraska educational savings plan trust shall be operated with no General Fund appropriations.

(2) The College Savings Plan Program Fund is created. All money paid by participants in connection with participation agreements and all investment income earned on such money shall be deposited as received into separate accounts within the program fund. Contributions to the trust made by participants may only be made in the form of cash. All funds generated in connection with participation agreements shall be deposited into the appropriate accounts within the program fund. A participant or beneficiary shall not provide investment direction regarding program contributions or earnings held by the trust. Money accrued by participants in the program fund may be used for payments to any eligible educational institution. Any money in the program fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) The College Savings Plan Administrative Fund is created. Money from the trust transferred from the expense fund to the administrative fund in an amount authorized by an appropriation from the Legislature shall be utilized to pay for the costs of administering, operating, and maintaining the trust, to the extent permitted by section 529 of the Internal Revenue Code. The administrative fund shall not be credited with any money other than money transferred from the expense fund in an amount authorized by an appropriation by the Legislature or any interest income earned on the balances held in the administrative fund.

Any money in the administrative fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4)(a) The College Savings Plan Expense Fund is created. The expense fund shall be funded with fees assessed to the program fund. The State Treasurer shall use the expense fund:

(i) To pay costs associated with the Nebraska educational savings plan trust;

(ii) For the purposes described in the Meadowlark Act; and

(iii) To transfer from the expense fund to the State Investment Officer's Cash Fund an amount equal to the pro rata share of the budget appropriated to the Nebraska Investment Council as permitted in section 72-1249.02, to cover reasonable expenses incurred for investment management of the Nebraska educational savings plan trust. Annually and prior to such transfer to the State Investment Officer's Cash Fund, the State Treasurer shall report to the budget division of the Department of Administrative Services and to the Legislative Fiscal Analyst the amounts transferred during the previous fiscal year. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically.

(b) Any money in the expense fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2000, LB 1003, § 7; Laws 2003, LB 574, § 29; Laws 2010, LB197, § 5; Laws 2012, LB782, § 240; Laws 2012, LB1104, § 7; Laws 2019, LB52, § 2; Laws 2019, LB610, § 11.
Effective date September 1, 2019.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB52, section 2, with LB610, section 11, to reflect all amendments.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

85-1809 Ownership rights under participation agreement.

(1) A participant retains ownership of all contributions made under a participation agreement up to the date of utilization for payment of qualified higher education expenses for the beneficiary. Notwithstanding any other provision of law, any amount credited to any account is not susceptible to any levy, execution, judgment, or other operation of law, garnishment, or other judicial enforcement, and the amount is not an asset or property of either the participant or the beneficiary for the purposes of any state insolvency or inheritance tax laws. All income derived from the investment of the contributions made by the participant shall be considered to be held in trust for the benefit of the beneficiary.

(2) If the program created by sections 85-1801 to 85-1817 is terminated prior to payment of qualified higher education expenses for the beneficiary, the participant is entitled to receive the fair market value of the account established in the program.

(3) If the beneficiary graduates from an eligible educational institution and a balance remains in the participant's account, any remaining funds may be transferred as allowed by rule or regulation, subject to the provisions of section

529 of the Internal Revenue Code, as well as any other applicable state or federal laws or regulations.

(4) The eligible educational institution shall obtain ownership of the payments made for the qualified higher education expenses paid to the institution at the time each payment is made to the institution.

(5) Any amounts which may be paid to any person or persons pursuant to the Nebraska educational savings plan trust but which are not listed in this section are owned by the trust.

(6) A participant may transfer ownership rights to another eligible participant, including a gift of the ownership rights to a minor beneficiary. The transfer shall be made and the property distributed in accordance with the rules and regulations or with the terms of the participation agreement.

(7) A participant shall not be entitled to utilize any interest in the Nebraska educational savings plan trust as security for a loan.

(8) The Nebraska educational savings plan trust may accept transfers of cash investments from a custodian under the Nebraska Uniform Transfers to Minors Act or any other similar laws under the terms and conditions established by the trustee.

(9) A participant may designate a successor account owner to succeed to all of the participant's rights, title, and interest in an account, including the right to change the account beneficiary, upon the death or legal incapacity of the participant. If a participant dies or becomes legally incapacitated and has failed to name a successor account owner, the account beneficiary shall become the account owner.

(10) Upon the death of a beneficiary, the participant may change the beneficiary on the account, transfer assets to another beneficiary who is a member of the family of the former beneficiary, or request a nonqualified withdrawal.

Source: Laws 2000, LB 1003, § 9; Laws 2001, LB 750, § 5; Laws 2003, LB 574, § 31; Laws 2012, LB1104, § 9; Laws 2013, LB296, § 3; Laws 2019, LB610, § 12.

Effective date September 1, 2019.

Cross References

Nebraska Uniform Transfers to Minors Act, see section 43-2701.

85-1813 Assets of trust; how treated.

The assets of the Nebraska educational savings plan trust, including the program fund and excluding the administrative fund and the expense fund, shall at all times be preserved, invested, and expended solely and only for the purposes of the trust and shall be held in trust for the participants and beneficiaries. No property rights in the trust shall exist in favor of the state. Assets of the trust, including the program fund, the administrative fund, and the expense fund, shall not be transferred or used by the state for any purposes other than the purposes of the trust.

Source: Laws 2000, LB 1003, § 13; Laws 2010, LB197, § 7; Laws 2019, LB52, § 3.

Effective date September 1, 2019.

85-1815 College Savings Incentive Cash Fund; created; use; investment.

(1) The College Savings Incentive Cash Fund is created. The fund shall be administered by the State Treasurer and shall be used to provide incentive payments under the Employer Matching Contribution Incentive Program established in section 85-1816 and to provide matching scholarships under the College Savings Plan Low-Income Matching Scholarship Program established in section 85-1817. The State Treasurer shall accept contributions from any private individual or private entity and shall credit all such contributions received to the College Savings Incentive Cash Fund for the purpose of providing an ongoing source of funding for the College Savings Plan Low-Income Matching Scholarship Program. The matching contributions for which incentive payments are made under the Employer Matching Contribution Incentive Program and the matching scholarships provided under the College Savings Plan Low-Income Matching Scholarship Program shall not be used to pay expenses associated with attending kindergarten through grade twelve.

(2) The College Savings Incentive Cash Fund shall not be considered an asset of the Nebraska educational savings plan trust.

(3) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2019, LB610, § 13.

Effective date September 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

85-1816 Employer Matching Contribution Incentive Program; created; purpose; employer; application; State Treasurer; powers and duties.

(1) The Employer Matching Contribution Incentive Program is created. The program shall begin on January 1, 2022, and shall be implemented and administered by the State Treasurer. The purpose of the program is to encourage employers to make matching contributions by providing incentive payments for such contributions.

(2) For purposes of this section:

(a) Employer means any individual, partnership, limited liability company, association, corporation, business trust, legal representative, or organized group of persons employing one or more employees at any one time, but such term does not include the United States, the state, or any political subdivision thereof; and

(b) Matching contribution means a contribution made by an employer to an account established under the Nebraska educational savings plan trust in an amount matching all or part of a contribution made to that same account by an individual who resided in the State of Nebraska during the most recently completed taxable year and is an employee of such employer.

(3) Beginning January 1, 2022, an employer shall be eligible to receive an incentive payment under this section if the employer made matching contributions during the immediately preceding calendar year.

(4) In order to receive an incentive payment under this section, an employer shall submit an application to the State Treasurer on forms prescribed by the

State Treasurer. The State Treasurer shall accept applications from January 1 to June 1 of each year beginning in 2022. The application shall include:

(a) The number of employees for whom matching contributions were made in the immediately preceding calendar year;

(b) The amount of the matching contributions made in the immediately preceding calendar year for each employee; and

(c) Any other information required by the State Treasurer.

(5) If the State Treasurer determines that the employer qualifies for an incentive payment under this section, the State Treasurer shall approve the application and shall notify the employer of the approval. The State Treasurer may approve applications until the annual limit provided in subsection (6) of this section has been reached. An employer whose application is approved shall receive an incentive payment equal to twenty-five percent of the total matching contributions made during the immediately preceding calendar year, not to exceed two thousand dollars per contributing employee per year. An employer shall not receive an incentive payment for a matching contribution if the employer claimed an income tax deduction pursuant to subdivision (8)(b) of section 77-2716 for such matching contribution. Employers shall be limited to one incentive payment per beneficiary. The matching contributions for which incentive payments are made shall not be used to pay expenses associated with attending kindergarten through grade twelve.

(6) The State Treasurer may approve a total of two hundred fifty thousand dollars of incentive payments each calendar year.

(7) On or before June 30, 2022, and on or before June 30 of each year thereafter, the State Treasurer shall determine the total amount of incentive payments approved for the year, shall transfer such amount from the College Savings Plan Expense Fund or the Unclaimed Property Escheat Trust Fund, as determined by the State Treasurer, to the College Savings Incentive Cash Fund, and shall distribute such incentive payments to the approved employers.

(8) The State Treasurer may adopt and promulgate rules and regulations to carry out the Employer Matching Contribution Incentive Program.

Source: Laws 2019, LB610, § 14.

Effective date September 1, 2019.

85-1817 College Savings Plan Low-Income Matching Scholarship Program; established; participation; eligibility; application; State Treasurer; duties.

(1) Beginning January 1, 2022, there is hereby established the College Savings Plan Low-Income Matching Scholarship Program. The purpose of the program is to encourage private contributions to accounts established under the Nebraska educational savings plan trust for the benefit of individuals with limited means. The State Treasurer shall implement and administer the program.

(2) A participant shall be eligible for the program if the beneficiary for whom private contributions are made is part of a family whose household income for the most recently completed taxable year is not more than two hundred fifty percent of the federal poverty level and the beneficiary is a resident of the State of Nebraska.

(3) Applications for participation in the program shall be submitted to the State Treasurer on forms prescribed by the State Treasurer. If the requirements

of subsection (2) of this section are met, the State Treasurer shall approve the application and notify the applicant of the approval. The State Treasurer may approve applications until the annual limit provided in subsection (7) of this section has been reached.

(4) Any participant who is approved for the program under subsection (3) of this section must resubmit an application each year thereafter and be reapproved in order to continue participation in the program.

(5) If a participant is approved for the program, any contribution made by such participant under the program shall be matched with scholarship funds provided by the State of Nebraska. The matching scholarship shall be equal to:

(a) One hundred percent of the participant's contribution if the beneficiary for whom the contribution is made is part of a family whose household income for the most recently completed taxable year is more than two hundred percent of the federal poverty level but not more than two hundred fifty percent of the federal poverty level, not to exceed one thousand dollars annually; or

(b) Two hundred percent of the participant's contribution if the beneficiary for whom the contribution is made is part of a family whose household income for the most recently completed taxable year is not more than two hundred percent of the federal poverty level, not to exceed one thousand dollars annually.

(6) Between January 1 and January 31 of each year, the State Treasurer shall transfer the amount necessary to meet the matching obligations of this section for the preceding calendar year, minus the amount of any private contributions received pursuant to subsection (1) of section 85-1815 during the preceding calendar year, from the College Savings Plan Expense Fund or the Unclaimed Property Escheat Trust Fund, as determined by the State Treasurer, to the College Savings Incentive Cash Fund. The State Treasurer shall transfer from the College Savings Incentive Cash Fund to the College Savings Plan Program Fund the amount necessary to meet the matching obligations of this section for the preceding calendar year. The Nebraska educational savings plan trust shall own all scholarships awarded under this section. Neither the participant nor the beneficiary shall have any ownership rights to or interest in, title to, or power or control over such scholarships. Scholarship funds disbursed shall only be used to pay the qualified higher education expenses associated with attending an eligible educational institution located in this state and shall not be used to pay expenses associated with attending kindergarten through grade twelve. Any disbursement of such scholarships shall be made before the beneficiary reaches thirty years of age. Once the beneficiary reaches thirty years of age, any unused scholarship funds shall be transferred to the Meadowlark Endowment Fund.

(7) The State Treasurer may approve a total of two hundred fifty thousand dollars of scholarships each calendar year under the College Savings Plan Low-Income Matching Scholarship Program.

Source: Laws 2019, LB610, § 15.

Effective date September 1, 2019.

ARTICLE 20

COMMUNITY COLLEGE GAP ASSISTANCE PROGRAM ACT

Section

85-2002. Terms, defined.

85-2002 Terms, defined.

For purposes of the Community College Gap Assistance Program Act:

(1) Committee means the Nebraska Community College Student Performance and Occupational Education Grant Committee;

(2) Community college gap assistance program means the program created pursuant to section 85-2003;

(3) Eligible program means a program offered by a community college that (a) either (i) is not offered for credit and has a duration of not less than sixteen contact hours in length or (ii) is offered for credit but is of insufficient clock, semester, or quarter hours to be eligible for Federal Pell Grants, (b) is aligned with training programs with stackable credentials that lead to a program awarding college credit, an associate's degree, a diploma, or a certificate in an in-demand occupation, and (c) does any of the following:

- (i) Offers a state, national, or locally recognized certificate;
- (ii) Offers preparation for a professional examination or licensure;
- (iii) Provides endorsement for an existing credential or license;
- (iv) Represents recognized skill standards defined by an industrial sector; or
- (v) Offers a similar credential or training; and

(4) In-demand occupation means:

- (a) Financial services;
- (b) Transportation, warehousing, and distribution logistics;
- (c) Precision metals manufacturing;
- (d) Biosciences;
- (e) Renewable energy;
- (f) Agriculture and food processing;
- (g) Business management and administrative services;
- (h) Software and computer services;
- (i) Research, development, and engineering services;
- (j) Health services;
- (k) Hospitality and tourism; and
- (l) Any other industry designated as an in-demand occupation by the committee.

Source: Laws 2015, LB519, § 28; Laws 2019, LB180, § 1.
Effective date September 1, 2019.

ARTICLE 27

VETERAN AND ACTIVE DUTY SUPPORTIVE
POSTSECONDARY INSTITUTION ACT

Section

85-2701. Act, how cited.

85-2702. Terms, defined.

85-2703. Veteran and Active Duty Supportive; designation; department; establish process; criteria; duties.

85-2704. Designation; period valid; renewal.

85-2705. Rules and regulations.

85-2701 Act, how cited.

Sections 85-2701 to 85-2705 shall be known and may be cited as the Veteran and Active Duty Supportive Postsecondary Institution Act.

Source: Laws 2019, LB486, § 1.

Effective date September 1, 2019.

85-2702 Terms, defined.

For purposes of the Veteran and Active Duty Supportive Postsecondary Institution Act:

(1) Department means the Department of Veterans' Affairs;

(2) Director means the Director of Veterans' Affairs;

(3) Military student means a student who serves on active duty in the armed forces of the United States other than active duty for training;

(4) Postsecondary institution has the same meaning as in section 85-2403; and

(5) Veteran student means a student who served on active duty in the armed forces of the United States other than active duty for training.

Source: Laws 2019, LB486, § 2.

Effective date September 1, 2019.

85-2703 Veteran and Active Duty Supportive; designation; department; establish process; criteria; duties.

(1) The department shall establish a process for a postsecondary institution to apply to the director to be designated as Veteran and Active Duty Supportive.

(2) To be eligible to be designated as Veteran and Active Duty Supportive, a postsecondary institution shall meet at least five of the following criteria, with respect to its operations in this state:

(a) The institution shall have personnel specifically trained and assigned to work with military students and veteran students;

(b) The institution shall have a student organization that is dedicated to helping veterans, active duty military, and their families;

(c) The institution shall give college credit for certain types of military training;

(d) The institution shall have a military leave-of-absence policy;

(e) The institution shall have counseling and advising services for military students and veteran students;

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(f) The institution shall have an accredited Reserve Officer Training Corps program;

(g) The institution shall have clearly identifiable on its web site a listing of services provided to military students and veteran students; and

(h) The institution shall specially recognize military students and veteran students during graduation or in other ways which are intended to demonstrate the institution's respect for such students' service.

(3) The department shall maintain on its web site a list of postsecondary institutions designated as Veteran and Active Duty Supportive pursuant to this section.

Source: Laws 2019, LB486, § 3.
Effective date September 1, 2019.

85-2704 Designation; period valid; renewal.

A designation as Veteran and Active Duty Supportive under section 85-2703 shall be valid for a term of three years. A postsecondary institution may apply to the director to renew its designation through a process established by the department.

Source: Laws 2019, LB486, § 4.
Effective date September 1, 2019.

85-2705 Rules and regulations.

The department may adopt and promulgate rules and regulations necessary to carry out the Veteran and Active Duty Supportive Postsecondary Institution Act.

Source: Laws 2019, LB486, § 5.
Effective date September 1, 2019.

**ARTICLE 28
MEADOWLARK ACT**

Section

85-2801. Act, how cited.

85-2802. Terms, defined.

85-2803. Meadowlark Endowment Fund; established; investment.

85-2804. Meadowlark Program; created; purpose; Department of Health and Human Services; duties; disbursement of funds.

85-2805. Rules and regulations.

85-2801 Act, how cited.

Sections 85-2801 to 85-2805 shall be known and may be cited as the Meadowlark Act.

Source: Laws 2019, LB610, § 1.
Effective date September 1, 2019.

85-2802 Terms, defined.

For purposes of the Meadowlark Act:

(1) Eligible educational institution has the same meaning as in section 85-1802;

(2) Nebraska educational savings plan trust has the same meaning as in section 85-1802;

(3) Qualified higher education expenses has the same meaning as in section 85-1802;

(4) Qualified individual means an individual born on or after January 1, 2020, who is a resident of this state at the time of birth; and

(5) Qualified private contribution means a contribution from an individual or private entity which is made for the purpose of providing an ongoing source of funding for the Meadowlark Program established in section 85-2804.

Source: Laws 2019, LB610, § 2.

Effective date September 1, 2019.

85-2803 Meadowlark Endowment Fund; established; investment.

(1) There is hereby established in the state treasury a trust fund to be known as the Meadowlark Endowment Fund. The fund shall be administered by the State Treasurer and shall consist of qualified private contributions and any amounts appropriated or transferred to the fund by the Legislature. No General Funds shall be transferred to the Meadowlark Endowment Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. No portion of the principal of the fund shall be expended for any purpose except investment pursuant to this subsection.

(2) The State Treasurer shall accept qualified private contributions and shall credit all such contributions received to the Meadowlark Endowment Fund. The State Treasurer shall determine the total amount of qualified private contributions received under this subsection and shall transfer an equal amount from the College Savings Plan Expense Fund or the Unclaimed Property Escheat Trust Fund, as determined by the State Treasurer, to the Meadowlark Endowment Fund.

Source: Laws 2019, LB610, § 3.

Effective date September 1, 2019.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

85-2804 Meadowlark Program; created; purpose; Department of Health and Human Services; duties; disbursement of funds.

(1) The Meadowlark Program is created. The program shall be administered by the State Treasurer. The purpose of the program is to promote access to postsecondary educational opportunities by providing funds to qualified individuals to help pay the qualified higher education expenses associated with attendance at an eligible educational institution located in this state.

(2) Any qualified individual shall be eligible to participate in the Meadowlark Program. No later than March 1 of each year, the Department of Health and Human Services shall transmit information to the State Treasurer which is necessary to administer the program and to establish whether the children born in the previous calendar year are qualified individuals. Such information shall include, but not be limited to, the full name and residential address of each child's parent or legal guardian and the birthdate of each child. Costs associat-

ed with the transfer of information by the Department of Health and Human Services shall be paid from the College Savings Plan Expense Fund.

(3) Following receipt of the information described in subsection (2) of this section, the State Treasurer shall send a notification explaining the Meadowlark Program to the parent or legal guardian of each qualified individual. The State Treasurer shall provide such parent or legal guardian with the opportunity to exclude his or her child from the program. Any child who is not excluded shall be deemed to be enrolled in the program. Upon enrollment into the program, the child shall have an account opened for him or her under the Nebraska educational savings plan trust.

(4) On or before April 1 of each year, the State Treasurer shall determine (a) the number of accounts opened under the Meadowlark Program in the previous calendar year and (b) the amount of investment income generated by the Meadowlark Endowment Fund in the previous calendar year. The State Treasurer shall evenly distribute the investment income from the previous calendar year to the accounts opened in the previous calendar year.

(5) The Nebraska educational savings plan trust shall own all accounts opened under the Meadowlark Program. Neither the qualified individual nor his or her parent or legal guardian shall have any ownership rights or interest in, title to, or power or control over such an account.

(6) Any disbursement from an account opened under the Meadowlark Program shall be made before the qualified individual reaches thirty years of age. Once a qualified individual reaches thirty years of age, any unused funds in his or her account shall be transferred to the Meadowlark Endowment Fund.

(7) Funds disbursed from an account opened under the Meadowlark Program shall only be used to pay the qualified higher education expenses associated with attending an eligible educational institution located in this state and shall not be used to pay expenses associated with attending kindergarten through grade twelve.

(8) The State Treasurer shall take measures to ensure the security and confidentiality of the information received under subsection (2) of this section.

Source: Laws 2019, LB610, § 4.

Effective date September 1, 2019.

85-2805 Rules and regulations.

The State Treasurer may adopt and promulgate rules and regulations to carry out the Meadowlark Act.

Source: Laws 2019, LB610, § 5.

Effective date September 1, 2019.

CHAPTER 86

TELECOMMUNICATIONS AND TECHNOLOGY

Article.

1. Telecommunications Regulation.
 - (a) General Provisions. 86-101 to 86-121.01.
 - (b) Regulatory Authority. 86-124.
 - (d) Provision of Telecommunication Services. 86-136.
 - (e) Rates and Charges. 86-144.
2. Telecommunications Consumer Protection.
 - (e) Intercepted Communications. 86-291.
 - (g) Neighbor Spoofing Protection Act. 86-2,117.
5. Public Technology Infrastructure.
 - (c) Intergovernmental Data Services Program. 86-563, 86-566.
 - (d) Geographic Information System. 86-570.
6. Electronic Information.
 - (b) Digital Signature. 86-611.
12. Small Wireless Facilities Deployment Act. 86-1201 to 86-1244.

ARTICLE 1

TELECOMMUNICATIONS REGULATION

(a) GENERAL PROVISIONS

Section

- 86-101. Act, how cited.
 86-103. Definitions, where found.
 86-111.01. Internet-protocol-enabled service, defined.
 86-121.01. Voice over Internet protocol service, defined.

(b) REGULATORY AUTHORITY

- 86-124. Nonregulated activities; section, how construed.

(d) PROVISION OF TELECOMMUNICATION SERVICES

- 86-136. Commission; application approval.

(e) RATES AND CHARGES

- 86-144. Rate list filing requirements.

(a) GENERAL PROVISIONS

86-101 Act, how cited.

Sections 86-101 to 86-165 shall be known and may be cited as the Nebraska Telecommunications Regulation Act.

Source: Laws 2002, LB 1105, § 2; Laws 2003, LB 2, § 1; Laws 2010, LB181, § 1; Laws 2010, LB183, § 1; Laws 2012, LB715, § 1; Laws 2019, LB462, § 17.
 Effective date September 1, 2019.

86-103 Definitions, where found.

For purposes of the Nebraska Telecommunications Regulation Act, unless the context otherwise requires, the definitions found in sections 86-103.01 to 86-121.01 apply.

Source: Laws 1986, LB 835, § 2; Laws 1993, LB 121, § 554; Laws 1997, LB 660, § 6; Laws 1999, LB 150, § 14; R.S.1943, (1999),

§ 86-802; Laws 2002, LB 1105, § 4; Laws 2012, LB715, § 2; Laws 2019, LB462, § 18.
Effective date September 1, 2019.

86-111.01 Internet-protocol-enabled service, defined.

Internet-protocol-enabled service or IP-enabled service means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables a service user to send or receive a communication in Internet protocol format, including, but not limited to, voice, data, or video.

Source: Laws 2019, LB462, § 19.
Effective date September 1, 2019.

86-121.01 Voice over Internet protocol service, defined.

Voice over Internet protocol service means an interconnected voice over Internet protocol service as defined in 47 C.F.R. part 9, as such regulations existed on January 1, 2019.

Source: Laws 2019, LB462, § 20.
Effective date September 1, 2019.

(b) REGULATORY AUTHORITY

86-124 Nonregulated activities; section, how construed.

(1) The commission shall not regulate the following:

(a) One-way broadcast or cable television transmission of television or radio signals;

(b) Mobile radio services, radio paging services, and wireless telecommunications service;

(c) Interexchange services; and

(d) Internet-protocol-enabled service and voice over Internet protocol service, including rates, service or contract terms, conditions, or requirements for entry for such service.

(2) This section shall not affect or modify:

(a) The enforcement of criminal or civil laws, including, but not limited to, laws concerning consumer protection and unfair or deceptive trade practices which apply generally to the conduct of business;

(b)(i) Any entity's obligations or rights or commission authority under section 86-122 and under 47 U.S.C. 251 and 252, as such sections existed on January 1, 2019, and (ii) any carrier-to-carrier tariff rates, service quality standards, interconnection agreements, or other obligations for which the commission has jurisdiction under state or federal law;

(c) Any requirement to contribute to any fund administered by the commission authorized by the Enhanced Wireless 911 Services Act or the Nebraska Telecommunications Universal Service Fund Act;

(d) Any commission jurisdiction over intrastate switched access rates, terms, and conditions, including the resolution of disputes arising from, and implementation of federal and state law with respect to, intercarrier compensation;

(e) The eligibility and requirements for the receipt of funds from the Nebraska Telecommunications Universal Service Fund and the rules, regulations, and orders under the Nebraska Telecommunications Universal Service Fund Act or the receipt of funds from the federal universal service fund, regardless of the unregulated status of the provider's service under this section; and

(f) Any entity's rights and obligations with respect to (i) registration under section 86-125, (ii) the use of public streets, roads, highways, and rights-of-way, or (iii) a certificate of public convenience and necessity or a permit.

Source: Laws 1986, LB 835, § 8; Laws 1997, LB 660, § 9; Laws 2001, LB 389, § 2; R.S.Supp.,2001, § 86-808; Laws 2002, LB 1105, § 25; Laws 2019, LB462, § 21.

Effective date September 1, 2019.

Cross References

Enhanced Wireless 911 Services Act, see section 86-442.

Nebraska Telecommunications Universal Service Fund Act, see section 86-316.

(d) PROVISION OF TELECOMMUNICATION SERVICES

86-136 Commission; application approval.

Upon the completion of the hearing on such an application made pursuant to section 86-135, if a hearing is required, the commission may grant the application, in whole or in part, if the evidence establishes the following:

(1) That such applicant is not receiving, and at the time of the application is not able to receive, advanced telecommunications capability service from the telecommunications company which furnishes telecommunications service in the local exchange area in which the applicant resides;

(2) That the revision of the exchange service area required to grant the application is economically sound, will not impair the capability of any telecommunications company affected to serve the remaining subscribers in any affected exchanges, and will not impose an undue and unreasonable technological or engineering burden on any affected telecommunications company; and

(3) That the applicant is willing and, unless waived by the affected telecommunications company, will pay such construction and other costs and rates as are fair and equitable and will reimburse the affected telecommunications company for any undepreciated investment in existing property as determined by the commission. The amount of any payment by the applicant for construction and other costs associated with providing service to the applicant may be negotiated between the applicant and the affected telecommunications company.

Source: Laws 1969, c. 601, § 2, p. 2457; Laws 1982, LB 229, § 1; Laws 1994, LB 414, § 109; R.S.1943, (1996), § 75-613; Laws 2002, LB 1105, § 35; Laws 2012, LB715, § 5; Laws 2019, LB268, § 1.
Effective date September 1, 2019.

(e) RATES AND CHARGES

86-144 Rate list filing requirements.

Telecommunications companies shall file rate lists for telecommunications service. The rate lists shall be effective after (1) ten days' notice to the

commission or (2) for basic local exchange rate increases, at least sixty days' notice to the commission and all impacted subscribers. Upon written notice to the commission, a telecommunications company may withdraw any rate list, tariff, or contract not required to be filed under this section if the telecommunications company posts the rates, terms, and conditions of its telecommunications service on the company's web site.

Source: Laws 2002, LB 1105, § 43; Laws 2011, LB257, § 2; Laws 2019, LB462, § 22.

Effective date September 1, 2019.

ARTICLE 2

TELECOMMUNICATIONS CONSUMER PROTECTION

(e) INTERCEPTED COMMUNICATIONS

Section

86-291. Interception; court order.

(g) NEIGHBOR SPOOFING PROTECTION ACT

86-2,117. Telecommunications service or IP-enabled voice service; prohibited acts; penalty; appeal.

(e) INTERCEPTED COMMUNICATIONS

86-291 Interception; court order.

The Attorney General or any county attorney may make application to any district court of this state for an order authorizing or approving the interception of wire, electronic, or oral communications, and such court may grant, subject to sections 86-271 to 86-295, an order authorizing or approving the interception of wire, electronic, or oral communications by law enforcement officers having responsibility for the investigation of the offense as to which application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, robbery, bribery, extortion, dealing in narcotic or other dangerous drugs, labor trafficking or sex trafficking, labor trafficking of a minor or sex trafficking of a minor, sexual assault of a child or a vulnerable adult, visual depiction or possessing a visual depiction of sexually explicit conduct of a child, or child enticement by means of a computer, or any conspiracy to commit any such offense.

At the same time a county attorney first makes application to the district court for an initial order authorizing or approving the interception of wire, electronic, or oral communications, the county attorney shall submit the application to the Attorney General or his or her designated deputy or assistant. Within twenty-four hours of receipt by the office of the Attorney General of the application from the county attorney, the Attorney General or his or her designated deputy or assistant, as the case may be, shall state to the district court where the order is sought his or her recommendation as to whether the order should be granted. The court shall not issue the order until it has received the recommendation or until seventy-two hours after receipt of the application from the county attorney, whichever is sooner, unless the court finds exigent circumstances existing which necessitate the immediate issuance of the order. The court may issue the order and disregard the recommendation of the Attorney General or his or her designated deputy or assistant.

Source: Laws 1969, c. 854, § 3, p. 3213; Laws 1971, LB 294, § 1; Laws 1988, LB 899, § 3; R.S.1943, (1999), § 86-703; Laws 2002, LB

1105, § 153; Laws 2006, LB 1113, § 53; Laws 2019, LB519, § 17.

Effective date September 1, 2019.

(g) NEIGHBOR SPOOFING PROTECTION ACT

86-2,117 Telecommunications service or IP-enabled voice service; prohibited acts; penalty; appeal.

(1) This section shall be known and may be cited as the Neighbor Spoofing Protection Act.

(2) No person shall, in connection with any telecommunications service or IP-enabled voice service, cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value.

(3) Nothing in this section shall be construed to prevent or restrict any person from blocking the capability of any caller identification service to transmit caller identification information.

(4) This section shall not apply:

(a) To any authorized activity of a law enforcement agency;

(b) When a court order specifically authorizes the use of caller identification manipulation; or

(c) To any provider of telecommunications services, broadband services, or Internet services, as those terms are defined in section 86-593, if such provider is acting in a manner that is authorized or required by federal law.

(5) Except as provided in this section, local exchange carriers and telecommunications carriers shall not be responsible for enforcement of this section.

(6)(a) Notwithstanding section 75-156, the Public Service Commission may, after hearing, impose an administrative penalty for a violation of this section. The penalty for a violation shall not exceed two thousand dollars. Every violation associated with a specific telephone number within the state shall be considered a separate and distinct violation.

(b) The amount of an administrative penalty shall be based on:

(i) The nature, circumstances, extent, and gravity of a prohibited act;

(ii) The history of previous violations;

(iii) The amount necessary to deter future violations; and

(iv) Any efforts to correct the violation.

(c) The commission shall remit any administrative penalty collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(d) Any administrative penalty may be appealed. The appeal shall be in accordance with section 75-136.

(7) Notwithstanding subsection (6) of this section, a violation of this section shall be considered a violation of section 59-1602 and be subject to the Consumer Protection Act and any other law which provides for the implemen-

tation and enforcement of section 59-1602. A violation of this section does not give rise to a private cause of action.

Source: Laws 2019, LB693, § 1.

Effective date September 1, 2019.

ARTICLE 5

PUBLIC TECHNOLOGY INFRASTRUCTURE

(c) INTERGOVERNMENTAL DATA SERVICES PROGRAM

Section

86-563. Division; duties and powers.

86-566. Repealed. Laws 2019, LB298, § 25.

(d) GEOGRAPHIC INFORMATION SYSTEM

86-570. Geographic Information Systems Council; created; members; appointment; terms; expenses.

(c) INTERGOVERNMENTAL DATA SERVICES PROGRAM

86-563 Division; duties and powers.

In establishing and maintaining the system:

(1) The division:

(a) Shall provide the computer network and services for the system with assistance from the division of communications of the office;

(b) Shall, within available resources, assist local, state, and federal collaborative efforts to encourage coordination of information systems and data sharing;

(c) Shall coordinate its activities and responsibilities with the functions of the division of communications to minimize overlap and duplication of technical services between the divisions in supporting the system, its applications, and application development; and

(d) May undertake and coordinate planning studies to determine the feasibility, benefits, costs, requirements, and options for the intergovernmental transfer of data;

(2) The officer:

(a) Shall approve and coordinate the design, development, installation, training, and maintenance of applications by state agencies for use on the system. Any agency proposing to add an application to the system shall submit an evaluation to the officer that examines the cost-effectiveness, technical feasibility, and potential use of the proposed application; that identifies the total costs of the application, including design, development, testing, installation, operation, and any changes to the computer network that are necessary for its operation; and that provides a schedule that shows the estimated completion dates for design, development, testing, installation, training, and full operational status. The officer shall not approve an application by a state agency for use on the system unless his or her review shows that the application is cost effective and technically feasible, that funding is available, and that the proposed schedule is reasonable and feasible;

(b) Shall approve changes in the design of applications by state agencies for use on the system. The officer may require such information from the agency as necessary to determine that the proposed change in design is cost effective and

technically feasible, that funding is available, and that the proposed schedule for implementation is reasonable and feasible;

(c) May contract with other governmental entities or private vendors in carrying out the duties relating to the intergovernmental data services program;

(d) Shall establish a rate schedule that reflects the rates adopted by the division of communications and the information management services division, plus any additional costs of the system. Such fees may reflect a base cost for access to the system, costs for actual usage of the system, costs for special equipment or services, or a combination of these factors. The officer may charge for the costs of changes to the system that are requested by or are necessary to accommodate a request by a user. All fees shall be set to recover all costs of operation;

(e) May enter into agreements with other state and local governments, the federal government, or private-sector entities for the purpose of sale, lease, or licensing for third-party resale of applications and system design;

(f) Shall determine whether a local application shall be a component of the system. No local application shall be resident or operational in any component of the system without explicit authorization of the officer; and

(g) Shall approve or disapprove the attachment of any peripheral device to the system and may prescribe standards and specifications that such devices must meet;

(3) The officer shall be responsible for the proper operation of the system, applications, and peripheral devices purchased or developed by the expenditure of state funds. The ownership of such system, applications, and peripheral devices shall be vested with the state; and

(4) All communications and telecommunications services for the intergovernmental data services program and the system shall be secured from the division of communications.

Source: Laws 1993, LB 543, § 4; Laws 1994, LB 1066, § 104; Laws 1998, LB 924, § 40; Laws 2000, LB 654, § 34; R.S.Supp.,2000, § 81-1120.38; Laws 2002, LB 1105, § 333; Laws 2006, LB 921, § 25; Laws 2008, LB823, § 14; Laws 2019, LB298, § 21.
Effective date May 28, 2019.

86-566 Repealed. Laws 2019, LB298, § 25.

(d) GEOGRAPHIC INFORMATION SYSTEM

86-570 Geographic Information Systems Council; created; members; appointment; terms; expenses.

(1) The Geographic Information Systems Council is hereby created and shall consist of:

(a) The Chief Information Officer or his or her designee, the chief executive officer or designee of the Department of Health and Human Services, and the director or designee of the Department of Environment and Energy, the Conservation and Survey Division of the University of Nebraska, the Department of Natural Resources, and the Governor's Policy Research Office;

(b) The Director-State Engineer or designee;

- (c) The State Surveyor or designee;
 - (d) The Clerk of the Legislature or designee;
 - (e) The secretary of the Game and Parks Commission or designee;
 - (f) The Property Tax Administrator or designee;
 - (g) One representative of federal agencies appointed by the Governor;
 - (h) One representative of the natural resources districts nominated by the Nebraska Association of Resources Districts and appointed by the Governor;
 - (i) One representative of the public power districts appointed by the Governor;
 - (j) Two representatives of the counties nominated by the Nebraska Association of County Officials and appointed by the Governor;
 - (k) One representative of the municipalities nominated by the League of Nebraska Municipalities and appointed by the Governor;
 - (l) Two members at large appointed by the Governor; and
 - (m) Such other members as nominated by the Nebraska Information Technology Commission and appointed by the Governor.
- (2) The appointed members shall serve terms as determined by the Nebraska Information Technology Commission.
- (3) The members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1991, LB 639, § 2; Laws 1993, LB 3, § 72; Laws 1998, LB 924, § 48; Laws 1999, LB 594, § 71; Laws 2000, LB 900, § 250; R.S.Supp.,2000, § 81-2602; Laws 2002, LB 1105, § 340; Laws 2006, LB 921, § 28; Laws 2007, LB296, § 812; Laws 2008, LB797, § 29; Laws 2008, LB823, § 18; Laws 2019, LB302, § 177.

Operative date July 1, 2019.

ARTICLE 6 ELECTRONIC INFORMATION

(b) DIGITAL SIGNATURE

Section

86-611. Digital and electronic signatures and electronic communications authorized; rules and regulations.

(b) DIGITAL SIGNATURE

86-611 Digital and electronic signatures and electronic communications authorized; rules and regulations.

(1) It is the intent of the Legislature to promote economic growth and the efficient operation of business and government in Nebraska through the electronic exchange of information and legally binding electronic transactions. In order to facilitate the electronic exchange of information, Nebraska must establish means to ensure that electronic transactions are legally binding and enforceable, while ensuring that security measures are in place to prevent opportunities for fraud and misuse.

(2) In any written communication in which a signature is required or used, any party to the communication may affix a signature by use of a digital

signature that complies with the requirements of this section. The use of a digital signature shall have the same force and effect as the use of a manual signature if and only if it embodies all of the following attributes:

- (a) It is unique to the person using it;
- (b) It is capable of verification;
- (c) It is under the sole control of the person using it;
- (d) It is linked to data in such a manner that if the data is changed, the digital signature is invalidated; and
- (e) It conforms to rules and regulations adopted and promulgated by the Secretary of State.

(3) In any communication in which a signature is required or used, a state agency or political subdivision may accept a digital signature or an electronic signature and may accept the communication in electronic format. Any use of a digital signature, an electronic signature, or an electronic communication by a court is subject to the rules of the Supreme Court.

(4) The Secretary of State shall adopt and promulgate rules and regulations to carry out this section which:

(a) Identify and define the type of signature which may be used in the electronic communications governed by the rules and regulations;

(b) Identify and define the type of electronic communications for which a digital signature or an electronic signature may be used; and

(c) Provide a degree of security reasonably related to the risks and consequences of fraud or misuse for the type of electronic communication which, at a minimum, shall require the maintenance of an audit trail of the assignment or approval and the use of the unique access code or unique electronic identifier.

(5) This section shall not be construed to invalidate digital signatures, electronic signatures, or electronic communications which are valid under any other applicable law.

(6) Unless otherwise provided by law, the use or acceptance of a digital signature or an electronic signature shall be at the option of the parties to the communication. This section shall not be construed to require a person to use or permit the use of a digital signature or electronic signature.

(7) In developing the rules and regulations, the Secretary of State shall seek the advice of public and private entities, including the Department of Administrative Services.

(8) The register of deeds or county clerk of each county shall provide one or more electronic recording services for the purpose of accepting electronically submitted real estate documents for recording.

(9) For purposes of this section:

(a) Electronic signature means a unique access code or other unique electronic identifier assigned or approved by the state agency for use in communications with the state agency;

(b) Digital signature means an electronic identifier, created by computer, intended by the person using it to have the same force and effect as a manual signature; and

(c) State agency means any agency, board, court, or constitutional officer of the executive, judicial, and legislative branches of state government, except individual members of the Legislature.

Source: Laws 1998, LB 924, § 69; Laws 2000, LB 628, § 4; R.S.Supp.,2000, § 86-1701; Laws 2002, LB 1105, § 373; Laws 2019, LB186, § 25.

Operative date July 1, 2020.

ARTICLE 12

SMALL WIRELESS FACILITIES DEPLOYMENT ACT

Section

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Section

86-1244. Public power supplier; negotiated pole attachment agreement; annual pole attachment rate; applicability of act.

86-1201 Act, how cited.

Sections 86-1201 to 86-1244 shall be known and may be cited as the Small Wireless Facilities Deployment Act.

Source: Laws 2019, LB184, § 1.

Effective date September 1, 2019.

86-1202 Legislative findings and declarations.

The Legislature finds and declares that:

(1) The deployment of small wireless facilities and other next-generation wireless facilities is a matter of statewide concern and interest and public policy;

(2) Wireless products and services are a significant and continually growing part of the state's economy. Encouraging the development of strong and robust wireless communications networks throughout the state is necessary to address public need and policy and is integral to the state's economic competitiveness;

(3) Rapid deployment of small wireless facilities will serve numerous important statewide goals and public policy, including meeting growing consumer demand for wireless data, increasing competitive options for communications services available to the state's residents, improving the ability of the state's residents to communicate with other residents and with their state and local governments, and promoting public safety;

(4) Small wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, are deployed most effectively in public rights-of-way;

(5) To meet the public need and policy and the key objectives of the Small Wireless Facilities Deployment Act, wireless providers must have access to the public rights-of-way to densify their networks and provide next-generation wireless services;

(6) Uniform procedures, rates, and fees for permit issuance and deployment of small wireless facilities in public rights-of-way and on authority infrastructure, including poles, throughout the state are reasonable and will encourage the development of robust next-generation wireless networks for the benefit of residents throughout the state; and

(7) The procedures, rates, and fees in the Small Wireless Facilities Deployment Act, together with any taxes, fees, or charges imposed under section 86-704, (a) are fair and reasonable when viewed from the perspective of the state's residents and the state's interest in having robust, reliable, and technologically advanced wireless networks and (b) reflect a balancing of the interests of the wireless providers deploying new facilities and the interests of authorities in receiving fair value by recovering their costs of managing access to the public rights-of-way and the attachment space provided on authority infrastructure and reviewing and processing applications for the installation of small wireless facilities within the rights-of-way.

Source: Laws 2019, LB184, § 2.

Effective date September 1, 2019.

86-1203 Definitions, where found.

For purposes of the Small Wireless Facilities Deployment Act, the definitions in sections 86-1204 to 86-1235 apply.

Source: Laws 2019, LB184, § 3.
Effective date September 1, 2019.

86-1204 Antenna, defined.

Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

Source: Laws 2019, LB184, § 4.
Effective date September 1, 2019.

86-1205 Applicable codes, defined.

Applicable codes means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to such codes so long as such amendments are not in conflict with the Small Wireless Facilities Deployment Act and to the extent such codes have been adopted by the authority and are generally applicable in the jurisdiction.

Source: Laws 2019, LB184, § 5.
Effective date September 1, 2019.

86-1206 Applicant, defined.

Applicant means any person who submits an application and is a wireless provider.

Source: Laws 2019, LB184, § 6.
Effective date September 1, 2019.

86-1207 Application, defined.

Application means a written request submitted by an applicant to an authority (1) for a permit to collocate small wireless facilities on an existing utility pole or wireless support structure or (2) for a permit for approval for the installation, modification, or replacement of a utility pole to support the installation of a small wireless facility.

Source: Laws 2019, LB184, § 7.
Effective date September 1, 2019.

86-1208 Authority, defined.

Authority means the State of Nebraska or any agency, county, city, village, or other political subdivision thereof, except as otherwise excluded herein. Authority does not include public power suppliers, state courts having jurisdiction over an authority, or an entity that does not have zoning or permit-granting authority.

Source: Laws 2019, LB184, § 8.
Effective date September 1, 2019.

86-1209 Authority pole, defined.

Authority pole means a utility pole owned, managed, or operated by or on behalf of an authority.

Source: Laws 2019, LB184, § 9.
Effective date September 1, 2019.

86-1210 Collocate or collocation, defined.

Collocate or collocation means to install, mount, maintain, modify, operate, or replace small wireless facilities on or adjacent to a wireless support structure or utility pole. Collocate or collocation does not include the installation of a new utility pole or new wireless support structure in the right-of-way.

Source: Laws 2019, LB184, § 10.
Effective date September 1, 2019.

86-1211 Communications facility, defined.

Communications facility means the set of equipment and network components including wires, cables, and associated facilities used by a cable operator as defined in 47 U.S.C. 522(5), as such section existed on January 1, 2019, a telecommunications carrier as defined in 47 U.S.C. 153(51), as such section existed on January 1, 2019, a provider of information service as defined in 47 U.S.C. 153(24), as such section existed on January 1, 2019, or a wireless services provider, to provide communications services, including cable service as defined in 47 U.S.C. 153(8), as such section existed on January 1, 2019, an information service as defined in 47 U.S.C. 153(24), as such section existed on January 1, 2019, wireless services, or other one-way or two-way communications service.

Source: Laws 2019, LB184, § 11.
Effective date September 1, 2019.

86-1212 Communications network, defined.

Communications network means a network used to provide communications service.

Source: Laws 2019, LB184, § 12.
Effective date September 1, 2019.

86-1213 Communications service, defined.

Communications service means a cable service as defined in 47 U.S.C. 522, as such section existed on January 1, 2019, an information service as defined in 47 U.S.C. 153, as such section existed on January 1, 2019, a telecommunications service as defined in 47 U.S.C. 153, as such section existed on January 1, 2019, or a wireless service.

Source: Laws 2019, LB184, § 13.
Effective date September 1, 2019.

86-1214 Communications service provider, defined.

Communications service provider means a cable operator as defined in 47 U.S.C. 522, a provider of information service as defined in 47 U.S.C. 153, or a telecommunications carrier as defined in 47 U.S.C. 153, as such sections

existed on January 1, 2019. Communications service provider includes a wireless provider.

Source: Laws 2019, LB184, § 14.
Effective date September 1, 2019.

86-1215 Decorative pole, defined.

Decorative pole means an authority pole that is specially designed and placed for aesthetic purposes.

Source: Laws 2019, LB184, § 15.
Effective date September 1, 2019.

86-1216 Fee, defined.

Fee means a one-time, nonrecurring charge.

Source: Laws 2019, LB184, § 16.
Effective date September 1, 2019.

86-1217 Historic district, defined.

Historic district means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places, in accordance with Stipulation VI.D.1.a (i)-(v) of the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission codified at 47 C.F.R. part 1, Appendix C, as such regulation existed on January 1, 2019, or designated pursuant to state historic preservation law if such designation exists at the time of application.

Source: Laws 2019, LB184, § 17.
Effective date September 1, 2019.

86-1218 Law, defined.

Law means federal, state, or local law, statute, common law, code, rule, regulation, order, or ordinance.

Source: Laws 2019, LB184, § 18.
Effective date September 1, 2019.

86-1219 Microwireless facility, defined.

Microwireless facility means a small wireless facility that is not larger in dimension than twenty-four inches in length, fifteen inches in width, and twelve inches in height and with any exterior antenna no longer than eleven inches.

Source: Laws 2019, LB184, § 19.
Effective date September 1, 2019.

86-1220 Permit, defined.

Permit means a written authorization required by an authority to perform an action, initiate, continue, or complete installation of a small wireless facility on an existing utility pole or attached to an existing wireless support structure, or

to install, modify, or replace a utility pole to support installation of a small wireless facility.

Source: Laws 2019, LB184, § 20.
Effective date September 1, 2019.

86-1221 Person, defined.

Person means an individual, a corporation, a limited liability company, a partnership, an association, a trust, or any other entity or organization, including an authority.

Source: Laws 2019, LB184, § 21.
Effective date September 1, 2019.

86-1222 Public power supplier, defined.

Public power supplier means a public power district or any other governmental entity providing electric service. Public power supplier includes a municipal electric utility or a rural public power supplier.

Source: Laws 2019, LB184, § 22.
Effective date September 1, 2019.

86-1223 Rate, defined.

Rate means a recurring charge.

Source: Laws 2019, LB184, § 23.
Effective date September 1, 2019.

86-1224 Right-of-way, defined.

Right-of-way means the area on, below, or above a public roadway, highway, street, sidewalk, alley, dedicated utility easement, or similar property, but not including a freeway as defined in section 39-1302, the National System of Interstate and Defense Highways, or a private easement.

Source: Laws 2019, LB184, § 24.
Effective date September 1, 2019.

86-1225 Rural public power supplier, defined.

Rural public power supplier means a public power district, a public power and irrigation district, an electric cooperative, or an electric membership association, that does not provide electric service to any city of the metropolitan class, city of the primary class, or city of the first class.

Source: Laws 2019, LB184, § 25.
Effective date September 1, 2019.

86-1226 Small wireless facility, defined.

Small wireless facility means a wireless facility that meets each of the following conditions: (1) The facilities (a) are mounted on structures fifty feet or less in height including the antennas or (b) are mounted on structures no more than ten percent taller than other adjacent structures; (2) each antenna associated with the deployment is no more than three cubic feet in volume; (3) all other equipment associated with the structure, whether ground-mounted or pole-mounted, is no more than twenty-eight cubic feet in volume; (4) the

facilities do not require antenna structure registration under 47 C.F.R. part 17, as such regulation existed on January 1, 2019; (5) the facilities are not located on tribal lands, as defined in 36 C.F.R. 800.16(x), as such regulation existed on January 1, 2019; and (6) the facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 C.F.R. 1.1307(b), as such regulation existed on January 1, 2019.

Source: Laws 2019, LB184, § 26.

Effective date September 1, 2019.

86-1227 Technically feasible, defined.

Technically feasible means that by virtue of engineering or spectrum usage, the proposed placement for a small wireless facility, or its design or site location, can be implemented without a reduction in the functionality of the small wireless facility.

Source: Laws 2019, LB184, § 27.

Effective date September 1, 2019.

86-1228 Utility pole, defined.

Utility pole means a pole located in the right-of-way that is used for wireline communications, lighting, the vertical portion of support structures for traffic control signals or devices or a similar function, or for the collocation of small wireless facilities and located in the right-of-way. Utility pole does not include (1) wireless support structures, (2) any transmission infrastructure owned or operated by a public power supplier or rural public power supplier, and (3) any distribution or communications infrastructure owned or operated by a rural public power supplier.

Source: Laws 2019, LB184, § 28.

Effective date September 1, 2019.

86-1229 Wireless facility, defined.

(1) Wireless facility means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (a) equipment associated with wireless communications and (b) radio transceivers, antennas, coaxial or fiber-optic cable, regular power supply, and small back-up battery, regardless of technological configuration. Wireless facility includes small wireless facilities.

(2) Wireless facility does not include (a) the structure or improvements on, under, or within the equipment which is collocated, (b) coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to, or directly associated with, a particular antenna, or (c) a wireline backhaul facility.

Source: Laws 2019, LB184, § 29.

Effective date September 1, 2019.

86-1230 Wireless infrastructure provider, defined.

Wireless infrastructure provider means any person, including a person authorized to provide telecommunications service in the State of Nebraska, when acting to build or install wireless communication transmission equipment,

wireless facilities, or wireless support structures, but that is not a wireless services provider.

Source: Laws 2019, LB184, § 30.
Effective date September 1, 2019.

86-1231 Wireless provider, defined.

Wireless provider means a wireless services provider or a wireless infrastructure provider when acting as a coapplicant for a wireless services provider.

Source: Laws 2019, LB184, § 31.
Effective date September 1, 2019.

86-1232 Wireless services, defined.

Wireless services means any services using licensed or unlicensed spectrum, including the use of Wi-Fi, whether mobile or at a fixed location, provided to the public using wireless facilities.

Source: Laws 2019, LB184, § 32.
Effective date September 1, 2019.

86-1233 Wireless services provider, defined.

Wireless services provider means a person who provides wireless services.

Source: Laws 2019, LB184, § 33.
Effective date September 1, 2019.

86-1234 Wireless support structure, defined.

Wireless support structure means a structure such as a guyed or self-supporting tower, billboard, building, or other existing or proposed structure designed to support or capable of supporting wireless facilities other than a structure designed solely for the collocation of small wireless facilities. Wireless support structure does not include a utility pole.

Source: Laws 2019, LB184, § 34.
Effective date September 1, 2019.

86-1235 Wireline backhaul facility, defined.

Wireline backhaul facility means an above-ground or underground facility used to transport communications services from a wireless facility to a communications network.

Source: Laws 2019, LB184, § 35.
Effective date September 1, 2019.

86-1236 Activities of wireless provider within right-of-way to deploy small wireless facilities and associated utility poles; provisions applicable.

(1) This section applies only to activities of a wireless provider within the right-of-way to deploy small wireless facilities and associated utility poles.

(2) An authority shall not enter into an exclusive arrangement with any person for use of the right-of-way.

(3) Subject to the exception in subsection (7) of section 86-1237, an authority may only charge a wireless provider on a nondiscriminatory basis the rate or fee provided in section 86-1239 for the use of any right-of-way for the collocation

tion of small wireless facilities or the installation, maintenance, modification, operation, or replacement of a utility pole in the right-of-way if the authority charges other entities for the use of the right-of-way. An authority may, on a nondiscriminatory basis, refrain from charging any rate to a wireless provider for the use of the right-of-way.

(4) Except as provided in this section, a wireless provider shall have the right, as a permitted use not subject to zoning review or approval, to collocate small wireless facilities and install, maintain, modify, operate, and replace utility poles along, across, upon, and under the right-of-way so long as such facilities and poles do not obstruct or hinder the usual travel or public safety on such right-of-way or obstruct the legal use of such right-of-way by utilities or the safe operation of their systems or provision of service.

(5)(a) Any new or modified utility pole installed in a right-of-way shall not exceed the greater of (i) five feet in height above the tallest existing utility pole in place as of September 1, 2019, located within five hundred feet of the new utility pole in the same right-of-way or (ii) fifty feet above ground level.

(b) New small wireless facilities in a right-of-way shall not extend more than the greater of (i) fifty feet in height, including antenna, or (ii) more than five feet above an existing utility pole in place as of September 1, 2019, and located within five hundred feet in the same right-of-way.

(c) An authority shall have the right, at its sole discretion and subject to applicable nondiscriminatory regulations, to consider and approve an application to install a utility pole or wireless support structure that exceeds the height limits in this subsection for the right to collocate a small wireless facility and install, maintain, modify, operate, and replace a utility pole that exceeds such height limits along, across, upon, and under a right-of-way.

(6) An applicant may request approval from an authority, as part of the application process, to replace a decorative pole when necessary to collocate a small wireless facility. Any replacement decorative pole shall conform to the nondiscriminatory design aesthetics of the decorative pole being replaced.

(7) Except for facilities excluded from evaluation for effects on historic properties under 47 C.F.R. 1.1307(a)(4), as such regulation existed on January 1, 2019, an authority shall have the right to require design or concealment measures in a historic district established prior to January 1, 2019. Such design or concealment measures shall be objective and directed to avoid or remedy the intangible public harm of unsightly or out-of-character wireless facilities deployed at the proposed location within the authority's jurisdiction. Any such design or concealment measures shall be reasonable, nondiscriminatory, and published in advance, and shall not be considered a part of the small wireless facility for purposes of the size restrictions of a small wireless facility.

(8) An authority may require a wireless provider to repair all damage to a right-of-way directly caused by the activities of the wireless provider in the right-of-way and return the right-of-way to equal or better condition to that before the damage occurred pursuant to the competitively neutral and reasonable requirements and specifications of the authority. If the applicant fails to make the repairs that are reasonably required by the authority within fourteen days after written notice, the authority may undertake such repairs and charge the wireless provider the reasonable, documented cost of such repairs. An authority shall grant an extension of up to ten days to complete such repairs if the wireless provider requests such extension within the original fourteen-day

period. In the event of immediate threat to life, safety, or to prevent serious injury, the authority may immediately undertake to restore the site and then notify the applicant and charge the applicant for all reasonable restoration costs.

Source: Laws 2019, LB184, § 36.

Effective date September 1, 2019.

86-1237 Issuance of permit for small wireless facility within right-of-way; applicant; procedure; cost; authority; powers; denial; grounds; Department of Transportation; powers.

(1) This section applies to the issuance of a permit for a small wireless facility within the right-of-way as specified in subsection (4) of this section and to the issuance of a permit for the installation, modification, and replacement of a utility pole by an applicant within a right-of-way.

(2) Except as provided in the Small Wireless Facilities Deployment Act, an authority shall not prohibit, regulate, or charge for the collocation of small wireless facilities or the installation, modification, or replacement of utility poles to support small wireless facilities.

(3)(a) An applicant that collocates a small wireless facility within an authority right-of-way or on a utility pole assumes the risk of loss, damage to, or loss of use of such facility when such pole is damaged, destroyed, or taken out of service on authority property, except to the extent that such loss or damage is due to or caused by the negligence or willful misconduct of the authority or its employees, contractors, or agents. This subdivision does not preclude claims against entities other than the authority.

(b) The construction, operation, maintenance, collocation, or placement of wireless facilities, utility poles, or wireless support structures shall occur at no cost from an applicant to an authority unless otherwise agreed to in advance between an applicant and the authority.

(c) If the future maintenance or construction of an authority road requires the moving or relocating of wireless facilities, utility poles, or wireless support structures currently located within a right-of-way, such facilities, poles, or structures shall be removed or relocated by the owner of such small wireless facilities, poles, or structures at the owner's expense and as directed by the authority.

(4) Small wireless facilities shall be classified as a permitted use and not subject to zoning review or approval if collocated within the right-of-way. Small wireless facilities to be located in an airport hazard area as defined by section 3-301 shall comply with any regulations governing such area.

(5) An authority may require an applicant to apply for and obtain one or more permits to collocate a small wireless facility or install a new, modified, or replacement utility pole associated with a small wireless facility. Such permits shall be of general applicability and not apply exclusively to wireless facilities. An authority shall receive applications for, process, and issue such permits subject to the following requirements:

(a) Except as otherwise provided in subdivision (b) of this subsection, an authority shall not directly or indirectly require an applicant to perform services or provide goods unrelated to the permit, such as in-kind contributions

to the authority, including reserving fiber, conduit, or utility pole space for the authority;

(b) An authority shall be allowed to reserve space on authority poles and the applicant shall cooperate with the authority in any such reservation, except that the authority shall first notify the applicant in writing that it is interested in reserving such pole space or sharing the trenches or bores in the area where the collocation is to occur. The applicant shall allow the authority to place its infrastructure in the applicant's trenches or bores or on the utility pole as requested by the authority, except that the authority shall incur the incremental costs of placing the conduit or infrastructure as requested. The authority shall be responsible for maintaining its facilities in the trenches and bores and on the authority pole;

(c) An applicant shall not be required to provide more information to obtain a permit than a communications service provider that is not a wireless provider, except as directly related to the impairment of wireless service in the immediate area of the proposed small wireless facility and except that an applicant may be required to include construction and engineering drawings and information demonstrating compliance with the criteria in subdivision (j) of this subsection;

(d) An authority may propose a technically feasible alternate utility pole location. The wireless provider shall cooperate with the authority to address the authority's reasonable proposal. The authority shall not require the placement of small wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole;

(e) An authority shall not limit the placement of small wireless antennas by minimum horizontal separation distances;

(f) An authority may require an applicant to include an attestation that the small wireless facilities will be operational for use by a wireless services provider within nine months after the later of the completion of all make-ready work or the permit issuance date unless a delay is caused by lack of commercial power or communications transport facilities to the site. In such case the applicant shall have an extension not to exceed nine months. The authority and applicant may mutually agree to an additional extension;

(g) Within twenty days after receiving an application, an authority shall determine and notify the applicant in writing whether the application is complete. If an application is incomplete, the authority shall specifically identify the missing information in writing. The processing deadline in subdivision (h) of this subsection shall restart upon the first finding of incompleteness. The applicant may resubmit the completed application within thirty days without additional charge. Subsequent findings of incompleteness shall toll the application processing deadline in subdivision (h) of this subsection. The subsequent review shall be limited to the specifically identified information subsequently completed except to the extent material changes have been made by the applicant, other than those required by the authority, in which case a new application and application fee shall be submitted. Subsequent findings of incompleteness will toll the deadline from the time the authority sends notice of incompleteness to the time the applicant provides the missing information. The application processing deadline also may be tolled by agreement of the applicant and the authority;

(h) An application shall be processed on a nondiscriminatory basis and deemed approved if the authority fails to approve or deny the application within ninety days after receipt of the application. An authority may extend the application processing deadline described in subdivision (g) of this subsection for a single period of ten business days if the authority notifies the applicant in advance before the day on which approval or denial is originally due. Upon mutual agreement between the applicant and the authority, the authority may extend the period for consideration of an application for thirty days;

(i) A permit shall authorize an applicant to undertake only certain activities in accordance with this section and does not create a property right or grant authority to the applicant to infringe upon the rights of others who may own or have other interests in a right-of-way, utility easement, or other privately owned property;

(j) An authority may deny a proposed collocation of a small wireless facility or installation, modification, or replacement of a utility pole that meets the requirements of section 86-1236 only if the proposed application:

(i) Materially and demonstrably interferes with the safe operation of traffic control equipment or the right-of-way;

(ii) Materially interferes with sight lines or clear zones for air or land transportation or pedestrians;

(iii) Materially interferes with compliance with the federal Americans with Disabilities Act of 1990 or similar federal or state standards regarding pedestrian access or movement;

(iv) Fails to comply with reasonable and nondiscriminatory spacing requirements of general application adopted by ordinance or resolution that concern the location of ground-mounted equipment and new utility poles. Such spacing requirements shall not prevent a wireless provider from serving any location;

(v) Fails to comply with applicable codes if they are of general applicability and do not apply exclusively to wireless facilities;

(vi) Fails to comply with the authority's aesthetic requirements that are reasonable, objective, and published in advance; or

(vii) Designates the location of a new utility pole within seven feet in any direction of an electrical conductor unless the wireless provider obtains the written consent of the public power supplier that owns or manages the electrical conductor;

(k) An authority shall document the basis for a permit application denial, including any specific code provisions on which the denial was based, and send such documentation to the applicant on or before the day the authority denies the application. The applicant may cure the deficiencies identified by the authority and resubmit the application within thirty days after the denial without paying an additional application fee. The authority shall approve or deny the resubmitted application within thirty days. Any subsequent review shall be limited to the deficiencies cited in the denial;

(l) An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may, at the applicant's discretion, file a consolidated application for up to thirty individual small wireless facilities if the population within the jurisdiction of the authority is fifty thousand people or more, or up to five individual small wireless facilities if the population within the jurisdiction of the authority is less than fifty thousand people, instead of

filing a separate application for each individual small wireless facility. Each small wireless facility within a consolidated application is subject to individual review, except that the denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same application or be a basis upon which to deny the consolidated application as a whole. If an applicant applies to construct or collocate several small wireless facilities within the jurisdiction of a single authority, the authority shall:

(i) Allow the applicant, at the applicant's discretion, to file a single set of documents that apply to all of the applicant's small wireless facilities; and

(ii) Render a decision regarding all of the applicant's small wireless facilities in a single administrative proceeding unless local requirements require an elected or appointed body to render such decision;

(m) Installation or collocation for which a permit is granted pursuant to this section shall be completed within one year of the later of the completion of all make-ready work or permit issuance date unless a delay is caused by the lack of commercial power or communications transport facilities at the site. In such case the applicant shall have an extension up to nine months. The authority and applicant may mutually agree to an additional extension. Approval of an application authorizes the applicant to maintain and operate the small wireless facilities and any associated utility pole covered by the permit for a period of not less than five years, subject to applicable relocation requirements and the applicant's right to terminate at any time. The authority shall renew such permit for an equivalent duration so long as the applicant is in compliance with the criteria set forth in subdivision (j) of this subsection as such criteria existed at the time the permit was granted;

(n) An authority shall not institute a moratorium on filing, receiving, or processing applications or issuing permits or other approvals, if any, for the collocation of small wireless facilities or the installation, modification, or replacement of utility poles to support small wireless facilities; and

(o) Nothing in the Small Wireless Facilities Deployment Act shall be construed to allow any entity to provide communications services without complying with all laws applicable to such providers. Nothing in the act shall be construed to authorize the collocation, installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility or a utility pole, in a right-of-way.

(6)(a) Notwithstanding any other provision of the Small Wireless Facilities Deployment Act, for any construction, operation, collocation, maintenance, management, relocation, or placement of wireless facilities, utility poles, decorative poles, or wireless support structures that occurs above, across, under, or upon a state or federal highway right-of-way, as such term is defined in section 39-1302, or upon a state-owned utility pole, decorative pole, or wireless support structure, the application process, location, and installation of such facilities, poles, or structures, as such pertain to the present and future use of the right-of-way or state-owned poles or wireless support structures for highway purposes, shall be subject to the rules and regulations, guidance documents, and usual and customary permitting requirements of the State of Nebraska and the Department of Transportation, including, but not limited to, requirements, fees, rates, and deadlines for location and engineering review and response, liability and automobile insurance, indemnification of the Department of Transporta-

tion from liability, protection of public safety and property interests, and compliance with federal transportation funding requirements. Nothing in this subdivision affects, modifies, expands, or narrows the application or effect of any federal law, statute, rule, regulation, or order.

(b) Traffic signal utility poles and traffic control devices owned by the Department of Transportation shall not be used for the collocation of small wireless facilities under the Small Wireless Facilities Deployment Act. State highway lighting utility poles or decorative poles may be used for collocation of small wireless facilities only if:

(i) There are insufficient reasonable alternative collocation options at or near the requested location;

(ii) The small wireless facilities can be safely installed, operated, and maintained; and

(iii) The collocation of the small wireless facilities will not violate reasonable wind, ice, weight, and seismic load requirements on state highway lighting utility poles or decorative poles.

(c) Applicants that collocate small wireless facilities on state highway lighting utility poles or decorative poles assume the risk of loss or damage to, or loss of use of, such facilities when such poles are damaged, destroyed, or taken out of service on state property, except to the extent that such loss or damage is due to or caused by the negligence or willful misconduct of the Department of Transportation or its employees, contractors, or agents. This subdivision does not preclude claims against entities other than the Department of Transportation.

(d) The construction, operation, maintenance, collocation, or placement of wireless facilities, utility poles, decorative poles, or wireless support structures shall occur at no cost to the Department of Transportation unless otherwise agreed in advance between an applicant and the department.

(e) The Department of Transportation may set and collect a reasonable application fee to cover its costs in administering the activities described in this subsection, a uniform and nondiscriminatory system of annual occupancy rates for the use and occupancy of state-owned property, and a uniform and nondiscriminatory system for setting fees, rates, terms, and conditions for make-ready work.

(f) If the future maintenance or construction of a state or federal highway by the Department of Transportation requires the moving or relocating of wireless facilities, utility poles, decorative poles, or wireless support structures located within the right-of-way, such facilities, poles, or structures shall be removed or relocated by the owner of the facilities, poles, or structures at the owner's expense and as directed by the department.

(g) Nothing in the Small Wireless Facilities Deployment Act affects or prevents the Department of Transportation from imposing its usual and customary permitting requirements for the deployment of wireless facilities that are not small wireless facilities.

(7) An authority shall not require an application, permit, or other approval or charge fees or rates for routine maintenance of small wireless facilities, replacement of small wireless facilities with small wireless facilities that are substantially similar in weight or windage or the same size or smaller, or for the installation, placement, maintenance, operation, or replacement of microwire-

less facilities that are strung on cables between existing utility poles in compliance with the National Electrical Safety Code. An authority may require a permit for work that exceeds original weight or windage or requires excavation or closing of sidewalks or vehicular lanes within the right-of-way for such activities.

(8) Any small wireless facility that is not operated for a continuous period of ninety days after completion of initial installation, excluding nonoperation due to a natural disaster or other unforeseeable circumstance or temporary equipment failure, shall be considered abandoned. If a small wireless facility is abandoned, the small wireless facility owner shall notify the authority within thirty days of the abandoned status of such facility and such owner shall remove the abandoned facility. The related utility pole shall also be removed unless such pole is otherwise being used by another utility or is owned by a party other than the owner of the removed small wireless facility.

Source: Laws 2019, LB184, § 37.

Effective date September 1, 2019.

86-1238 Activities of wireless provider within right-of-way; authorized; procedure; rates; terms and conditions.

(1) This section applies to the activities of a wireless provider within the right-of-way.

(2) A person owning, managing, or controlling authority poles in a right-of-way may enter into an exclusive arrangement with any person for the management of an attachment to such poles. A person who manages attachments to authority poles or who manages, purchases, or otherwise acquires an authority pole is subject to the requirements of the Small Wireless Facilities Deployment Act.

(3) An authority shall allow the collocation of small wireless facilities on authority poles using the process in section 86-1237.

(4) The rates provided under section 86-1239 to collocate on authority poles shall be nondiscriminatory regardless of the services provided by the collocating person.

(5)(a) The rates, fees, terms, and conditions for make-ready work to collocate on an authority pole shall be nondiscriminatory, competitively neutral, and commercially reasonable and shall reimburse all reasonable costs incurred by an authority in compliance with the Small Wireless Facilities Deployment Act.

(b) An authority shall provide a good faith estimate for any make-ready work necessary to enable the authority pole to support the requested collocation by an applicant, including pole replacement if necessary, within one hundred twenty days after receipt of a completed application. Make-ready work, including any pole replacement, shall be completed within ninety days after written acceptance of the good faith estimate by the applicant. An authority may require replacement of the authority pole only if it determines and provides details indicating that the collocation would make the authority pole structurally unsound.

(c) The person owning, managing, or controlling the authority pole shall not require more make-ready work than required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to known preexisting or prior damage or noncompliance. Fees for make-ready

work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for reasonably similar work and may include reasonable consultant fees or expenses.

(d) For purposes of this subsection, make-ready work generally refers to the modification of utility poles or lines or the installation of guys and anchors to accommodate additional facilities.

Source: Laws 2019, LB184, § 38.

Effective date September 1, 2019.

86-1239 Requirement to pay rate, fee, or compensation; authority; limitation; occupation tax; application fee; limitation.

(1) An authority shall not require a wireless provider to pay any rate, fee, or compensation to the authority or other person other than what is expressly authorized by section 86-704, or, where applicable, section 14-109, 15-203, 16-205, or 17-525, or the Small Wireless Facilities Deployment Act for the right to use or occupy a right-of-way for collocation of small wireless facilities on wireless support structures or utility poles in the right-of-way or for the installation, maintenance, modification, operation, and replacement of utility poles in the right-of-way.

(2)(a) An authority that charges occupation taxes under section 86-704 shall not charge a wireless services provider any additional amount for the use of a right-of-way. An authority may charge a wireless provider that does not pay the authority's occupation tax under section 86-704 either a rate of two hundred fifty dollars for each small wireless facility each year, or a fee equal to the occupation tax charged by the authority under section 14-109, 15-203, 16-205, or 17-525.

(b) The application fees for collocation of small wireless facilities on an existing or replacement authority pole shall not exceed five hundred dollars for up to five small wireless facilities on the same application and one hundred dollars for each additional small wireless facility on the same application.

(c) The application fees for the installation, modification, or replacement of a utility pole and the collocation of an associated small wireless facility that are a permitted use in accordance with the specifications in subsection (5) of section 86-1236 shall not exceed two hundred fifty dollars per pole.

(d) In the case of coapplicants for a single site, only one application fee may be charged for the site.

(3) The rate for collocation of a small wireless facility on an authority pole in the right-of-way shall be no more than twenty dollars per authority pole per year.

Source: Laws 2019, LB184, § 39.

Effective date September 1, 2019.

86-1240 Interpretation of Small Wireless Facilities Deployment Act; limitations.

Nothing in the Small Wireless Facilities Deployment Act shall be interpreted to allow any entity to provide services regulated under 47 U.S.C. 521 to 573, as such sections existed on January 1, 2019, without compliance with all laws applicable to providers of such services. The Small Wireless Facilities Deploy-

ment Act shall not be interpreted to impose any new requirements on cable operators for the provision of cable service in this state.

Source: Laws 2019, LB184, § 40.
Effective date September 1, 2019.

86-1241 Authority; powers and duties; limitations.

(1) Except as provided by the Small Wireless Facilities Deployment Act or applicable federal law, an authority shall continue to exercise zoning, land-use, planning, and permit-granting authority within its territorial boundaries, including with respect to wireless support structures and utility poles, except that no authority shall have or exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any college or university campus, stadium, or athletic facility not owned or controlled by the authority, other than to comply with applicable codes. An authority shall evaluate the structure classification for wireless support structures under the standard of the American National Standards Institute found in ANSI/TIA-222, as such standard existed on January 1, 2019. Nothing in the Small Wireless Facilities Deployment Act shall authorize the State of Nebraska or any agency or political subdivision thereof, including an authority, to require wireless facility deployment or to regulate wireless services.

(2) Except as provided in the Small Wireless Facilities Deployment Act or as otherwise specifically authorized by state or federal law, an authority may not impose or collect a tax, fee, or rate on a communications service provider authorized to operate in a right-of-way by federal, state, or local law for the provision of communications service over the communications service provider's communications facilities in the right-of-way, adopt or enforce any regulations or requirements on the placement or operation of communications facilities in the right-of-way by the communications service provider, or regulate any communications services.

Source: Laws 2019, LB184, § 41.
Effective date September 1, 2019.

86-1242 Disputes; court jurisdiction; rates; applicability.

A court of competent jurisdiction shall have jurisdiction to determine all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on authority poles, the rates listed in section 86-1239 shall apply.

Source: Laws 2019, LB184, § 42.
Effective date September 1, 2019.

86-1243 Applicability of act.

The Small Wireless Facilities Deployment Act does not apply to the University of Nebraska system and its affiliates, the Nebraska state college system, the community college system, and all campuses, areas, and property of such systems.

Source: Laws 2019, LB184, § 43.
Effective date September 1, 2019.

86-1244 Public power supplier; negotiated pole attachment agreement; annual pole attachment rate; applicability of act.

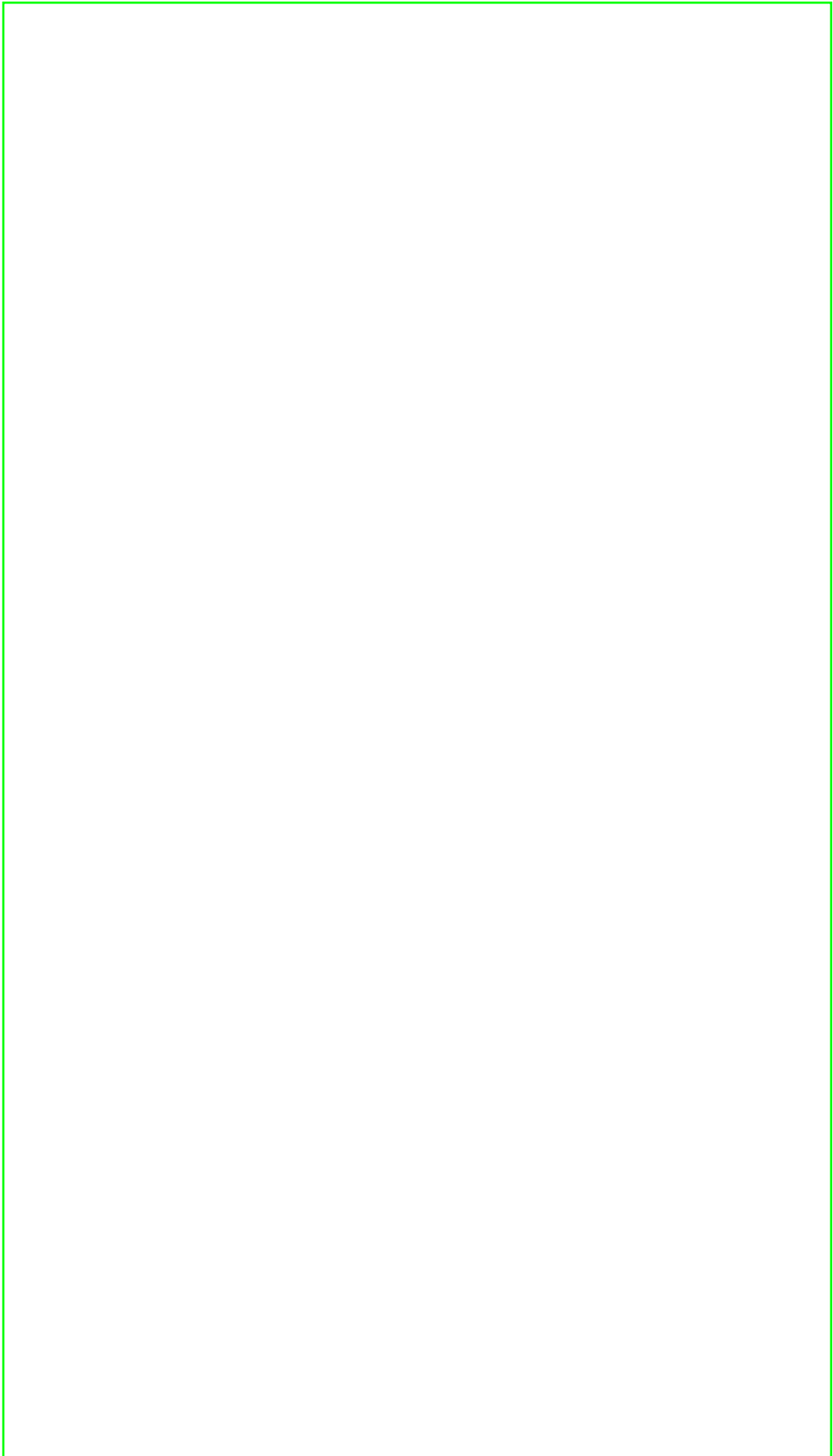
(1) A public power supplier shall not be required to allow the collocation of small wireless facilities on utility poles owned, operated, or managed by a public power supplier except pursuant to a negotiated pole attachment agreement containing reasonable and nondiscriminatory terms and conditions, including, but not limited to, applicable rates, and the permit, operational, and safety requirements of the public power supplier.

(2) The annual pole attachment rate for the collocation of a small wireless facility supported by or installed on a utility pole owned, operated, or managed by a public power supplier shall be fair, reasonable, nondiscriminatory, cost-based, and set by the board of such public power supplier in accordance with section 70-655.

(3) Except for the findings and declarations set forth in section 86-1202, the definitions set forth in sections 86-1204 to 86-1235, and subsections (1) and (2) of this section, the Small Wireless Facilities Deployment Act shall not apply to public power suppliers or to the collocation of small wireless facilities on utility poles owned, operated, or managed by a public power supplier.

Source: Laws 2019, LB184, § 44.

Effective date September 1, 2019.



CHAPTER 88

WAREHOUSES

Article.

5. Grain Warehouses. 88-550.

ARTICLE 5

GRAIN WAREHOUSES

Section

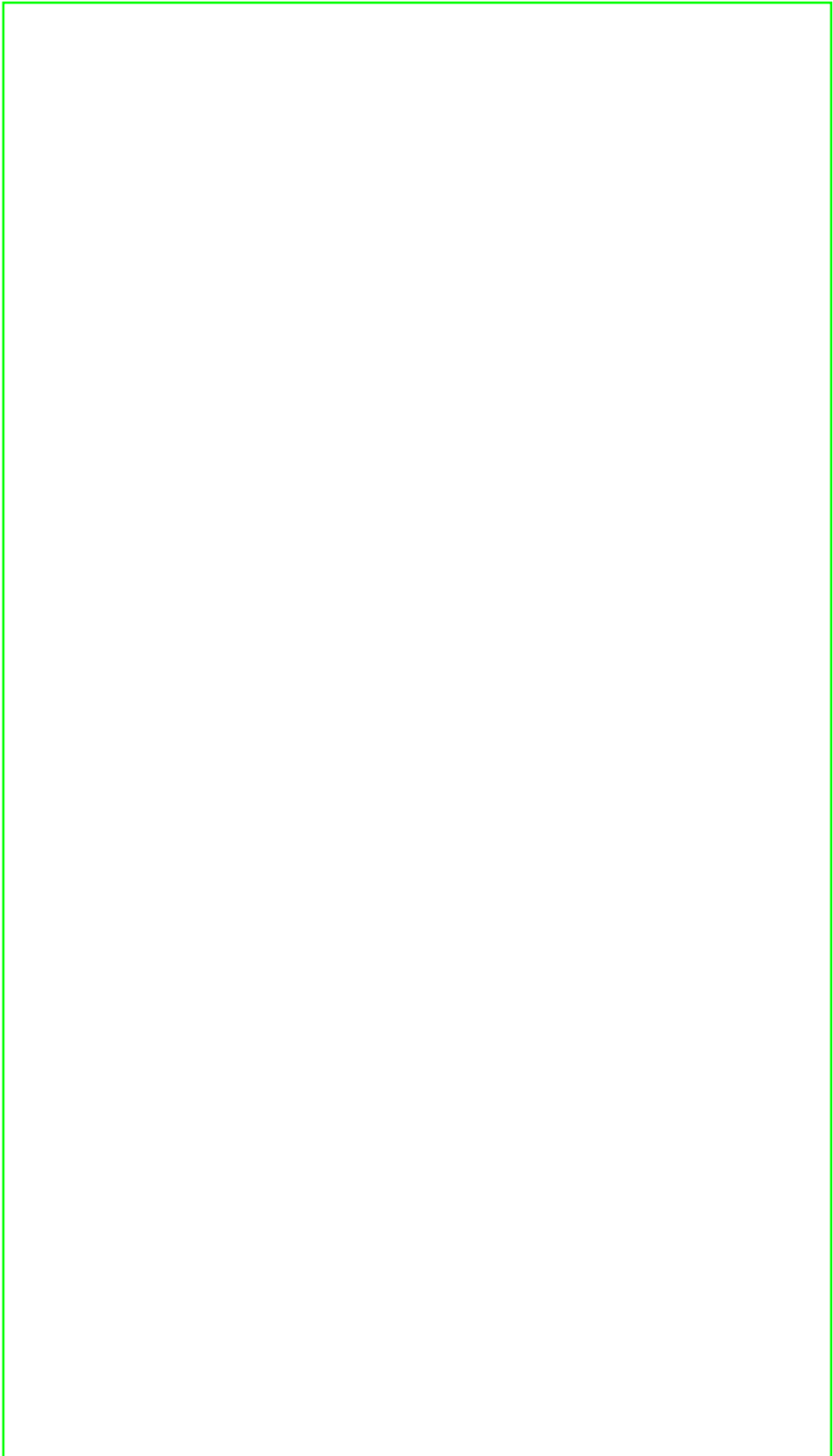
88-550. Grain dust inspections; Department of Environment and Energy; commission; duties.

88-550 Grain dust inspections; Department of Environment and Energy; commission; duties.

The Department of Environment and Energy and the commission shall, during the course of their regular inspections required by law, inspect warehouses for conditions which are or may be conducive to grain dust explosions. Such conditions shall include, but not be limited to, the presence at the warehouse of excessive grain dust, faulty equipment, or any other condition which could reasonably lead to an explosion if not corrected. The department and commission shall report any such condition to the State Fire Marshal as soon as practicable after each inspection.

Source: Laws 1987, LB 164, § 26; Laws 1993, LB 3, § 73; Laws 2019, LB302, § 178.

Operative date July 1, 2019.



CHAPTER 90

SPECIAL ACTS

Article.

2. Specific Conveyances. 90-204.
5. Appropriations. 90-517 to 90-560.

ARTICLE 2

SPECIFIC CONVEYANCES

Section

90-204. Cession of lands to the United States.

90-204 Cession of lands to the United States.

(1) The State of Nebraska shall cede all criminal and civil jurisdiction over and within the lands described in subsection (4) of this section to the United States.

(2) The jurisdiction ceded by subsection (1) of this section shall be vested upon acceptance by the United States by and through its appropriate officials.

(3) The Governor is hereby authorized and empowered to execute all proper conveyances necessary to grant the cession provided in this section upon request of the United States by its appropriate officials.

(4) This section applies to the following described real estate located in Sarpy County, Nebraska:

(a) Tract number 58: A tract of land situated in the southwest quarter of section 35, township 14 north, range 13 east of the sixth principal meridian, Sarpy County, Nebraska, the boundary of which is described as follows; Beginning at a point on the south line of said section 35, said point being 486.75 feet east of the southwest corner of said section 35, thence north 275.9 feet, thence east 211.2 feet, thence south 66 feet, thence west 2.48 feet, thence south 209.9 feet to the south line of said section 35, thence west along the south line of said section 35 a distance of 208.72 feet to the point of beginning. The tract of land herein described contains 1.32 acres, more or less;

(b) Tract number 240: All that portion of The Burlington Northern and Santa Fe Railway Company's (formerly Chicago, Burlington & Quincy Railroad Company) Pappio to Gilmore Jct., Nebraska Branch Line right-of-way, now discontinued, varying in width on each side of said Railway Company's Main Track centerline as originally located and constructed upon, over, and across the southwest quarter of the northwest quarter, the north half of the northwest quarter of the southwest quarter, the northeast quarter of the southwest quarter, and the north half of the southeast quarter (later platted as a part of Palmtag's Subdivision) section 11, township 13 north, range 13 east of the sixth principal meridian, Sarpy County, Nebraska, extending from Station 185 + 38 (MP 4.94) on the westerly right-of-way line of an existing public road to Station 151 + 04 on the easterly right-of-way line of Highway 75 as shown in quit claim deed filed January 11, 1990, instrument number 90-00655 and being more particularly described as follows: Commencing at the west quarter corner of

said section 11; thence north 02 degrees, 38 minutes, 08 seconds west along the west line of said section 11, a distance of 899.52 feet; thence northeasterly along the existing easterly right-of-way line of said Highway 75, deflecting 59 degrees, 24 minutes, 24 seconds right, 49.54 feet; thence southeasterly along said existing easterly right-of-way line of Highway 75, along a curve to the left having a radius of 1,659.93 feet, deflection to the initial tangent being 90 degrees, 00 minutes, 00 seconds right, subtending a central angle of 15 degrees, 16 minutes, 17 seconds, for a distance of 442.43 feet; thence southwesterly along said existing easterly right-of-way line of Highway 75, deflecting 90 degrees, 00 minutes, 00 seconds left, 166.00 feet to Offutt Boundary Marker 88-20; thence southeasterly along said existing easterly right-of-way line of Highway 75, along a curve to the left, having a radius of 1,825.93 feet, deflection to the initial tangent being 90 degrees, 00 minutes, 00 seconds left, subtending a central angle of 00 degrees, 30 minutes, 23 seconds, for a distance of 16.14 feet; thence southerly along said existing easterly right-of-way line of Highway 75, along a curve to the left having a radius of 3,164.04 feet, deflection to the initial tangent being 62 degrees, 36 minutes, 54 seconds right, subtending a central angle of 02 degrees, 32 minutes, 39 seconds, 140.49 feet to the northeasterly right-of-way line of the Union Pacific Railroad (formerly Missouri Pacific Railroad) and being the point of beginning; thence northerly along the last described course, 140.49 feet to the northerly right-of-way line of said abandoned Burlington Northern and Santa Fe Railway; thence southeasterly along said northerly right-of-way line of the abandoned railroad, along a curve to the left having a radius of 1,859.17 feet for an arc length of 903.19 feet, more or less, to the north line of said north half of the northwest quarter of the southwest quarter (Offutt Boundary Marker 88-19); thence north 87 degrees, 40 minutes, 01 seconds east along said northerly right-of-way line and along said north line of the north half of the northwest quarter of the southwest quarter, a distance of 276.79 feet, more or less, to the northeast corner thereof (Offutt Boundary Marker 88-18); thence south 05 degrees, 27 minutes, 27 seconds west along said northerly right-of-way line and along the east line of said north half of the northwest quarter of the southwest quarter, a distance of 58.57 feet, more or less, to Offutt Boundary Marker 88-17; thence south 84 degrees, 32 minutes, 33 seconds east along said northerly right-of-way line, 1,818.10 feet to Offutt Boundary Marker 88-16; thence north 05 degrees, 27 minutes, 27 seconds east along said northerly right-of-way line, 25.00 feet to Offutt Boundary Marker 88-15; thence south 84 degrees, 32 minutes, 33 seconds east along said northerly right-of-way line, 181.80 feet to Offutt Boundary Marker 88-14; thence southeasterly along said northerly right-of-way line along a curve to the right having a radius of 1,712.04 feet for an arc length of 389.57 feet (the chord bears south 78 degrees, 01 minutes, 26 seconds east, 388.73 feet) to the westerly right-of-way line of an existing county road; thence south 18 degrees, 29 minutes, 42 seconds west along said westerly right-of-way line, 75.00 feet to Station 185+38 (M.P. 4.94) on the centerline of said abandoned railroad; thence continuing south 18 degrees, 29 minutes, 42 seconds west along said westerly right-of-way line, 75.00 feet to the southerly right-of-way line of said abandoned railroad; thence northwesterly along said southerly right-of-way line along a curve to the left having a radius of 1,562.04 feet for an arc length of 357.28 feet, more or less, to a point, said point being 75.00 feet southwesterly of and at right angles to said centerline at Station 181+96; thence north 84 degrees, 32 minutes, 33 seconds west along said southerly right-of-way line to the intersection with the centerline of the old channel (about year 1900) of

Papillion Creek; thence southeasterly along said centerline of the old channel and being the southerly right-of-way line of the said abandoned railroad to a point 250.00 feet southerly of, measured at right angles to said centerline of the abandoned railroad; thence north 84 degrees, 32 minutes, 33 seconds west along said southerly right-of-way line, 1,880.00 feet, more or less, to a point, said point being 250.00 feet southwesterly of and at right angles to said centerline of the abandoned railroad at Station 162+26; thence northwesterly along a curve to the right having a radius of 2,159.17 feet for an arc length of 566.00 feet, more or less, to the intersection of said southerly right-of-way line with said northeasterly right-of-way line of Union Pacific Railroad (formerly the Missouri Pacific Railroad); thence northwesterly along said northeasterly right-of-way line to the point of beginning;

(c) Tract number 227: A tract of land situated in the south half of section 35, township 14 north, range 13 east of the sixth principal meridian, Sarpy County, Nebraska, more particularly described as follows: Beginning at the point where the easterly right-of-way line of State Highway 73-75 intersects the south line of said section 35; thence north along said easterly right-of-way line of State Highway 73-75, a distance of 610.00 feet; thence southeasterly a distance of 2,365.00 feet to a point on said south line of section 35, said point being 2,285.00 feet easterly from said point of intersection of said south line with said easterly right-of-way line of State Highway 73-75 and also being a point on the northeasterly right-of-way line of Nelson Drive, state-owned, hard-surfaced four-lane highway; thence westerly along aforesaid south line, section 35 to the southwesterly right-of-way line of said Nelson Drive; thence northwesterly, along aforesaid westerly right-of-way line, a distance of 640.00 feet; thence southwesterly, at right angles, to the left a distance of 60.00 feet; thence southeasterly, a distance of 360.00 feet, to a point on said south line, said point being 300.00 feet westerly from said southwesterly right-of-way line of Nelson Drive; thence westerly, along said south line, to the point of beginning. Excepting therefrom, a tract of land situated in said south half of section 35, more particularly described as follows: Beginning at a point on the south line of said section 35, said point being 486.75 feet east of the southwest corner thereof; thence north 275.9 feet; thence east 211.2 feet; thence south 66.00 feet; thence west 2.48 feet; thence south 209.9 feet to said south line; thence west along said south line a distance of 208.72 feet to the point of beginning. The tract of land herein described contains 13.60 acres, more or less;

(d) Tract number 228: A tract of land, situated in the south half of section 35, township 14 north, range 13 east of the sixth principal meridian, Sarpy County, Nebraska, more particularly described as follows: Commencing at the southwest corner of said section 35, thence easterly, along the south line of said south half, a distance of 523.00 feet to the easterly right-of-way line of the U.S. Highway 73 and 75; thence northerly, along said easterly right-of-way of said highway, a distance of 610.00 feet to the point of beginning of said tract of land to be described; thence southeasterly, a distance of 2,365.00 feet to a point on said line of south half, said point being 2,285.00 feet easterly from said point of intersection of said south line with said easterly right-of-way line of state highway 73-75, and also being a point on the northerly right-of-way line of Nelson Drive, state-owned, hard-surfaced four-lane highway; thence northwesterly, along aforesaid northerly right-of-way line of said Nelson Drive, to the centerline of existing drainage ditch; thence southwesterly, along the centerline of aforesaid drainage ditch, to said easterly right-of-way line of State Highway

73 and 75; thence southerly along aforesaid easterly right-of-way line of State Highway 73 and 75, to the point of beginning. The tract of land herein described contains 4.30 acres, more or less; and

(e) Tract number 229: A tract of land situated in tax lot 11a and tax lot 11b, which are a part of the south half of section 35, township 14 north, range 13 east of the sixth principal meridian, Sarpy County, Nebraska, more particularly described as follows: Commencing at the south quarter corner of said section 35; which is also the southwest corner of said tax lot 11b; thence easterly along the south line of said section 35, which also is the south line of said tax lot 11b, a distance of 445.50 feet to the southeast corner of said tax lot 11b which is also the point of beginning of said tract of land to be described; thence northerly along the east line of said tax lot 11b, a distance of 1,081.40 feet; thence westerly at right angles to the left a distance of 170.00 feet; thence southerly at right angles to the left a distance of 33.00 feet; thence westerly at right angles to the right a distance of 590.00 feet; thence northerly at right angles to the right to a point said point being more particularly described as follows: Commencing at said southwest corner of said tax lot 11b; thence northerly along the west line of said tax lot 11b, which is also the north-south centerline of said section 35, a distance of 1,083.81 feet; thence westerly at right angles to the left a distance of 315.40 feet to said point being described; thence north 76 degrees, 01 minutes, 00 seconds west a distance of 258.17 feet; thence north 24 degrees, 50 minutes, 00 seconds east a distance of 11.95 feet; thence north 65 degrees, 10 minutes, 00 seconds west a distance of 235.27 feet; thence north a distance of 39.16 feet to a point on the easterly line of Martinview Addition in said Sarpy County, as platted and recorded; thence southwesterly along a curve to the right having a radius of 284.50 feet, for an arc length of 446.90 feet, said curve being the southeasterly line of Martinview Addition; thence south 89 degrees, 46 minutes, 05 seconds west along the southerly line of said Martinview Addition a distance of 161.04 feet; thence south 89 degrees, 41 minutes, 55 seconds west along aforesaid southerly line of Martinview Addition, a distance of 391.56 feet; thence south 83 degrees, 34 minutes, 10 seconds west a distance of 134.92 feet; thence south 72 degrees, 28 minutes, 10 seconds west a distance of 128.74 feet; thence south 82 degrees, 39 minutes, 10 seconds west to the northeasterly right-of-way line of state-owned four-lane highway, known as Nelson Drive; thence southeasterly along the aforesaid northeasterly right-of-way line of Nelson Drive; to a point on said south line of tax lot 11b; thence easterly along said south line a distance of 282.50 feet to the point of beginning. The tract of land herein described contains 40.51 acres, more or less.

Source: Laws 2019, LB214, § 1.

Effective date September 1, 2019.

ARTICLE 5 APPROPRIATIONS

Section

- 90-517. Repealed. Laws 2019, LB3, § 5.
- 90-535. Repealed. Laws 2019, LB3, § 5.
- 90-536. Repealed. Laws 2019, LB3, § 5.
- 90-537. Repealed. Laws 2019, LB3, § 5.
- 90-538. Repealed. Laws 2019, LB3, § 5.
- 90-539. Repealed. Laws 2019, LB3, § 5.
- 90-541. Repealed. Laws 2019, LB3, § 5.

Section

- 90-542. Repealed. Laws 2019, LB3, § 5.
- 90-543. Repealed. Laws 2019, LB3, § 5.
- 90-544. Repealed. Laws 2019, LB3, § 5.
- 90-545. Repealed. Laws 2019, LB3, § 5.
- 90-546. Repealed. Laws 2019, LB3, § 5.
- 90-547. Repealed. Laws 2019, LB3, § 5.
- 90-548. Repealed. Laws 2019, LB3, § 5.
- 90-549. Repealed. Laws 2019, LB3, § 5.
- 90-550. Repealed. Laws 2019, LB3, § 5.
- 90-551. Repealed. Laws 2019, LB3, § 5.
- 90-552. Repealed. Laws 2019, LB3, § 5.
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- 90-557. Repealed. Laws 2019, LB3, § 5.
- 90-559. Repealed. Laws 2019, LB3, § 5.
- 90-560. Repealed. Laws 2019, LB3, § 5.

90-517 Repealed. Laws 2019, LB3, § 5.

90-535 Repealed. Laws 2019, LB3, § 5.

90-536 Repealed. Laws 2019, LB3, § 5.

90-537 Repealed. Laws 2019, LB3, § 5.

90-538 Repealed. Laws 2019, LB3, § 5.

90-539 Repealed. Laws 2019, LB3, § 5.

90-541 Repealed. Laws 2019, LB3, § 5.

90-542 Repealed. Laws 2019, LB3, § 5.

90-543 Repealed. Laws 2019, LB3, § 5.

90-544 Repealed. Laws 2019, LB3, § 5.

90-545 Repealed. Laws 2019, LB3, § 5.

90-546 Repealed. Laws 2019, LB3, § 5.

90-547 Repealed. Laws 2019, LB3, § 5.

90-548 Repealed. Laws 2019, LB3, § 5.

90-549 Repealed. Laws 2019, LB3, § 5.

90-550 Repealed. Laws 2019, LB3, § 5.

90-551 Repealed. Laws 2019, LB3, § 5.

90-552 Repealed. Laws 2019, LB3, § 5.

90-553 Repealed. Laws 2019, LB3, § 5.

90-554 Repealed. Laws 2019, LB3, § 5.

90-555 Repealed. Laws 2019, LB3, § 5.

90-556 Repealed. Laws 2019, LB3, § 5.

90-557 Repealed. Laws 2019, LB3, § 5.

90-559 Repealed. Laws 2019, LB3, § 5.

90-560 Repealed. Laws 2019, LB3, § 5.

UNIFORM COMMERCIAL CODE

Article.

4A. Funds Transfers.

Part 1. Subject Matter and Definitions. 4A-108.

ARTICLE 4A FUNDS TRANSFERS

Part 1. SUBJECT MATTER AND DEFINITIONS

Section

4A-108. Relationship to Electronic Fund Transfer Act.

Part 1

SUBJECT MATTER AND DEFINITIONS

4A-108 Relationship to Electronic Fund Transfer Act.

(a) Except as provided in subsection (b), this article does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed on January 1, 2019.

(b) This article applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. 1693o-1, as such section existed on January 1, 2019, unless the remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section existed on January 1, 2019.

(c) In a funds transfer to which this article applies, in the event of an inconsistency between an applicable provision of this article and an applicable provision of the Electronic Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency.

Source: Laws 1991, LB 160, § 9; Laws 2013, LB146, § 1; Laws 2019, LB258, § 18.
Effective date March 8, 2019.



APPENDIX

CLASSIFICATION OF PENALTIES

CLASS I FELONY

Death

28-303 Murder in the first degree

CLASS IA FELONY

Life imprisonment (persons 18 years old or older)

Maximum for persons under 18 years old—life imprisonment

Minimum for persons under 18 years old—forty years' imprisonment

28-202 Criminal conspiracy to commit a Class IA felony
 28-303 Murder in the first degree
 28-313 Kidnapping
 28-391 Murder of an unborn child in the first degree
 28-1223 Using explosives to damage or destroy property resulting in death
 28-1224 Using explosives to kill or injure any person resulting in death

CLASS IB FELONY

Maximum—life imprisonment

Minimum—twenty years' imprisonment

28-111 Sexual assault of a child in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
 28-111 Sexual assault of a child in the second or third degree, with prior sexual assault convictions, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
 28-115 Sexual assault of a child in the second or third degree, with prior sexual assault conviction, committed against a pregnant woman
 28-115 Sexual assault of a child in the first degree committed against a pregnant woman
 28-202 Criminal conspiracy to commit a Class IB felony
 28-304 Murder in the second degree
 28-319.01 Sexual assault of a child in the first degree
 28-319.01 Sexual assault of a child in the first degree with prior sexual assault conviction
 28-392 Murder of an unborn child in the second degree
 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of 140 grams or more
 28-416 Offenses relating to amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities

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CLASS IB FELONY

- 28-416 Offenses relating to amphetamine or methamphetamine in a quantity of 28 grams or more involving minors or near youth facilities
- 28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of amphetamine or methamphetamine in a quantity of at least 28 grams
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of 140 grams or more
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of 140 grams or more
- 28-416 Offenses relating to cocaine or base cocaine (crack) in a quantity of 28 grams or more involving minors or near youth facilities
- 28-416 Offenses relating to cocaine or base cocaine (crack) in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities
- 28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of 28 grams or more
- 28-416 Offenses relating to heroin in a quantity of 28 grams or more involving minors or near youth facilities
- 28-416 Offenses relating to heroin in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities
- 28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of heroin or any mixture containing heroin in a quantity of at least 28 grams
- 28-457 Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine resulting in death
- 28-707 Child abuse committed knowingly and intentionally and resulting in death
- 28-831 Labor trafficking or sex trafficking of a minor
- 28-1206 Possession of a firearm by a prohibited person, second or subsequent offense
- 28-1356 Obtaining a real property interest or establishing or operating an enterprise by means of racketeering activity punishable as a Class I, IA, or IB felony

CLASS IC FELONY

Maximum—fifty years' imprisonment

Mandatory minimum—five years' imprisonment

- 28-115 Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a

APPENDIX

CLASS IC FELONY

- health care professional in the first degree committed against a pregnant woman
- 28-202 Criminal conspiracy to commit a Class IC felony
- 28-320.01 Sexual assault of a child in the second degree with prior sexual assault conviction
- 28-320.01 Sexual assault of a child in the third degree with prior sexual assault conviction
- 28-320.02 Sexual assault of minor or person believed to be a minor lured by electronic communication device, second offense or with previous conviction of sexual assault
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 28 grams but less than 140 grams
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of at least 28 grams but less than 140 grams
- 28-416 Offenses relating to cocaine or base cocaine (crack) in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
- 28-416 Offenses relating to heroin in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
- 28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 10 grams but less than 28 grams
- 28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of heroin or any mixture containing heroin in a quantity of at least 10 grams but less than 28 grams
- 28-416 Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405, second or subsequent offense involving minors or near youth facilities
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of at least 28 grams but less than 140 grams
- 28-416 Offenses relating to amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
- 28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams
- 28-813.01 Possession of visual depiction of sexually explicit conduct containing a child by a person with previous conviction

APPENDIX

CLASS IC FELONY

- 28-1205 Use of firearm to commit a felony
28-1212.04 Discharge of firearm within certain cities or counties from vehicle or proximity of vehicle at a person, structure, vehicle, or aircraft
28-1463.04 Child pornography by person with previous conviction
28-1463.05 Possession of child pornography with intent to distribute by person with previous conviction

CLASS ID FELONY

Maximum—fifty years' imprisonment

Mandatory minimum—three years' imprisonment

- 28-111 Assault in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111 Kidnapping (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111 Sexual assault in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111 Arson in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111 Sexual assault of a child in the second degree, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115 Assault in the first degree committed against a pregnant woman
28-115 Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the second degree committed against a pregnant woman
28-115 Sexual assault in the first degree committed against a pregnant woman
28-115 Sexual assault of a child in the second degree, first offense, committed against a pregnant woman
28-115 Domestic assault in the first degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-115 Certain acts of assault, terroristic threats, kidnapping, or false imprisonment committed by legally confined person against a pregnant woman
28-202 Criminal conspiracy to commit a Class ID felony
28-320.02 Sexual assault of minor or person believed to be a minor lured by electronic communication device, first offense
28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver,

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CLASS ID FELONY

- 28-416 or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 10 grams but less than 28 grams
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of at least 10 grams but less than 28 grams
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams
- 28-416 Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405, first offense involving minors or near youth facilities
- 28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of an exceptionally hazardous drug in Schedule I, II, or III of section 28-405
- 28-416 Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405, second or subsequent offense involving minors or near youth facilities
- 28-929 Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the first degree
- 28-1206 Possession of a firearm by a prohibited person, first offense
- 28-1212.02 Unlawful discharge of firearm at an occupied building, vehicle, or aircraft
- 28-1463.04 Child pornography by person 19 years old or older

CLASS II FELONY

Maximum—fifty years' imprisonment
Minimum—one year imprisonment

- 28-111 Assault in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Manslaughter committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Sexual assault in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Arson in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-115 Assault in the second degree committed against a pregnant woman

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CLASS II FELONY

28-115	Assault with a deadly or dangerous weapon by a legally confined person committed against a pregnant woman
28-115	Sexual assault in the second degree committed against a pregnant woman
28-115	Sexual abuse of an inmate or parolee in the first degree committed against a pregnant woman
28-115	Sexual abuse of a protected individual, first degree, committed against a pregnant woman
28-115	Domestic assault in the first degree, first offense, committed against a pregnant woman
28-115	Domestic assault in the second degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-201	Criminal attempt to commit a Class I, IA, IB, IC, or ID felony
28-202	Criminal conspiracy to commit a Class I or II felony
28-306	Motor vehicle homicide by person driving under the influence of alcohol or drugs with prior conviction of driving under the influence of alcohol or drugs
28-308	Assault in the first degree
28-311.08	Distributing or otherwise making public an image or video of the intimate area of another recorded without his or her knowledge and consent when his or her intimate area would not be generally visible to the public regardless of whether in a public or private place, third or subsequent violation
28-313	Kidnapping (certain situations)
28-319	Sexual assault in the first degree
28-320.01	Sexual assault of a child in the second degree, first offense
28-323	Domestic assault in the first degree, second or subsequent offense
28-324	Robbery
28-416	Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405
28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405, first offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of certain controlled substances in Schedule I, II, or III of section 28-405
28-502	Arson in the first degree
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, second or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, third or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, second or subsequent offense
28-644	Violation of Counterfeit Airbag Protection Act resulting in death
28-707	Child abuse committed knowingly and intentionally and resulting in serious bodily injury

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CLASS II FELONY

28-802	Pandering
28-831	Labor trafficking or sex trafficking
28-919	Tampering with a witness, informant, or juror when involving a pending criminal proceeding alleging a violation of another offense classified as a Class II felony or higher
28-922	Tampering with physical evidence when involving a pending criminal proceeding alleging a violation of another offense classified as a Class II felony or higher
28-930	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the second degree
28-933	Certain acts of assault, terroristic threats, kidnapping, or false imprisonment committed by legally confined person
28-1205	Possession of firearm during commission of a felony
28-1205	Use of deadly weapon other than a firearm to commit a felony
28-1222	Using explosives to commit a felony, second or subsequent offense
28-1223	Using explosives to damage or destroy property resulting in personal injury
28-1224	Using explosives to kill or injure any person resulting in personal injury
30-619	Willfully conceal or destroy evidence of any person's disqualification as a surrogate under the Health Care Surrogacy Act
30-3432	Sign or alter without authority or alter, forge, conceal, or destroy a power of attorney for health care or conceal or destroy a revocation with the intent and effect of withholding or withdrawing life-sustaining procedures or nutrition or hydration
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fifth or subsequent offense committed with .15 gram alcohol concentration
70-2105	Destroy, damage, or cause loss to nuclear electrical generating facility or steal or render nuclear fuel unusable or unsafe

CLASS IIA FELONY

Maximum—twenty years' imprisonment

Minimum—none

28-201	Attempt to commit a Class II felony
28-204	Harboring, concealing, or aiding a felon who committed a Class I, IA, IB, IC, or ID felony
28-305	Manslaughter
28-306	Motor vehicle homicide by person driving under the influence of alcohol or drugs with no prior conviction
28-309	Assault in the second degree
28-310.01	Assault by strangulation or suffocation using a dangerous instrument, or resulting in serious bodily injury, or after previous conviction under this section
28-311	Criminal child enticement with previous conviction of enumerated crimes

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CLASS IIA FELONY

28-311.08	Distributing or otherwise making public an image or video of the intimate area of another recorded without his or her knowledge and consent when his or her intimate area would not be generally visible to the public regardless of whether in a public or private place, first or second violation
28-320	Sexual assault in the second degree
28-322.02	Sexual abuse of inmate or parolee in the first degree
28-322.04	Sexual abuse of a protected individual in the first degree
28-322.05	Sexual abuse of a detainee in the first degree
28-323	Domestic assault in the first degree, first offense
28-323	Domestic assault in the second degree, second or subsequent offense
28-393	Manslaughter of unborn child
28-394	Motor vehicle homicide of unborn child by person driving under the influence of alcohol or drugs with prior conviction of driving under the influence
28-397	Assault of unborn child in the first degree
28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405
28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405, second or subsequent offense involving minors or near youth facilities
28-507	Burglary
28-518	Theft, value \$5,000 or more
28-603	Forgery in the second degree, face value \$5,000 or more
28-611	Issuing or passing bad check or other instrument, amount of \$5,000 or more
28-611.01	Issuing a no-account check, amount less than \$1,500 or more, second or subsequent offense
28-620	Unauthorized use or uses of financial transaction device, total value more than \$5,000, within six months from first unauthorized use
28-621	Criminal possession of four or more financial transaction devices
28-622	Unlawful circulation of a financial transaction device in the first degree
28-627	Unlawful manufacture of a financial transaction device
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, second or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, first offense
28-644	Violation of Counterfeit Airbag Prevention Act resulting in serious bodily injury
28-703	Incest with a person under 18 years old
28-707	Child abuse committed negligently resulting in death
28-813.01	Possessing visual depiction of sexually explicit conduct containing a child by a person 19 years old or older
28-831	Benefitting from or participating in a labor trafficking or sex trafficking venture
28-912	Escape using force, threat, deadly weapon, or dangerous instrument

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CLASS IIA FELONY

28-932	Assault with a deadly or dangerous weapon by a legally confined person
28-1212.03	Possession, receipt, retention, or disposal of a stolen firearm knowing or believing it to be stolen
28-1222	Using explosives to commit a felony, first offense
28-1224	Using explosives to kill or injure any person unless personal injury or death occurs
28-1463.05	Possession of child pornography with intent to distribute by person 19 years old or older
29-4011	Failure by felony sex offender to register under Sex Offender Registration Act, second or subsequent offense
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fourth offense committed with .15 gram alcohol concentration
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fifth or subsequent offense
60-6,197.06	Operating a motor vehicle when operator's license has been revoked for driving under the influence, second or subsequent offense

CLASS III FELONY

Maximum—four years' imprisonment and two years' post-release supervision or twenty-five thousand dollars' fine, or both
Minimum—none for imprisonment and nine months' post-release supervision if imprisonment is imposed

8-138	Officer, agent, or employee accepting or receiving deposits on behalf of insolvent bank
8-139	Acting or attempting to act as active executive officer of a bank when license has been revoked or authority has been suspended
8-175	Banks, false entry or statements, offenses relating to records
8-224.01	Substitution or investment of estate or trust assets for or in securities of the trust company controlling the estate or trust; loans of trust company assets to trust company officials or employees
8-702	Bank continuing to do business after charter is forfeited
9-814	Altering lottery tickets to defraud under State Lottery Act
24-216	Clerk of the Supreme Court intentionally making a false report under oath, perjury
25-2310	Fraudulently invoking privilege of proceeding in forma pauperis
28-107	Felony defined outside of criminal code
28-111	Terroristic threats committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Stalking, certain situations or subsequent conviction within 7 years, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	False imprisonment in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin,

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CLASS III FELONY

- gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Sexual assault of a child in the third degree, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-115 Assault by legally confined person without a deadly weapon committed against a pregnant woman
- 28-115 Sexual assault of a child in the third degree, first offense, committed against a pregnant woman
- 28-115 Domestic assault in the second degree, first offense, committed against a pregnant woman
- 28-115 Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the third degree committed against a pregnant woman
- 28-115 Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional using a motor vehicle committed against a pregnant woman
- 28-115 Causing serious bodily injury to a pregnant woman while driving while intoxicated
- 28-115 Sexual abuse of an inmate or parolee in the second degree committed against a pregnant woman
- 28-115 Sexual abuse of a protected individual, second degree, committed against a pregnant woman
- 28-115 Domestic assault in the third degree involving bodily injury, second or subsequent offense against same intimate partner, committed against a pregnant woman
- 28-202 Criminal conspiracy to commit a Class III felony
- 28-310.01 Strangulation without dangerous instrument
- 28-328 Performance of partial-birth abortion
- 28-342 Sale, transfer, distribution, or giving away of live or viable aborted child or consenting to, aiding, or abetting the same
- 28-416 Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405, first offense involving minors or near youth facilities
- 28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of controlled substances in Schedule IV or V of section 28-405
- 28-503 Arson in the second degree
- 28-602 Forgery in the first degree
- 28-611.01 Issuing a no-account check in an amount of \$5,000 or more, first offense
- 28-611.01 Issuing a no-account check in an amount of \$1,500 or more, second or subsequent offense
- 28-625 Criminal sale of two or more blank financial transaction devices
- 28-631 Committing a fraudulent insurance act when the amount involved is \$5,000 or more, first offense

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CLASS III FELONY

28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more but less than \$5,000, second or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, second offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more but less than \$5,000, second or subsequent offense
28-644	Violation of Counterfeit Airbag Prevention Act resulting in bodily injury
28-703	Incest with a person under 18 years old
28-804	Keeping a place of prostitution used by a person under 18 years old practicing prostitution
28-912	Escape when detained or under arrest on a felony charge
28-912	Escape, public servant concerned in detention permits another to escape
28-915	Perjury and subornation of perjury
28-1102	Promoting gambling in the first degree, third or subsequent offense
28-1105.01	Gambling debt collection
28-1204.01	Unlawful transfer of a firearm to a juvenile
28-1205	Possession of deadly weapon other than a firearm during commission of a felony
28-1206	Possession of deadly weapon other than a firearm by a prohibited person
28-1207	Possession of a defaced firearm
28-1208	Defacing a firearm
28-1223	Using explosives to damage or destroy property unless personal injury or death occurs
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of \$5,000 or more
28-1345	Unauthorized access to a computer which causes damages of \$5,000 or more
28-1356	Obtaining a real property interest or establishing or operating an enterprise by means of racketeering activity or unlawful debt collection
28-1423	Swearing falsely regarding sales of tobacco
28-1463.04	Child pornography by person under 19 years old
30-2219	Falsifying representation under Uniform Probate Code
30-24,125	False statement regarding personal property of decedent
30-24,129	False statement regarding real property of decedent
32-1514	Forging candidate filing form for election nomination
32-1516	Forging initials or signatures on official ballots or falsifying, destroying, or suppressing candidate filing forms
32-1517	Employer penalizing employee for serving as election official

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CLASS III FELONY

32-1522	Unlawful distribution of ballots or other election supplies by election official, printer, or custodian of supplies
38-140	Violation of cease and desist order prohibiting the unauthorized practice of a credentialed profession or unauthorized operation of a credentialed business under Uniform Credentialing Act
38-1,124	Violation of cease and desist order prohibiting the unauthorized practice of a credentialed profession or unauthorized operation of a credentialed business under Uniform Credentialing Act
44-10,108	Fraudulent statement in report or statement for benefits from a fraternal benefit society
54-1,123	Selling livestock without evidence of ownership
54-1,124	Branding another's livestock, defacing marks
54-1,125	Forging or altering livestock ownership document when value is \$1,000 or more
57-1211	Intentionally making false oath to uranium severance tax return or report
60-169	False statement on affidavit of affixture for mobile home or manufactured home
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-698	Motor vehicle accident resulting in serious bodily injury or death, violation of duty to stop
66-727	Violation of motor fuel tax laws when the amount involved is \$5,000 or more, provisions relating to evasion of tax, keeping books and records, making false statements
71-7462	Wholesale drug distribution in violation of Wholesale Drug Distributor Licensing Act
71-8929	Veterinary drug distribution in violation of Veterinary Drug Distribution Licensing Act
75-151	Violation by officer or agent of common carriers in consolidation or increase in stock, issuance of securities
77-5016.01	Falsifying a representation before the Tax Equalization and Review Commission
79-541	School district meeting or election, false oath
83-174.05	Failure to comply with community supervision, second or subsequent offense
83-184	Escape from custody (certain situations)

CLASS IIIA FELONY

Maximum—three years' imprisonment and eighteen months' post-release supervision or ten thousand dollars' fine, or both

Minimum—none for imprisonment and nine months' post-release supervision if imprisonment is imposed

28-111	Arson in the third degree, damages of \$1,500 or more, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss in excess of \$5,000 or substantial disruption of public communication or utility, committed against a person because of his or her race, color, religion, ancestry, national

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CLASS IIIA FELONY

	origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Unauthorized application of graffiti, second or subsequent offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Domestic assault in the third degree in a menacing manner, committed against a pregnant woman
28-115	Assault in the third degree (certain situations) committed against a pregnant woman
28-115	Sexual assault in the third degree committed against a pregnant woman
28-115	Domestic assault in the third degree, first offense involving bodily injury, committed against a pregnant woman
28-204	Harboring, concealing, or aiding a felon who committed a Class II or IIA felony
28-306	Motor vehicle homicide by person driving in a reckless manner
28-310.01	Assault by strangulation or suffocation
28-311	Criminal child enticement
28-311.01	Terroristic threats
28-311.04	Stalking (certain situations)
28-314	False imprisonment in the first degree
28-320.01	Sexual assault of a child in the third degree, first offense
28-322.03	Sexual abuse of an inmate or parolee in the second degree
28-322.04	Sexual abuse of a protected individual in the second degree
28-322.05	Sexual abuse of a detainee in the second degree
28-323	Domestic assault in the third degree, second or subsequent offense (certain situations)
28-386	Knowing and intentional abuse, neglect, or exploitation of a vulnerable or senior adult
28-394	Motor vehicle homicide of an unborn child by person driving in a reckless manner
28-394	Motor vehicle homicide of an unborn child by person driving under the influence of alcohol or drugs with no prior conviction
28-398	Assault of an unborn child in the second degree
28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405
28-457	Permitting a child or vulnerable adult to ingest methamphetamine, second or subsequent offense
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine causing serious bodily injury
28-634	Unlawful use or possession of an electronic payment card scanning device or encoding machine, second or subsequent offense
28-644	Second or subsequent violation of Counterfeit Airbag Prevention Act
28-707	Child abuse committed knowingly and intentionally and not resulting in serious bodily injury or death
28-707	Child abuse committed negligently, resulting in serious bodily injury but not death
28-904	Resisting arrest, second or subsequent offense
28-904	Resisting arrest using deadly or dangerous weapon

APPENDIX

CLASS IIIA FELONY

- 28-931 Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the third degree
- 28-931.01 Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional using a motor vehicle
- 28-932 Assault by legally confined person without a deadly weapon
- 28-934 Assault with a bodily fluid against a public safety officer with knowledge that bodily fluid was infected with HIV, Hep B, or Hep C
- 28-1005 Dogfighting, cockfighting, bearbaiting, etc., promoter, owner, employee, property owner, or spectator
- 28-1009 Cruel mistreatment of animal not involving torture or mutilation, second or subsequent offense
- 28-1009 Cruel mistreatment of animal involving torture or mutilation
- 28-1009 Harassment of police animal resulting in death of animal
- 28-1204.05 Unlawful possession of a firearm by a prohibited juvenile offender, second or subsequent offense
- 28-1463.05 Possession of child pornography with intent to distribute by person under 19 years old
- 29-4011 Failure by felony sex offender to register under Sex Offender Registration Act, first offense
- 29-4011 Failure by misdemeanor sex offender to register under Sex Offender Registration Act, second or subsequent offense
- 53-180.05 Knowingly and intentionally dispensing alcohol in any manner to minors or incompetents resulting in serious bodily injury or death caused by the minors' consumption or impaired condition
- 60-690 Aiding or abetting a violation of Nebraska Rules of the Road
- 60-698 Motor vehicle accident resulting in injury other than serious bodily injury, violation of duty to stop
- 60-6,197.03 Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, third offense committed with .15 gram alcohol concentration
- 60-6,197.03 Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fourth offense committed with less than .15 gram alcohol concentration
- 60-6,198 Causing serious bodily injury to person or unborn child while driving while intoxicated
- 71-4839 Knowingly purchase or sell a body part for transplantation, therapy, research, or education if removal is to occur after death
- 71-4840 Intentionally falsifying, forging, concealing, defacing, or obliterating a document related to anatomical gifts for financial gain

CLASS IV FELONY

Maximum—two years' imprisonment and twelve months' post-release supervision or ten thousand dollars' fine, or both

Minimum—none for imprisonment and none for post-release supervision

- 2-1825 Forge, counterfeit, or use without authorization an inspection legend or certificate of Director of Agriculture on potatoes

APPENDIX

CLASS IV FELONY

8-103	Department of Banking and Finance personnel borrowing money from certain financial institutions or aiding or abetting such violation
8-133	Pledging bank assets for making or retaining a deposit in bank or accepting such pledge of assets
8-133	Overpayment of interest to bank officer or employee
8-133	Request or receipt of overpayment of interest by bank officer or employee
8-142	Bank officer, employee, director, or agent violating loan limits resulting in insolvency of bank
8-143.01	Illegal bank loans to executive officers, directors, or shareholders
8-147	Banks, illegal transfer of assets, limitation on amounts of loans and investments
8-1,139	Financial institutions, misappropriation of funds or assets
8-225	Trust companies, false statement or book entry, destruction or secretion of records
8-333	Building and loan association, false statement or book entry
8-1117	Violation of Securities Act of Nebraska or any rule or regulation under the act
8-1729	Willful violation of Commodity Code or rule, regulation, or order under the code
9-262	Second or subsequent violation of Nebraska Bingo Act when not otherwise specified
9-262	Specified violations of Nebraska Bingo Act
9-262	Intentionally employing or possessing device to facilitate cheating at bingo or using any fraud in connection with a bingo game, gain of \$1,500 or more
9-352	Second or subsequent violation of Nebraska Pickle Card Lottery Act when not otherwise specified
9-352	Specified violations of Nebraska Pickle Card Lottery Act
9-352	Intentionally employing or possessing device to facilitate cheating at lottery by sale of pickle cards or using any fraud in connection with such lottery, gain of \$1,500 or more
9-434	Second or subsequent violation of Nebraska Lottery and Raffle Act when not otherwise specified
9-434	Specified violations of Nebraska Lottery and Raffle Act
9-434	Intentionally employing or possessing device to facilitate cheating at lottery or raffle, or using any fraud in connection with such lottery or raffle, gain of \$1,500 or more
9-652	Second or subsequent violation of Nebraska County and City Lottery Act when not otherwise specified
9-652	Specified violations of Nebraska County and City Lottery Act
9-652	Intentionally employing or possessing device to facilitate cheating at keno, or using any fraud in connection with keno, gain of \$1,500 or more
9-814	Providing false information pursuant to State Lottery Act
10-509	Funding bonds of counties, fraudulent issue or use
11-101.02	False statement in oath of office
23-135.01	False claim against county when value is \$1,500 or more

APPENDIX

CLASS IV FELONY

- 23-3113 County purchasing agent or staff member violating County Purchasing Act
- 25-1630 Tampering with jury list
- 25-1635 Illegal disclosure of juror names
- 28-111 Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Stalking, first offense or certain situations, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 False imprisonment in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Sexual assault in the third degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Arson in the third degree, damages \$500 or more but less than \$1,500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Criminal mischief, pecuniary loss of \$1,500 or more but less than \$5,000, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Criminal trespass in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-201 Criminal attempt to commit certain Class III or IIIA felonies
- 28-202 Criminal conspiracy to commit a Class IV felony
- 28-204 Harboring, concealing, or aiding a felon who committed a Class III or IIIA felony
- 28-204 Obstructing the apprehension of a felon who committed a felony other than a Class IV felony
- 28-205 Aiding consummation of felony
- 28-307 Assisting suicide
- 28-311.08 Intrude upon another person without his or her consent in a place of solitude or seclusion, second or subsequent offense
- 28-311.08 Photograph, film, or otherwise record an image or video of the intimate area of any other person without his or her knowledge and consent when his or her intimate area would not be generally visible to the public regardless of whether in a public or private place, first offense
- 28-311.08 Distributing or otherwise making public an image or video of another's intimate area or of another engaged in sexually explicit conduct as prescribed, second or subsequent violation

APPENDIX

CLASS IV FELONY

28-311.11	Violating a sexual assault protection order after service or notice, subsequent violation
28-316	Violation of custody with intent to deprive custodian of custody of child
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an intimate partner with imminent bodily injury, second or subsequent offense
28-332	Abortion violations
28-335	Abortion by other than licensed physician
28-335	Physician knowingly or recklessly performs, induces, or attempts to perform or induce abortion without being physically present
28-336	Abortion by other than accepted medical procedures
28-346	Use of premature infant aborted alive for experimentation
28-3,108	Intentional or reckless performance of or attempt to perform abortion in violation of Pain-Capable Unborn Child Protection Act
28-412	Unlawful prescription of narcotic drugs for detoxification or maintenance treatment
28-416	Knowingly or intentionally unlawfully possessing controlled substance other than marijuana or synthetically produced cannabinoids
28-416	Knowingly or intentionally possessing more than one pound of marijuana
28-416	Possession of money used or intended to be used to violate provisions relating to controlled substances
28-418	Knowing or intentional violation of Uniform Controlled Substances Act
28-451	Possession of anhydrous ammonia with intent to manufacture methamphetamine
28-452	Possession of ephedrine, pseudoephedrine, or phenylpropanolamine with intent to manufacture methamphetamine
28-457	Permitting a child or vulnerable adult to inhale or have contact with methamphetamine, second or subsequent offense
28-471	Offer, display, market, advertise for sale, or sell a lookalike substance
28-504	Arson in the third degree, damages of \$1,500 or more
28-505	Burning to defraud insurer
28-508	Possession of burglar's tools
28-514	Theft of lost, mislaid, or misdelivered property when value is over \$5,000
28-516	Unauthorized use of a propelled vehicle, third or subsequent offense
28-518	Theft when value is \$1,500 or more but less than \$5,000
28-518	Theft when value is more than \$500 but less than \$1,500, second or subsequent offense
28-518	Theft when value is \$500 or less, third or subsequent offense
28-519	Criminal mischief, pecuniary loss of \$5,000 or more or substantial disruption of public communication or utility service
28-524	Unauthorized application of graffiti, second or subsequent offense
28-603	Forgery in the second degree when face value is \$1,500 or more but less than \$5,000
28-604	Criminal possession of a forged instrument prohibited by section 28-602
28-604	Criminal possession of a forged instrument prohibited by section 28-603, amount or value is \$5,000 or more

APPENDIX

CLASS IV FELONY

28-605	Criminal possession of written instrument forgery devices
28-611	Issuing a bad check or other order in an amount of \$1,500 or more but less than \$5,000
28-611	Issuing a bad check or other order in an amount under \$500, second or subsequent offense
28-611	Issuing or passing a bad check or other instrument in amount of \$500 or more but less than \$1,500, second or subsequent offense
28-611.01	Issuing a no-account check in an amount of \$1,500 or more but less than \$5,000, first offense
28-611.01	Issuing a no-account check in an amount under \$1,500, second or subsequent offense
28-612	False statement or book entry in or destruction or secretion of records of financial institution or organization
28-619	Issuing two or more false financial statements to obtain two or more financial transaction devices
28-620	Unauthorized use of a financial transaction device when total value is \$1,500 or more but less than \$5,000 within a six-month period
28-621	Criminal possession of two or three financial transaction devices
28-623	Unlawful circulation of a financial transaction device in the second degree
28-624	Criminal possession of two or more blank financial transaction devices
28-625	Criminal sale of one blank financial transaction device
28-626	Criminal possession of a financial transaction forgery device
28-628	Laundering of sales forms
28-629	Unlawful acquisition of sales form processing services
28-630	Unlawful factoring of a financial transaction device
28-631	Committing a fraudulent insurance act when the amount involved is \$1,500 or more but less than \$5,000
28-631	Committing a fraudulent insurance act when the amount involved is \$500 or more but less than \$1,500, second or subsequent offense
28-631	Committing a fraudulent insurance act with intent to defraud or deceive
28-634	Unlawful use or possession of an electronic payment card scanning device or encoding machine, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more but less than \$5,000, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, second or subsequent offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, third or subsequent offense

APPENDIX

CLASS IV FELONY

- 28-638 Criminal impersonation by providing false identification information to court or law enforcement officer, first offense
- 28-639 Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more but less than \$5,000, first offense
- 28-639 Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, second or subsequent offense
- 28-639 Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, third or subsequent offense
- 28-640 Identity fraud, second or subsequent offense
- 28-644 Violation of Counterfeit Airbag Prevention Act
- 28-706 Criminal nonsupport in violation of a court order
- 28-801.01 Solicitation of prostitution, second or subsequent offense
- 28-801.01 Solicitation of prostitution with person under 18 years old, first offense
- 28-804 Keeping a place of prostitution used by person 18 years old or older practicing prostitution
- 28-813.01 Possession by a minor of visual depiction of sexually explicit conduct containing a child other than the defendant as one of its participants or portrayed observers, second or subsequent conviction
- 28-833 Enticement by electronic communication device
- 28-905 Operating a motor vehicle to avoid arrest which is a second or subsequent offense, results in death or injury, or involves willful reckless driving
- 28-905 Operating a boat to avoid arrest for felony
- 28-912 Escape (certain situations excepted)
- 28-912 Knowingly causing or facilitating an escape
- 28-912.01 Accessory to escape of juvenile from custody of Office of Juvenile Services
- 28-917 Bribery
- 28-918 Bribery of a witness
- 28-918 Witness accepting bribe or benefit
- 28-919 Tampering with a witness or informant except if involving a pending criminal proceeding alleging violation of another offense classified as a Class I misdemeanor or lower or a violation of a city or village ordinance, or classified as a Class II felony or higher
- 28-919 Tampering with a juror except if involving a pending criminal proceeding alleging violation of another offense classified as a Class II felony or higher
- 28-920 Bribery of a juror
- 28-920 Juror accepting bribe or benefit
- 28-922 Tampering with physical evidence except if involving a pending criminal proceeding alleging violation of another offense classified as a Class I misdemeanor or lower or a violation of a city or village ordinance, or classified as a Class II felony or higher
- 28-935 Fraudulently filing a financing statement, lien, or document

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CLASS IV FELONY

28-1009	Abandonment or cruel neglect of animal resulting in serious injury, illness, or death
28-1102	Promoting gambling in the first degree, second offense
28-1202	Carrying a concealed weapon, second or subsequent offense
28-1203	Transporting or possessing a machine gun, short rifle, or short shotgun
28-1204.04	Unlawful possession of a firearm at a school
28-1204.05	Unlawful possession of a firearm by a prohibited juvenile offender, first offense
28-1215	Unlawful possession of explosive materials in the first degree
28-1217	Unlawful sale of explosives
28-1219	Explosives, obtaining a permit through false representations
28-1220	Possession of a destructive device
28-1221	Threatening the use of explosives or placing a false bomb
28-1301	Removing, abandoning, or concealing human skeletal remains or burial goods
28-1307	Sell or offer for sale diseased meat
28-1343.01	Unauthorized computer access creating grave risk of death
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of \$1,500 or more but less than \$5,000
28-1345	Unauthorized access to a computer causing damages of \$1,500 or more but less than \$5,000
28-1351	Unlawful membership recruitment for an organization or association engaged in criminal acts
28-1469	Operation of aircraft while under the influence of alcohol or drugs, third or subsequent offense
28-1482	Unlawful paramilitary activities
29-908	Failing to appear when on bail for felony offense
32-312	Election falsification on voter registration
32-330	Election falsification for unlawful use of list of registered voters
32-915	Election falsification on provisional ballot
32-939	Election falsification on registering or voting outside the country
32-939.02	Election falsification on ballot to vote early
32-947	Election falsification on ballot to vote early
32-949	Election falsification on ballot to vote early
32-1502	Election falsification
32-1503	Elections, unlawful registration acts
32-1504	Elections, neglect of duty, corruption, or fraud by deputy registrar
32-1508	Election registration, perjury by voter
32-1526	Fraudulent voting by election official
32-1529	Resident of another state voting in this state
32-1530	Voting by ineligible person
32-1531	Voting outside county of residence
32-1532	Aiding unlawful voting
32-1533	Procuring another to vote in county other than that of residence
32-1534	Voting more than once in same election
32-1537	Employer coercing political action of employees
32-1538	Deceiving illiterate elector
32-1539	Violations relating to ballots for early voting

APPENDIX

CLASS IV FELONY

32-1540	Fraudulent voting
32-1541	Making fraudulent entry in list of voters book
32-1542	Unlawful possession of list of voters book, official summary, or election returns
32-1543	Obtaining or attempting to obtain or destroy ballot boxes or ballots by improper means
32-1544	Destruction or falsification of election materials
32-1545	Disclosing election returns before polls have closed or without authorization from election officials
32-1546	Offering or receiving money for signing petitions or falsely swearing to circulator's affidavit on petition
32-1551	Special elections by mail, specified violations
37-554	Prohibited use of explosives or poisons in waters of state
37-1288	Forgery of motorboat title or certificate or use of false name in bill of sale or sworn statement of ownership
37-1298	Knowingly transfer motorboat without salvage certificate of title
38-1,117	False or forged document or fraud in procuring license, certificate, or registration to practice a health profession, aiding or abetting person practicing without a credential, or impersonating a credentialed person
38-2052	Person purporting to be a physician's assistant when not licensed
38-3130	Psychologist filing false diploma, license of another, or forged affidavit of identification
42-924	Knowingly violating a protection order issued pursuant to domestic abuse or harassment case with a prior conviction for violating a protection order
44-165	Financial conglomerate or its directors, officers, employees, or agents violating supervision requirements
44-3,121	Borrowing or rental of securities of insurance company by member, director, or attorney
44-2146	Willful violation of Insurance Holding Company System Act
44-2147	Willful filing of false report under Insurance Holding Company System Act
45-191.03	Loan broker collecting advance fee in excess of \$300 and other violations of loan broker provisions
45-926	Operating delayed deposit services business without license
46-155	Irrigation districts, officers interested in contracts, accepting bribes or gratuities
48-654.01	Engaging in business practices to avoid higher combined tax rates under the Employment Security Law
49-1476.01	Campaign contributions or expenditures by state lottery contractor
49-14,134	Filing false statement, report, or verification under Nebraska Political Accountability and Disclosure Act
49-14,135	Perjury before Nebraska Accountability and Disclosure Commission
53-1,100	Manufacturing spirits without a license, second or subsequent offense
54-1,125	Using false document of livestock ownership
54-1,125	Forging or altering livestock ownership document when value is over \$300 but less than \$1,000
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, second or subsequent offense

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CLASS IV FELONY

54-753.05	Importation of livestock in violation of an embargo issued by State Veterinarian
54-903	Intentionally, knowingly, or recklessly abandon or cruelly neglect livestock animal resulting in serious injury or illness or death of the livestock animal
54-903	Cruelly mistreat a livestock animal, second or subsequent offense
54-1808	Violation of Nebraska Livestock Sellers Protective Act
54-1913	Violation of Nebraska Meat and Poultry Inspection Law with intent to defraud or by distributing adulterated article
57-719	Preparation or presentation of false or fraudulent oil and gas severance tax document
59-801	Unlawful restraint of trade or commerce
59-802	Unlawful monopolizing of trade or commerce
59-805	Unlawful restraint of trade; underselling
59-815	Corporation or other association engaged in unlawful restraint of trade
59-825	Refusal to attend and testify in restraint of trade proceedings
59-1522	Unlawful sale and distribution of cigarettes
59-1757	Violations in sales or leases of seller-assisted marketing plans
60-176	Knowing transfer of wrecked, damaged, or destroyed motor vehicle, all-terrain vehicle, or minibike without appropriate certificate of title
60-179	Fraud or forgery in obtaining certificate of title to motor vehicle, all-terrain vehicle, or minibike
60-196	Violating laws relating to odometers
60-492	Impersonating an officer under Motor Vehicle Operator's License Act
60-4,111.01	Trade, sell, or share machine-readable information encoded on driver's license or state identification card
60-4,111.01	Compile, store, or preserve machine-readable information encoded on driver's license or state identification card without authorization
60-4,111.01	Intentional or grossly negligent programming by the programmer which allows for the storage of more than the age and identification number from machine-readable information encoded on driver's license or state identification card or wrongfully certifying the software
60-4,111.01	Retailer or seller knowingly storing more information than authorized from the machine-readable information encoded on driver's license or state identification card
60-4,111.01	Unauthorized trading, selling, sharing, use for marketing or sales, or reporting of scanned, compiled, stored, or preserved machine-readable information encoded on driver's license or state identification card
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,197.06	Operating a motor vehicle when operator's license has been revoked for driving under the influence, first offense
60-6,211.11	Operating a motor vehicle while under the influence after tampering with or circumventing an ignition interlock device installed under a court order or Department of Motor Vehicles order while the order is in effect or operating a motor vehicle while under the influence which is not equipped with an ignition interlock device in violation of a court order or Department of Motor Vehicles order

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CLASS IV FELONY

60-1416	Acting as auction, motor vehicle, motorcycle, trailer, or wrecker or salvage dealer, manufacturer, factory representative, or distributor without license
60-2912	Misrepresenting identity or making false statement on application submitted under Uniform Motor Vehicle Records Disclosure Act
66-727	Violations of motor fuel tax laws when the amount involved is less than \$5,000, provisions relating to evasion of tax, keeping books and records, making false statements
66-727	Violations of motor fuel tax laws, including making returns and reports, assignment of licenses and permits, payment of tax
66-1226	Selling automotive spark ignition engine fuels not within specifications, second or subsequent offense
66-1822	False or fraudulent entries in books of a jurisdictional utility
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is \$1,500 or more
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is \$1,500 or more
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is \$1,500 or more
68-1017.01	Unlawful possession of blank supplemental nutrition assistance program authorizations
69-109	Sale or transfer of personal property with security interest without consent
69-2408	Providing false information on an application for a certificate to purchase a handgun
69-2420	Unlawful acts relating to purchase of a handgun
69-2421	Unlawful sale or delivery of a handgun
69-2422	Knowingly and intentionally obtaining a handgun for purposes of unlawful transfer of the handgun
69-2430	Falsified concealed handgun permit application
69-2709	Knowingly submit false information regarding cigarette and tobacco sales
70-508	False statement on sale, lease, or transfer of public electric plant
70-511	Excessive promotion expenses on sale of public electric plant
70-514	Failure to file statement of expenditures related to transfer of electric plant facilities or filing false statement
70-2104	Damage, injure, destroy, or attempt to damage, injure, or destroy equipment or structures owned and used by public power suppliers to generate, transmit, or distribute electricity or otherwise interrupt the generation, transmission, or distribution of electricity by a public power supplier
71-649	Vital statistics, unlawful acts
71-2228	Illegal receipt of food supplement benefits when value is \$1,500 or more
71-2229	Unlawful use, alteration, or transfer of food instruments or food supplements when value is \$1,500 or more
71-2229	Unlawful possession or redemption of food supplement benefits when value is \$1,500 or more

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CLASS IV FELONY

71-2229	Unlawful possession of blank authorization to participate in the WIC program or CSF program
71-6312	Unlawfully engaging in an asbestos project without a valid license or using unlicensed employees subsequent to the levy of a civil penalty, second or subsequent offense
71-6329	Engaging in a lead abatement project or lead-based paint profession without a valid license or using unlicensed employees after assessment of a civil penalty, second or subsequent offense
71-6329	Conducting a lead abatement project or lead-based paint profession training program without departmental accreditation after assessment of a civil penalty, second or subsequent offense
71-6329	Issuing fraudulent licenses under Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, second or subsequent offense
75-909	Violation of Grain Dealer Act
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of \$1,500 or more or substantial disruption of service
76-2728	Violation of Nebraska Foreclosure Protection Act
77-2310	Unlawful removal of state funds or illegal profits by State Treasurer
77-2323	Violation of provisions on deposit of county funds
77-2325	Unlawful removal of county funds or illegal profits by county treasurers
77-2381	Violation of provisions on deposit of local hospital district funds
77-2383	Unlawful removal of funds or illegal profits by secretary-treasurer of local hospital district
77-2614	Altered, forged, or counterfeited stamp, license, permit, or cigarette tax meter impression for sale of cigarettes
77-2615	Violation of cigarette tax provisions when not otherwise specified
77-2615	Evasion of cigarette tax provisions, affixing unauthorized stamp, or sales or possession of cigarettes of manufacturer not in directory
77-2713	Failure to collect or false returns on sales and use tax
77-27,113	Evasion of income tax
77-27,114	Failure to collect or account for income taxes
77-27,116	False return on income tax
77-27,119	Unauthorized disclosure of confidential tax information by current or former officers or employees of the Auditor of Public Accounts or the office of Legislative Audit
77-4024	Violation of Tobacco Products Tax Act or evasion of act
77-4309	Dealer distributing or possessing marijuana or a controlled substance without affixing the official stamp, label, or other indicium
77-5544	Unlawful disclosure of confidential information by qualified independent accounting firm under Invest Nebraska Act
81-161.05	Material division personnel having financial or beneficial personal interest or receiving gifts or rebates
81-1108.56	State building division personnel having financial or beneficial personal interest or receiving gifts or rebates
81-1508.01	Specific violations of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act
81-15,111	Violation of Low-Level Radioactive Waste Disposal Act

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CLASS IV FELONY

- 81-3442 Violation of Engineers and Architects Regulation Act, second or subsequent offense
- 83-174.05 Failure to comply with community supervision, first offense
- 83-184 Escape from custody (certain situations)
- 83-198 Threatening or attempting to influence a member or an employee of the Board of Parole
- 83-1,127.02 Operation of vehicle while under the influence with disabled, bypassed, or altered ignition interlock device or without an ignition interlock device or permit in violation of board order
- 83-1,133 Threatening or attempting to influence a member of the Board of Pardons
- 83-417 Allowing a committed offender to escape or be visited without approval
- 83-443 Financial interest in convict labor
- 83-912 Director or employee of Department of Correctional Services receiving prohibited gift or gratuity
- 86-290 Intercepting or interfering with wire, electronic, or oral communication
- 86-295 Unlawful tampering with communications equipment or transmissions
- 86-296 Shipping or manufacturing devices capable of intercepting certain communications
- 86-2,102 Interference with satellite transmissions or operation
- 86-2,104 Unauthorized access to electronic communication services
- 87-303.09 Violation of court order or written assurance of voluntary compliance under Uniform Deceptive Trade Practices Act
- 88-543 Issuing a receipt for grain not received, improperly recording grain as received or loaded, or creating a post-direct delivery storage position without proper documentation or grain in storage
- 88-545 Violation of Grain Warehouse Act when not otherwise specified

UNCLASSIFIED FELONIES, see section 28-107

- 69-110 Removal from county of personal property subject to a security interest with intent to deprive of security interest
 - fine of not more than one thousand dollars
 - imprisonment of not more than ten years
- 77-27,119 Unauthorized disclosure of confidential tax information by Tax Commissioner, officer, employee, or third-party auditor
 - fine of not less than one hundred dollars nor more than five hundred dollars
 - imprisonment of not more than five years
 - both
- 77-3210 Receipt of profit from rental, management, or disposition of Land Reutilization Authority lands
 - imprisonment of not less than two years nor more than five years
- 83-1,124 Parolee leaving state without permission
 - imprisonment of not more than five years

OTHER MANDATORY MINIMUMS:

- 29-2221 Habitual criminal

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CLASS I MISDEMEANOR

Maximum—not more than one year imprisonment, or one thousand dollars’ fine, or both

Minimum—none

2-1215	Conducting horseracing or betting on horseraces without license or violating horseracing provisions
2-1218	Drugging horses or permitting drugged horses to run in a horserace
2-2647	Violation of Pesticide Act, second or subsequent offense
8-119	Officers of corporation filing false statement for banking purposes
8-142	Bank officer, employee, director, or agent violating loan limits by \$40,000 or more or resulting in monetary loss of over \$20,000 to bank
8-145	Improper solicitation or receipt of benefits, unlawful inducement for bank loan
8-189	Attempting to prevent Department of Banking and Finance from taking possession of insolvent or unlawfully operated bank
8-1,138	Violation of a final order issued by Director of Banking and Finance
8-224.01	Division of fees for legal services by a trust company attorney
8-2745	Acting without license or intentionally falsifying records in violation of Nebraska Money Transmitters Act
9-230	Unlawfully conducting or awarding a prize at a bingo game, second or subsequent offense
9-262	Intentionally employing or possessing device to facilitate cheating at bingo or using any fraud in connection with a bingo game, gain of \$500 or more but less than \$1,500
9-266	Disclosure by Tax Commissioner or employee of reports or records of a licensed distributor or manufacturer under Nebraska Bingo Act
9-351	Unlawfully possessing pickle cards or conducting a pickle card lottery
9-352	Intentionally employing or possessing device to facilitate cheating at lottery by sale of pickle cards or using any fraud in connection with such lottery, gain of \$500 or more but less than \$1,500
9-356	Disclosure by Tax Commissioner or employee of returns or reports of licensed distributor or manufacturer under Nebraska Pickle Card Lottery Act
9-434	Intentionally employing or possessing device to facilitate cheating at lottery or raffle or using any fraud in connection with such lottery or raffle, gain of \$500 or more but less than \$1,500
9-652	Intentionally employing or possessing device to facilitate cheating at keno or using any fraud in connection with keno, gain of \$500 or more but less than \$1,500
9-653	Disclosure by Tax Commissioner or employee of reports or records of a licensed manufacturer-distributor under Nebraska County and City Lottery Act
9-814	Sale of lottery tickets under State Lottery Act without authorization or at other than the established price
9-814	Release of information obtained from background investigation under State Lottery Act
10-807	Misrepresentations for aid from county aid bonds
18-2532	Initiative and referendum, making false affidavit or taking false oath
18-2533	Initiative and referendum, destruction, falsification, or suppression of a petition

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CLASS I MISDEMEANOR

- 18-2534 Initiative and referendum petition, signing by person not registered to vote or paying for or deceiving another to sign a petition
- 18-2535 Initiative and referendum, failure by city clerk to comply or unreasonable delay in complying with statutes
- 20-334 Willful failure to obey a subpoena or order or intentionally mislead another in proceedings under Nebraska Fair Housing Act
- 20-344 Coerce, intimidate, threaten, or interfere with the exercise or enjoyment of rights under Nebraska Fair Housing Act
- 20-411 Physician or health care provider failing to transfer care of patient under declaration or living will
- 20-411 Physician failing to record a living will or a determination of a terminal condition or persistent vegetative state
- 20-411 Concealing, canceling, defacing, obliterating, falsifying, or forging a living will
- 20-411 Concealing, falsifying, or forging a revocation of a living will
- 20-411 Requiring or prohibiting a living will for health care services or insurance
- 20-411 Coercing or fraudulently inducing an individual to make a living will
- 21-212 Signing a false document under Nebraska Model Business Corporation Act with intent to file with the Secretary of State
- 21-1912 Signing a false document under Nebraska Nonprofit Corporation Act with intent to file with the Secretary of State
- 28-107 Misdemeanor defined outside of criminal code
- 28-111 Arson in the third degree, damages less than \$500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Criminal mischief, pecuniary loss of \$500 or more but less than \$1,500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-115 Assault in the third degree (certain situations) committed against a pregnant woman
- 28-201 Criminal attempt to commit a Class IV felony
- 28-204 Harboring, concealing, or aiding a felon who committed a Class IV felony
- 28-204 Obstructing the apprehension of a felon who committed a Class IV felony
- 28-301 Compounding a felony
- 28-306 Motor vehicle homicide by person not under the influence of alcohol or drugs or not driving in a reckless manner

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CLASS I MISDEMEANOR

28-310	Assault in the third degree (certain situations)
28-311.04	Stalking (certain situations)
28-311.08	Intrude upon another person without his or her consent in a place of solitude or seclusion, first offense
28-311.08	Distributing or otherwise making public an image or video of another's intimate area or of another engaged in sexually explicit conduct as prescribed, first violation
28-311.08	Threaten to distribute or otherwise make public an image or video of another's intimate area or of another engaged in sexually explicit conduct with intent to intimidate, threaten, or harass
28-311.11	Knowingly violating a sexual assault protection order after service or notice, first violation
28-315	False imprisonment in the second degree
28-320	Sexual assault in the third degree
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an intimate partner with imminent bodily injury, first offense
28-323	Domestic assault in the third degree by threatening an intimate partner in a menacing manner
28-394	Motor vehicle homicide of an unborn child by person not under the influence of alcohol or drugs or not driving in a reckless manner
28-399	Assault of an unborn child in the third degree
28-443	Delivering drug paraphernalia to a minor
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine, first offense
28-504	Arson in the third degree, damages \$500 or more but less than \$1,500
28-514	Theft of lost, mislaid, or misdelivered property when value is \$1,500 or more but not more than \$5,000
28-514	Theft of lost, mislaid, or misdelivered property when value is more than \$500 but less than \$1,500, second or subsequent offense
28-514	Theft of lost, mislaid, or misdelivered property when value is \$500 or less, third or subsequent offense
28-516	Unauthorized use of a propelled vehicle, second offense
28-518	Theft when value is more than \$500 but less than \$1,500
28-518	Theft when value is \$500 or less, second offense
28-519	Criminal mischief, pecuniary loss of \$1,500 or more but less than \$5,000
28-520	Criminal trespass in the first degree
28-523	Littering, third or subsequent offense
28-603	Forgery in the second degree when face value is \$500 or more but less than \$1,500
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is \$1,500 or more but less than \$5,000
28-607	Making, using, or uttering of slugs of value of \$100 or more
28-610	Impersonating a peace officer
28-611	Issuing a bad check or other order in an amount of \$500 or more but less than \$1,500, first offense
28-611.01	Issuing a no-account check in an amount of \$500 or more but less than \$1,500, first offense

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CLASS I MISDEMEANOR

28-613	Commercial bribery or breach of duty to act disinterestedly
28-616	Altering an identification number
28-617	Receiving an altered article
28-619	Issuing a false financial statement to obtain a financial transaction device
28-620	Unauthorized use of a financial transaction device when total value is \$500 or more but less than \$1,500 within a six-month period
28-624	Criminal possession of a blank financial transaction device
28-631	Possessing fake or counterfeit insurance policies, certificates, identification cards, or binders with intent to defraud or deceive
28-631	Committing a fraudulent insurance act when the amount involved is \$500 or more but less than \$1,500, first offense
28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, second or subsequent offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, second offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, second or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, second offense
28-640	Identity fraud, first offense
28-701	Bigamy
28-705	Abandonment of spouse, child, or dependent stepchild
28-707	Child abuse committed negligently, not resulting in serious bodily injury or death
28-709	Contributing to the delinquency of a child
28-801	Prostitution by person 18 years old or older, third or subsequent offense
28-801.01	Solicitation of prostitution with person 18 years old or older, first offense
28-805	Debauching a minor
28-808	Obscene literature and material, sell or possess with intent to sell to minor
28-809	Obscene motion picture, show, or presentation, admission of minor
28-813	Prepare, distribute, order, produce, exhibit, or promote obscene literature or material

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CLASS I MISDEMEANOR

28-813.01	Possession by a minor of visual depiction of sexually explicit conduct containing a child other than the defendant as one of its participants or portrayed observers, first offense
28-901	Obstructing government operations
28-904	Resisting arrest, first offense
28-905	Operating a motor vehicle to avoid arrest which is a first offense, does not result in death or injury, or does not involve willful reckless driving
28-905	Operating a boat to avoid arrest for misdemeanor or ordinance violation
28-906	Obstructing a peace officer, judge, or police animal
28-907	False reporting (certain situations)
28-908	Interference with firefighter on official duty
28-909	Falsifying records of a public utility
28-913	Introducing escape implements
28-915.01	False statement under oath or affirmation or in an unsworn declaration under Uniform Unsworn Foreign Declarations Act in an official proceeding or to mislead a public servant
28-919	Tampering with a witness or informant when involving a pending criminal proceeding alleging a violation of another offense classified as a Class II misdemeanor or lower or a violation of a city or village ordinance
28-922	Tampering with physical evidence when involving a pending criminal proceeding alleging a violation of another offense classified as a Class II misdemeanor or lower or a violation of a city or village ordinance
28-934	Assault with a bodily fluid against a public safety officer without knowledge regarding whether bodily fluid was infected with HIV, Hep B, or Hep C
28-936	Introduction within a Department of Correctional Services facility or if an inmate procures, makes, provides, or possesses any electronic communication device
28-1005.01	Knowing or intentional ownership or possession of animal fighting paraphernalia for dogfighting, cockfighting, bearbaiting, or pitting an animal against another
28-1009	Abandonment or cruel neglect of animal not resulting in serious injury, illness, or death
28-1009	Cruel mistreatment of animal not involving torture or mutilation, first offense
28-1019	Violation of court order related to felony animal abuse conviction
28-1102	Promoting gambling in the first degree, first offense
28-1202	Carrying a concealed weapon, first offense
28-1204	Unlawful possession of a handgun
28-1216	Unlawful possession of explosive materials in the second degree
28-1218	Use of explosives without a permit if not eligible for a permit
28-1254	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug with person under 16 years old as passenger
28-1302	Concealment of death to prevent determination of cause or circumstances of death
28-1312	Interfering with the police radio system
28-1343.01	Unauthorized computer access creating risk to public health and safety

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CLASS I MISDEMEANOR

28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of \$500 or more but less than \$1,500
28-1345	Unauthorized access to a computer which causes damages of \$500 or more but less than \$1,500
28-1346	Unauthorized access to or use of a computer to obtain confidential information, second or subsequent offense
29-1926	Improper release or use of a videotape of a child victim or child witness
30-619	Willfully without authorization alter, forge, conceal, or destroy evidence of an advance health care directive, appointment of a guardian or agent, or evidence of disqualification of any person as a surrogate under the Health Care Surrogacy Act
30-619	Willfully prevent transfer of an individual for failure of a health care provider to honor or cooperate with a health care decision by a surrogate under the Health Care Surrogacy Act by a physician or other health care provider
30-3432	Altering, forging, concealing, or destroying a power of attorney for health care or a revocation of a power of attorney for health care
30-3432	Physician or health care provider willfully preventing transfer of care of principal under durable power of attorney for health care
32-1518	Election officials, violation of duties imposed by election laws
32-1522	Unlawful printing, possession, or use of ballots
32-1546	Signing petition without being registered to vote
37-504	Unlawfully hunt, trap, or possess mountain sheep
37-615	Taking wildlife or applying for permit with a suspended or revoked permit
37-618	Possession of suspended or revoked permit to hunt, fish, or harvest fur
37-809	Unlawful acts relating to endangered or threatened species of wildlife or wild plants
37-1254.10	Operating a motorboat or personal watercraft while during a period of court-ordered prohibition for operating under the influence of alcohol or drugs or for refusal to submit to a chemical test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs, second or subsequent offense
37-1254.12	Operating a motorboat or personal watercraft while under the influence of alcohol or drugs or refusing to submit to a chemical test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs, second or subsequent offense
38-1,106	Disclosure of confidential complaints, investigational records, or reports regarding violation of Uniform Credentialing Act
39-310	Depositing materials on roads or ditches, third or subsequent offense
39-311	Placing burning materials or items likely to cause injury on highways, third or subsequent offense
42-113	Failing to file and record or filing false marriage certificate or illegally joining others in marriage
42-924	Knowingly violating a protection order issued pursuant to domestic abuse or harassment case, first offense
44-10,108	Making a fraudulent statement to a fraternal benefit society
44-2007	Violation of Unauthorized Insurers Act

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44-4806	Failing to cooperate with, obstructing, interfering with, or violating any order issued by the Director of Insurance under Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act
45-191.03	Loan broker collecting advance fee of \$300 or less or failing to make required filings
45-747	Engaging in mortgage banking or mortgage loan originating if convicted of certain misdemeanors or a felony
45-1015	Acting without license under Nebraska Installment Loan Act
46-1141	Unlawful tampering with or damaging chemigation equipment
48-125.01	Attempted avoidance of payment of workers' compensation benefits
48-145.01	Failure to comply with workers' compensation insurance required of employers
48-211	Failure or refusal to supply laborer's service letter
48-821	Interfere with or coerce others to strike or otherwise hinder governmental service
48-1908	Drug or alcohol tests, altering results
48-1909	Drug or alcohol tests, tampering with body fluids
48-2615	Athlete agent violating Nebraska Uniform Athlete Agents Act
48-2711	Violations relating to professional employer organizations
53-173	Unlicensed person selling a powdered alcohol product
53-180.05	Creation or alteration of identification for sale or delivery to a person under twenty-one years old
53-180.05	Dispensing alcohol in any manner to minors or incompetents not resulting in serious bodily injury or death
53-1,100	Manufacturing spirits without a license, first offense
54-1,125	Forging or altering livestock ownership document when value is \$300 or less
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, first offense
54-634	Violation of Commercial Dog and Cat Operator Inspection Act
54-750	Harboring or prohibited sale of diseased animals, second or subsequent offense
54-751	Violation of rules and regulations relating to Exotic Animal Auction or Exchange Venue Act or provisions on diseased animals and disposal of carcasses, second or subsequent offense
54-752	Violation of Exotic Animal Auction or Exchange Venue Act or provisions relating to diseased animals and disposal of carcasses, second or subsequent offense
54-771	Failure by herd owner or custodian to develop or follow a herd plan relating to livestock anthrax
54-778	Failure to comply with Anthrax Control Act
54-781	Violation of Anthrax Control Act when not otherwise specified
54-903	Intentionally, knowingly, or recklessly abandon or cruelly neglect livestock animal not resulting in serious injury or illness or death of the livestock animal
54-903	Cruelly mistreat a livestock animal, first offense
54-909	Violating court order not to own or possess a livestock animal for at least five years after the date of conviction for second or subsequent offense of cruel mistreatment of an animal or for intentionally,

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	knowingly, or recklessly abandoning or cruelly neglecting livestock animal resulting in serious injury or illness or death of the livestock animal
54-911	Intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest
54-912	Intentionally trip, cause to fall, or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest
59-505	Unlawful discrimination in sales or purchases of products, commodities, or property
60-484.02	Disclosure of digital image or signature by Department of Motor Vehicles, law enforcement, or Secretary of State's office
60-4,108	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded, fourth or subsequent offense
60-559	Forging or filing a forged document for proof of financial responsibility for a motor vehicle
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-696	Second or subsequent conviction in 12 years for failure of driver to stop and report a motor vehicle accident
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, second offense committed with .15 gram alcohol concentration
60-6,211.11	Operating a motor vehicle after tampering with or circumventing an ignition interlock device installed under a court order or Department of Motor Vehicles order while the order is in effect or operating a motor vehicle which is not equipped with an ignition interlock device in violation of a court order or Department of Motor Vehicles order
60-6,218	Reckless driving or willful reckless driving, third or subsequent offense
60-2912	Disclosure of sensitive personal information by Department of Motor Vehicles
64-414	Without authorization obtain, conceal, damage, or destroy items enabling an online notary public to affix signature or seal
66-1226	Selling automotive spark ignition engine fuels not within specifications, first offense
69-2408	Violation of provisions on acquisition of handguns
69-2419	Unlawful request for criminal history record check or dissemination of such information
69-2443	Refusal to allow peace officer or emergency services personnel to secure concealed handgun
69-2443	Carrying concealed handgun at prohibited site or while under the influence, second or subsequent offense
69-2443	Failure to report discharge of concealed handgun, second or subsequent offense
69-2443	Failure to carry or display concealed handgun permit, second or subsequent offense
69-2443	Failure to inform peace officer of concealed handgun, second or subsequent offense
71-458	Violation of Health Care Facility Licensure Act
71-649	Vital statistics, unlawful acts

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71-1950	Violation of Children's Residential Facilities and Placing Licensure Act
71-4608	Illegal manufacture or sale of manufactured homes or recreational vehicles
71-4608	Violation of manufactured home or recreational vehicle standards endangering the safety of a purchaser
71-6312	Unlawfully engaging in an asbestos project without a valid license or using unlicensed employees subsequent to the levy of a civil penalty, first offense
71-6329	Engaging in a lead abatement project or lead-based paint profession without a valid license or using unlicensed employees after assessment of a civil penalty, first offense
71-6329	Conducting a lead abatement project or lead-based paint profession training program without departmental accreditation after assessment of a civil penalty, first offense
71-6329	Issuing fraudulent licenses under Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, first offense
74-921	Operating a locomotive or acting as the conductor while intoxicated
75-127	Unjust discrimination or prohibited practice in rates by common carrier, shipper, or consignee
76-1315	Violation of laws on retirement communities and subdivisions
76-1722	Unlawful time-share interval disposition or violating time-share laws
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of \$500 or more but less than \$1,500 (certain situations)
77-1816	Fraudulent sales of real property for delinquent real estate taxes
77-2115	Disclosure of confidential information on estate or generation-skipping transfer tax records
77-2326	Failure to act regarding deposit of county funds by county treasurers
77-2384	Secretary-treasurer of local hospital district, failure to comply with provisions on deposit of public funds
77-2704.33	Failure of a contractor or taxpayer to pay certain sales taxes of \$300 or more
77-2711	Wrongful disclosure of records and reports relating to sales and use tax
77-2711	Disclosure of taxpayer information by employees or former employees of the office of Legislative Audit or the Auditor of Public Accounts or certain municipalities
77-3522	Oath or affirmation regarding false or fraudulent application for homestead exemption
77-5016	False statement to Tax Equalization and Review Commission
81-829.73	Fraudulently or willfully making a misstatement of fact in connection with an application for financial assistance under Emergency Management Act
81-1508.01	Violations of solid waste and livestock waste laws and regulations
81-1717	Unlawful soliciting of professional services under Nebraska Consultants' Competitive Negotiation Act
81-1718	Professional making unlawful solicitation under Nebraska Consultants' Competitive Negotiation Act
81-1719	Agency official making unlawful solicitation under Nebraska Consultants' Competitive Negotiation Act

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81-1830	False claim under Nebraska Crime Victim's Reparations Act
81-2143	Violation of State Electrical Act
81-3442	Violation of Engineers and Architects Regulation Act, first offense
81-3535	Unauthorized practice of geology, second or subsequent offense
83-1,127.02	Operation of vehicle with disabled, bypassed, or altered ignition interlock device or without an ignition interlock device or permit in violation of board order
86-234	Violation of Telemarketing and Prize Promotions Act
86-290	Intercepting or interfering with certain wire, electronic, or oral communication
86-298	Unlawful use of pen register or trap-and-trace device
86-2,104	Unlawful access to electronic communication service
88-548	Illegal use of grain probes
89-1,101	Violation of Weights and Measures Act or order of Department of Agriculture, second or subsequent offense

CLASS II MISDEMEANOR

Maximum—six months' imprisonment, or one thousand dollars' fine, or both

Minimum—none

1-166	Accountants, persons using titles, initials, trade names when not qualified or authorized to do so
2-10,115	Specified violations of Plant Protection and Plant Pest Act, second or subsequent offense
2-1221	Receipt or delivery of certain off-track wagers
2-1811	Violation of Nebraska Potato Development Act
2-4327	Violation of Agricultural Liming Materials Act, second or subsequent offense
3-152	Violation of State Aeronautics Act or any related rules, regulations, or orders
8-109	Financial institution examiner failing to report bank insolvency or unsafe condition
8-118	Promoting the organization of a corporation to conduct the business of banking or selling stock prior to issuance of charter
8-142	Bank officer, employee, director, or agent violating loan limits by \$20,000 or more but less than \$40,000 or resulting in monetary loss of \$10,000 or more but less than \$20,000
9-262	Intentionally employing or possessing device to facilitate cheating at bingo or using any fraud in connection with a bingo game, gain of less than \$500
9-345.03	Unlawfully placing a pickle card dispensing device in operation
9-352	Intentionally employing or possessing device to facilitate cheating at lottery by sale of pickle cards or using any fraud in connection with such lottery, gain of less than \$500
9-434	Intentionally employing or possessing device to facilitate cheating at lottery or raffle or using any fraud in connection with such lottery or raffle, gain of less than \$500

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CLASS II MISDEMEANOR

9-513	Violation of Nebraska Small Lottery and Raffle Act, second or subsequent offense
9-652	Intentionally employing or possessing device to facilitate cheating at keno, or using any fraud in connection with keno, gain of less than \$500
9-701	Violation of provisions relating to gift enterprises
9-814	Failure by lottery game retailer to maintain and make available records of separate accounts under State Lottery Act
9-814	Knowingly sell lottery tickets to person less than 19 years old
12-1118	False or fraudulent reporting or any violation under Burial Pre-Need Sale Act
14-415	Violation of building ordinance or regulations in city of the metropolitan class, third or subsequent offense within two years of prior offense
22-303	Relocation of county seats, refusal by officers to move offices and records
23-135.01	False claim against county when value is \$500 or more but less than \$1,500
23-2325	False or fraudulent acts to defraud the Retirement System for Nebraska Counties
23-2544	Violation of county personnel provisions for counties with population under 150,000
23-3596	Board of trustees of hospital authority, pecuniary interest in contracts
24-711	False or fraudulent acts to defraud the Nebraska Judges Retirement System
28-111	Criminal mischief, pecuniary loss is less than \$500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Unauthorized application of graffiti, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-201	Criminal attempt to commit a Class I misdemeanor
28-310	Assault in the third degree (certain situations)
28-311.06	Hazing
28-311.09	Violation of harassment protection order
28-316	Violation of custody without intent to deprive custodian of custody of child
28-339	Discrimination against person refusing to participate in an abortion
28-344	Violation of provisions relating to abortion reporting forms
28-442	Unlawful possession or manufacture of drug paraphernalia
28-445	Manufacture or delivery of an imitation controlled substance, second or subsequent offense
28-504	Third degree arson, damages less than \$500
28-511.03	Possession in store of security device countermeasure

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CLASS II MISDEMEANOR

28-514	Theft of lost, mislaid, or misdelivered property when value is more than \$500 but less than \$1,500
28-514	Theft of lost, mislaid, or misdelivered property when value is \$500 or less, second offense
28-515.01	Fraudulently obtaining telecommunications service
28-518	Theft when value is \$500 or less
28-519	Criminal mischief, pecuniary loss of \$500 or more but less than \$1,500
28-521	Criminal trespass in the second degree (certain situations)
28-523	Littering, second offense
28-603	Second degree forgery, value less than \$500
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is \$500 or more but less than \$1,500
28-607	Making, using, or uttering of slugs of value less than \$100
28-611	Issuing a bad check or other order in an amount of less than \$500, first offense
28-611	Issuing bad check or other order with insufficient funds
28-611.01	Issuing a no-account check in an amount of less than \$500, first offense
28-614	Tampering with a publicly exhibited contest
28-620	Unauthorized use of a financial transaction device when total value is less than \$500 within a six-month period
28-631	Committing a fraudulent insurance act when the amount involved is less than \$500
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, first offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, first offense
28-706	Criminal nonsupport not in violation of court order
28-801	Prostitution by person 18 years old or older, first or second offense
28-806	Public indecency
28-811	Obscene literature, material, etc., false representation of age by minor, parent, or guardian, unlawful employment of minor
28-903	Refusing to aid a peace officer
28-910	Filing false reports with regulatory bodies
28-911	Abuse of public records
28-915.01	False statement under oath or affirmation or in an unsworn declaration under Uniform Unsworn Foreign Declarations Act if statement is required by law to be sworn or affirmed
28-924	Official misconduct
28-926	Oppression under color of office
28-927	Neglecting to serve warrant if offense for warrant is a felony
28-1103	Promoting gambling in the second degree

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28-1105	Possession of gambling records in the first degree
28-1107	Possession of a gambling device
28-1218	Use of explosives without a permit if eligible for a permit
28-1233	Failure to notify fire protection district of use or storage of explosive material over one pound
28-1240	Unlawful transportation of anhydrous ammonia
28-1304.01	Unlawful use of liquified remains of dead animals
28-1311	Interference with public service companies
28-1326	Unlawful transfer of recorded sound
28-1326	Sell, distribute, circulate, offer for sale, or possess for sale recorded sounds without proper label
28-1343.01	Unauthorized computer access compromising security of data
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value less than \$500
28-1345	Unauthorized access to a computer which causes damages of less than \$500
28-1346	Unauthorized access to or use of a computer to obtain confidential information, first offense
28-1347	Unauthorized access to or use of a computer, second or subsequent offense
29-739	Extradition and detainer, unlawful delivery of accused persons
29-908	Failing to appear when on bail for misdemeanor or ordinance violation
30-2602.01	Violating an ex parte order regarding a ward's or protected person's safety, health, or financial welfare
32-1536	Bribery or threats used to procure vote of another
37-401	Violation of hunting, fishing, and fur-harvesting permits
37-410	Obtaining or aiding another to obtain a permit to hunt, fish, or harvest fur unlawfully or by false pretenses or misuse of permit
37-411	Hunting, fishing, or fur-harvesting without permit
37-447	Violation of rules, regulations, and commission orders under Game Law regarding hunting, transportation, and possession of deer
37-449	Violation of rules and regulations under Game Law regarding hunting antelope
37-479	Luring or enticing wildlife into a domesticated cervine animal facility
37-4,108	Violating commercial put-and-take fishery licensure requirements
37-504	Unlawfully hunt, trap, or possess elk
37-509	Violations relating to hunting or harassing birds, fish, or other animals from aircraft
37-524.01	Release, kill, wound, or attempt to kill or wound a pig for amusement or profit
37-554	Use of explosives in water to remove obstructions without permission
37-555	Polluting waters of state
37-556	Polluting waters of state with carcasses
37-573	Hunt or enable another to hunt through the Internet or host hunting through the Internet
37-809	Violation of restrictions on endangered or threatened species
37-1254.12	Operating a motorboat or personal watercraft while under the influence of alcohol or drugs or refusing to submit to a chemical test for operating

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	a motorboat or personal watercraft while under the influence of alcohol or drugs, first offense
37-1272	Reckless or negligent operation of motorboat, water skis, surfboard, etc.
37-12,110	Violation of provisions relating to abandonment of motorboats
38-1,118	Violation of Uniform Credentialing Act when not otherwise specified, second or subsequent offense
38-1,133	Failure of insurer to report violations of Uniform Credentialing Act, second or subsequent offense
38-1424	Willful malpractice, solicitation of business, and other unprofessional conduct in the practice of funeral directing and embalming
38-28,103	Violations of Pharmacy Practice Act except as otherwise specifically provided
38-3130	Representing oneself as a psychologist or practicing psychology without a license
39-310	Depositing materials on roads or ditches, second offense
39-311	Placing burning materials or items likely to cause injury on highways, second offense
39-2612	Illegal location of junkyard
42-357	Knowingly violating a restraining order relating to dissolution of marriage
42-1204	False or incorrect information on application to restrict disclosure of applicant's address
43-2,107	Violation of restraining or other court order under Nebraska Juvenile Code
44-3,156	Violations of provisions permitting purchase of workers' compensation insurance by associations
44-1209	Reciprocal insurance, violations by attorney in fact
45-208	Violation of maximum rate of time-price differential, revolving charge agreements
45-343	Installment sales, failure to obtain license
45-343	Violation of Nebraska Installment Sales Act
45-747	Engaging in mortgage banking or mortgage loan originating without a license or registration
45-814	Violation of Credit Services Organization Act
45-1037	Violations regarding installment loans
46-254	Interfering with closed waterworks, taking water without authority
46-263.01	Molesting or damaging water flow measuring devices
46-807	Unlawful diversion or drainage of natural lakes
46-1119	Violation of emergency permit provisions of Nebraska Chemigation Act
46-1139	Unlawfully engaging in chemigation without a chemigation permit
46-1140	Unlawfully engaging in chemigation with a suspended or revoked chemigation permit
46-1239	Violating the licensure requirements of Water Well Standards and Contractors' Practice Act
48-144.04	Failing, neglecting, or refusing to file reports required by Nebraska Workers' Compensation Court
48-146.03	Unlawfully requiring employee to pay deductible amount under workers' compensation policy or requiring or attempting to require employee to give up right of selection of physician

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48-147	Deducting from employee's pay for workers' compensation benefits
48-311	Violation of child labor laws
48-414	Using a machine or device or working at a location which Commissioner of Labor has labeled unsafe
48-424	Violations involving health and safety regulations
48-434	Violations of safety requirements in construction of buildings
48-437	Unauthorized manipulation of overhead high voltage conductors or other components
48-645	Unlawful waiver of or deductions for unemployment compensation or discrimination in hire or tenure
48-910	Violation of laws relating to secondary boycotts
48-1714	Violation by farm labor contractor or applicant for farm labor contractor license
48-1714	Violations related to farm labor contractor licenses
50-1215	Obstruct, hinder, delay, or mislead a legislative performance audit or preaudit inquiry
52-124	Failure to discharge construction liens, failure to apply payments for lawful claims
53-111	Nebraska Liquor Control Commission, gifts or gratuities forbidden
53-164.02	Evasion of liquor tax
53-186.01	Permitting consumption of liquor in unlicensed public places, second or subsequent offense
53-187	Nonbeverage liquor licensee giving or selling liquor fit for beverage purposes, second or subsequent offense
53-1,100	Violation of Nebraska Liquor Control Act, second or subsequent offense
54-1,125	Using false evidence of ownership of livestock
54-1,126	Violation of Livestock Brand Act when not otherwise specified
54-415	Estrays, illegal sale, disposition of proceeds
54-706.05	Interfere with or obstruct inspections or tests under Bovine Tuberculosis Act
54-706.08	Prevent testing of or remove animal quarantined under Bovine Tuberculosis Act
54-706.10	Interfere with or obstruct confining of affected herds or examinations or tests under Bovine Tuberculosis Act
54-706.17	Other violation of Bovine Tuberculosis Act or rules and regulations
54-750	Harboring or prohibited sale of diseased animals, first offense
54-751	Violation of rules and regulations relating to Exotic Animal Auction or Exchange Venue Act or provisions on diseased animals and disposal of carcasses, first offense
54-752	Violation of Exotic Animal Auction or Exchange Venue Act or provisions relating to diseased animals and disposal of carcasses, first offense
54-796	Violation of Animal Importation Act, second or subsequent offense
54-861	Violation of Commercial Feed Act, second or subsequent offense
54-1171	Violation of Livestock Auction Market Act
54-1181.01	Person engaging in livestock commerce violating veterinarian inspection provisions
54-1811	Illegal purchase of slaughter livestock

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54-1913	Interference with inspection of meat and poultry, attempting to bribe inspector or employee of Department of Agriculture
54-1913	Violation of Nebraska Meat and Poultry Inspection Law when not otherwise specified unless intent was to defraud
54-2288	Violation of quarantine requirements under Pseudorabies Control and Eradication Act, second or subsequent offense
54-22,100	Violation of Pseudorabies Control and Eradication Act, second or subsequent offense
54-2323	Violation of Domesticated Cervine Animal Act, second or subsequent offense
54-2761	Violation of Scrapie Control and Eradication Act, second or subsequent offense
55-142	Trespassing on place of military duty, obstructing person in military duty, disrupting orderly discharge of military duty, disturbing or preventing passage of military troops
55-175	Refusal by restaurant, hotel, or public facility to serve person wearing prescribed National Guard uniform
55-428	Code of military justice, witness failure to appear
57-915	Violation of oil and gas conservation laws
60-3,167	Operating or allowing the operation of motor vehicle or trailer without proof of financial responsibility
60-4,108	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded, first, second, or third offense
60-4,109	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded for violation of city or village ordinance
60-4,141.01	Operating commercial motor vehicle while operator's license is suspended, revoked, or canceled or while subject to disqualification or an out-of-service order
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-696	Failure of driver to stop and report a motor vehicle accident, first offense in 12 years
60-6,130	Unlawful removal or possession of sign or traffic control or surveillance device
60-6,130	Willfully or maliciously injuring, defacing, altering, or knocking down any sign, traffic control device, or traffic surveillance device
60-6,195	Speed competition or drag racing on highways
60-6,217	Reckless driving or willful reckless driving, second offense
60-6,288.01	Failure to notify local authorities prior to moving a building or object over a certain size on a county or township road
60-6,299	Violation of or failure to obtain permit to move building or other object on highway
60-6,336	Snowmobile contest on highway without permission, second or subsequent offense within one year
60-6,343	Violation of provisions relating to snowmobiles, second or subsequent offense within one year
60-6,362	Violation of all-terrain vehicle requirements, second or subsequent offense within one year
60-1911	Violating laws relating to abandoned or trespassing vehicles

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69-408	Violation of secondary metals recycling requirements
69-1215	Willfully or knowingly engaging in business of debt management without license
69-1324	Willful failure to deliver abandoned property to the State Treasurer
69-2409.01	Intentionally causing the Nebraska State Patrol to request mental health history information without reasonable belief that the named individual has submitted a written application or completed a consent form for a handgun
69-2709	Knowing or intentional cigarette sales report, tax, or stamp violations or sales of unstamped cigarettes or cigarettes from manufacturer not in directory, second or subsequent offense
69-2709	Knowing or intentional cigarette sales or purchases from unlicensed stamping agent or without appropriate stamp or reporting requirements, second or subsequent offense
71-962	Filing petition with false allegations or depriving a subject of rights under Nebraska Mental Health Commitment Act or Sex Offender Commitment Act
71-962	Willful violation involving records under Nebraska Mental Health Commitment Act or Sex Offender Commitment Act
71-15,141	Approve, sign, or file a local housing agency annual report which is materially false or misleading
71-1805	Sale and distribution of pathogenic microorganisms
71-2416	Violation of Emergency Box Drug Act
71-2482	Violation involving adulterated or misbranded drugs, second or subsequent offense
71-2512	Violation of Poison Control Act when not otherwise specified, second offense
71-3213	Violation of laws pertaining to private detectives
72-245	Waste, trespass, or destruction of trees on school lands
72-313	Violation of mineral or water rights on state lands
72-802	Violation of plans, specifications, bids, or appropriations on public buildings
75-127	Unjust discrimination or prohibited practices in rates by officers, agents, or employees of a common carrier
75-428	Failure of railroad to provide transfer facilities at intersections upon order of Public Service Commission
75-723	Violation of laws on transmission lines
76-1722	Acting as a sales agent for real property in a time-share interval arrangement without a license
76-2114	Acting as membership camping contract salesperson without registration
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of at least \$200 but less than \$500 (certain situations)
77-1232	Failure to list or filing false list of personal property for tax purposes for 1993 and thereafter
77-2311	Failure or refusal to perform duties regarding deposit of state funds by State Treasurer
77-2790	Claiming excessive exemptions or overstating withholding to evade income taxes

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77-27,115	Taxpayer, failure to pay, account, or keep records on income tax
77-3009	Violation of Mechanical Amusement Device Tax Act
77-3522	False or fraudulent claim for homestead exemption
79-949	False or fraudulent acts to defraud the school employees retirement system
79-992.02	False or fraudulent acts to defraud the school employees retirement system of a Class V school district
79-9,107	Illegal interest in investment of school employees retirement system funds
80-405	Obtaining veterans relief by fraud
81-2,162.17	Violation of Nebraska Commercial Fertilizer and Soil Conditioner Act
81-5,205	Violation of Nebraska Amusement Ride Act
81-5,242	Install a conveyance in violation of Conveyance Safety Act
81-885.45	Acting as real estate broker, salesperson, or subdivider without license or certificate or under suspended license or certificate
81-8,254	Obstruct, hinder, or mislead Public Counsel in inquiries
81-1023	Use of improperly marked or equipped state-owned vehicle
81-1117.03	Prohibited release of state computer file data
81-1933	Truth and deception examination, unlawful use by employer
81-1935	Violation of provisions on truth and deception examinations
81-2038	False or fraudulent acts to defraud the Nebraska State Patrol Retirement System
81-3535	Unauthorized practice of geology, first offense
84-305.01	Willfully obstruct, hinder, delay, or mislead the Auditor of Public Accounts in accessing records or information of a public entity when conducting an audit, examination, or related activity
84-1327	False or fraudulent acts to defraud the State Employees Retirement System
85-1650	Violating private postsecondary career school provisions
86-607	Discrimination in rates by telegraph companies
86-608	Failure by telegraph companies to provide newspapers equal facilities
87-303.08	Violation of Uniform Deceptive Trade Practices Act when not otherwise specified

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Maximum—three months' imprisonment, or five hundred dollars' fine, or both

Minimum—none

2-519	Intentional violation of provisions relating to levy, payment, collection, and remittance of commercial hemp fees under the Nebraska Hemp Farming Act
2-1825	Violation of Nebraska Potato Inspection Act
2-2319	Violation of Nebraska Wheat Resources Act
2-2647	Violation of Pesticide Act, first offense
2-3008	Violation of Nebraska Poultry Disease Control Act
2-3416	Violation of Nebraska Poultry and Egg Resources Act
2-3635	Violation of Nebraska Corn Resources Act
2-3765	Violation of Dry Bean Resources Act

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2-3963	Violation of Dairy Industry Development Act
2-4020	Violation of Grain Sorghum Resources Act
2-5605	Violations relating to excise taxes on grapes
3-408	Violation of provisions regulating obstructions to aircraft by structures or towers
3-504	Violation of city airport authority regulations
3-613	Violation of county airport authority regulations
4-106	Alien elected to office in labor or educational organization
7-101	Unauthorized practice of law
8-127	Violation of inspection provisions for list of bank stockholders
8-142	Bank officer, employee, director, or agent violating loan limits by \$10,000 or more but less than \$20,000 or resulting in monetary loss of less than \$10,000 to bank or no monetary loss
8-1,119	Violation of Nebraska Banking Act when not otherwise specified
8-2745	Violation of Nebraska Money Transmitters Act, other than acting without license or intentionally falsifying records
9-230	Unlawfully conducting or awarding a prize at a bingo game, first offense
9-422	Unlawfully conducting a lottery or raffle
12-1205	Failing to report the presence and location of human skeletal remains or burial goods associated with an unmarked human burial
13-1617	Violation of confidentiality requirements of Political Subdivisions Self-Funding Benefits Act
14-224	City council, officers, and employees receiving or soliciting gifts
14-2149	Violations relating to gas and water utilities in cities of the metropolitan class
18-305	Telephone company providing special rates to city or village officer or such officer accepting special rates
18-306	Electric company providing special rates to city or village officer
18-307	City or village officer accepting electric service at special rates
18-308	Water company providing special rates to city or village officer or such officer accepting special rates
18-1741.05	Failure to appear or comply with handicapped parking citation
18-2715	Unauthorized disclosure of confidential business information under city ordinance pursuant to Local Option Municipal Economic Development Act
19-2906	Disclosures by accountant of results of examination of municipal accounts
20-129	Interfering with rights of blind, deaf, or physically disabled persons and with admittance to or enjoyment of public facilities
20-129	Interfering with rights of a service animal trainer and with admittance to or enjoyment of public facilities
21-622	Illegal use of society emblems
23-114.05	Violation of county zoning regulations
23-135.01	False claim against county when value is less than \$500
23-350	Failing to file or filing false or incorrect inventory statement by county officers or members of county board
28-201	Criminal attempt to commit a Class II misdemeanor
28-384	Failure to make report under Adult Protective Services Act

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28-385	Wrongful release of information gathered under Adult Protective Services Act
28-403	Administering secret medicine
28-416	Knowingly or intentionally possessing more than one ounce but not more than one pound of marijuana
28-417	Unlawful acts relating to packaging, possessing, or using narcotic drugs and other controlled substances
28-424	Inhaling or drinking certain intoxicating compounds
28-424	Selling or offering for sale certain intoxicating compounds
28-424	Selling or offering for sale certain intoxicating compounds without maintaining register for one year
28-424	Inducing or enticing another to sell, inhale, or drink certain intoxicating compounds or to fail to maintain register for one year
28-444	Drug paraphernalia advertisement prohibited
28-445	Manufacture or delivery of an imitation controlled substance, first offense
28-450	Unlawful sale, distribution, or transfer of ephedrine, pseudoephedrine, or phenylpropanolamine for use as a precursor to a controlled substance or with reckless disregard as to its use
28-456.01	Purchase, receive, or otherwise acquire pseudoephedrine base or phenylpropanolamine base over authorized limits, second or subsequent offense
28-514	Theft of lost, mislaid, or misdelivered property when value is \$500 or less, first offense
28-515.02	Theft of utility service and interference with utility meter
28-516	Unauthorized use of a propelled vehicle, first offense
28-519	Criminal mischief, pecuniary loss of less than \$500
28-521	Criminal trespass in the second degree (certain situations)
28-523	Littering, first offense
28-524	Unauthorized application of graffiti, first offense
28-604	Criminal possession of forged instrument, face value less than \$500
28-606	Criminal simulation of antiquity, rarity, source, or composition
28-609	Impersonating a public servant
28-621	Criminal possession of one financial transaction device
28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, first offense
28-717	Willful failure to report abused or neglected children
28-730	Unlawful disclosures by a child abuse and neglect team member
28-902	Failure to report a physical injury received in connection with, or as a result of, the commission of a criminal offense
28-914	Loitering about a penal institution
28-923	Simulating legal process
28-925	Misuse of official information
28-927	Neglecting to serve warrant if offense for warrant is a misdemeanor
28-928	Mutilation of a flag of the United States or the State of Nebraska
28-1009.01	Violence on or interference with a service animal
28-1010	Indecency with an animal
28-1209	Failure to register tranquilizer guns
28-1210	Failure to notify sheriff of sale of tranquilizer gun

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28-1225	Storing explosives in violation of safety regulations
28-1226	Failure to report theft of explosives
28-1227	Violations of provisions relating to explosives
28-1240	Unlawful use of tank or container which contained anhydrous ammonia
28-1242	Unlawful throwing of fireworks
28-1250	Violation of laws relating to fireworks
28-1251	Unlawful testing or inspection of fire alarms
28-1303	Raising or producing stagnant water on river or stream
28-1309	Refusing to yield a telephone party line
28-1310	Intimidation by telephone call or electronic communication
28-1313	Unlawful use of a white cane or guide dog
28-1314	Failure to observe a blind person
28-1316	Unlawful use of locks and keys
28-1317	Unlawful picketing
28-1318	Mass picketing
28-1319	Interfering with picketing
28-1320	Intimidation of pickets
28-1320.03	Unlawful picketing of a funeral
28-1321	Maintenance of nuisances
28-1322	Disturbing the peace
28-1331	Unauthorized use of receptacles
28-1332	Unauthorized possession of a receptacle
28-1335	Discharging firearm or weapon using compressed gas from public highway, road, or bridge
28-1419	Selling or furnishing tobacco or cigarette, electronic nicotine delivery systems, or alternative nicotine products to any person under 19 years of age
28-1420	Sale or purchase for resale of tobacco or electronic nicotine delivery systems without license
28-1425	Licensee selling or furnishing tobacco or cigarette, electronic nicotine delivery systems, or alternative nicotine products to any person under 19 years of age
28-1429.02	Dispensing cigarettes or other tobacco products or electronic nicotine delivery systems or alternative nicotine products from vending machines or similar devices in certain locations
28-1429.03	Sell or distribute cigarettes, cigars, electronic nicotine delivery systems, alternative nicotine products, or tobacco in any form whatever through a self-service display
28-1467	Operation of aircraft while under the influence of alcohol or drugs, first offense
28-1468	Operation of aircraft while under the influence of alcohol or drugs, second offense
28-1478	Deceptive or misleading advertising
29-817	Disclosing of search warrant prior to its execution
29-835	Refusing to permit, interfering with, or preventing inspection pursuant to inspection warrant
29-4110	Unlawful possession of DNA samples or records
29-4111	Unlawful disclosure of DNA samples or records

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32-1501	Interfering or refusing to comply with election requirements of Secretary of State
32-1505	Deputy registrar drinking liquor at or bringing liquor to place of voter registration
32-1506	Theft, destruction, removal, or falsification of voter registration and election records
32-1510	Hindering voter registration
32-1511	Obstructing deputy registrars at voter registration
32-1513	Bribery involving candidate filing forms and nominating petitions
32-1515	Wrongfully or willfully suppressing election nomination papers
32-1517	Service as election official, threat of discharge or coercion by employer
32-1519	Misconduct or neglect of duty by election official
32-1521	Printing or distribution of election ballots by other than election officials
32-1528	Voting outside of resident precinct, school district, or village
32-1549	Failing to appear or comply with citation issued under Election Act
35-520	False alarm or report of fire in rural fire protection district or area
35-801	Knowingly accepting, transferring, selling, or offering to sell or purchase firefighting clothing or equipment which does not meet standards
37-248	Violation of Game Law when not otherwise specified
37-314	Violation of rules, regulations, and commission orders under Game Law regarding seasons and other restrictions on taking wildlife
37-336	Violation of provisions for state wildlife management areas
37-348	Violation of provisions for state park system
37-406	Duplication of electronically issued license, permit, or stamp under Game Law
37-410	Obtaining permit to hunt, fish, or harvest fur by false pretenses or misuse of permit
37-410	Receipt of fur-harvesting permit by nonresident less than 16 years old without written parental permission
37-450	Violation of rules and regulations under Game Law regarding hunting elk
37-451	Violation of rules and regulations under Game Law regarding hunting mountain sheep
37-461	Violating permit to take or destroy muskrats or beavers or selling or using muskrats, beavers, or parts thereof without permit
37-462	Performing taxidermy services without permit and failure to keep complete records
37-501	Taking or possessing a greater number of game than allowed under Game Law
37-504	Hunting, trapping, or possessing animals or birds out of season
37-504	Unlawfully taking or possessing game other than elk
37-505	Unlawful purchase, sale, or barter of animals, birds, or fish or parts thereof
37-507	Abandonment, waste, or failure to dispose of fish, birds, or animals
37-508	Storing game or fish in cold storage after prescribed storage season or without proper tags
37-510	Violating game shipment requirements
37-511	Violating importation restrictions on game shipments

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- 37-512 Violating regulations relating to the shipment of raw fur
- 37-513 Shooting at wildlife from highway
- 37-514 Hunting wildlife with artificial light
- 37-515 Hunting, driving, or stirring up game birds or animals with aircraft or boat
- 37-521 Use of aircraft, vessel, vehicle, or other equipment to harass certain game animals
- 37-522 Carrying loaded shotgun in or on vehicle on highway
- 37-523 Unlawful hunting with a rifle within 200 yards of inhabited dwelling or livestock feedlot
- 37-523 Unlawful hunting without a rifle or trapping within 100 yards of inhabited dwelling or livestock feedlot
- 37-523 Unlawful trapping within 200 yards of livestock passage
- 37-524.02 Refusal to permit inspection, decontamination, or treatment of conveyance for aquatic invasive species
- 37-525 Taking game birds or game animals during closed season while training or running dogs
- 37-525 Running dogs on private property without permission
- 37-526 Unlawful use or possession of ferrets
- 37-531 Unlawful use of explosive traps or poison gas on wild animals
- 37-532 Setting an unmarked trap
- 37-533 Violating restrictions on hunting fur-bearing animals and disturbing their nests, dens, and holes
- 37-535 Hunting game from propelled boat or watercraft
- 37-536 Hunting game birds with certain weapons
- 37-537 Baiting game birds
- 37-538 Hunting game birds from vehicle
- 37-539 Taking or destroying nests or eggs of game birds
- 37-543 Unlawful taking of fish
- 37-545 Unlawful removal of fish from privately owned pond and violations of commercial fishing permits
- 37-546 Unlawful taking, use, or possession of baitfish
- 37-548 Release, importation, exportation, or commercial exploitation of wildlife or aquatic invasive species
- 37-552 Failure to maintain fish screens in good repair
- 37-557 Disturbing hatching boxes and nursery ponds
- 37-570 Knowing and intentional interference or attempt to interfere with hunting, trapping, fishing, or associated activity
- 37-605 Failure to appear on an alleged violation of Game Law
- 37-703 Defacing a sign at a game reserve, bird refuge, or wild fowl sanctuary
- 37-705 Disturbing or otherwise violating provisions relating to reserves, sanctuaries, and closed waters
- 37-709 Hunting, carrying firearms, or operating a motorboat in state game refuges
- 37-727 Violation of provisions for hunting, fishing, or trapping on privately owned land
- 37-1254.09 Refusing to submit to a preliminary breath test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs

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37-1289	Operation or sale of motorboat without certificate of title, failure to surrender certificate upon cancellation, deface a certificate of title
38-1,118	Violation of Uniform Credentialing Act when not otherwise specified, first offense
38-1,133	Failure of insurer to report violations of Uniform Credentialing Act, first offense
38-10,165	Performing body art on minor without written consent of parent or guardian and keeping record 5 years
38-2867	Unlicensed person practicing pharmacy
39-103	Operation of motor vehicle in violation of published rules and regulations of the Department of Transportation
39-310	Depositing materials on roads or ditches, first offense
39-311	Placing burning materials or items likely to cause injury on highways, first offense
39-806	Destroying bridge or landmark
39-1335	Illegal use of adjoining property for access to state highway
39-1362	Digging up or crossing state highway
39-1412	Loads exceeding limits or posted capacity on county bridges
39-1806	Refusal of access to lands for placement of snow fences, willful or malicious damage thereto
39-1810	Livestock lanes, driving livestock on adjacent highways
39-1815	Leaving gates open on road over private property
43-257	Detaining or placing a juvenile in violation of certain Nebraska Juvenile Code provisions
43-709	Illegal placement of children
43-1310	Unauthorized disclosure of confidential information regarding foster children and their parents or relatives
43-1414	Violation of genetic paternity testing provisions, second or subsequent offense
43-3001	Public disclosure of confidential information received concerning a child who is or may be in state custody
43-3327	Unauthorized disclosure or release of confidential information regarding a child support order
43-3714	Violation of confidentiality provisions of Court Appointed Special Advocate Act
44-394	Violation of Chapter 44 when not otherwise specified
44-530	Violation of Standardized Health Claim Form Act
44-1113	Violation of Viatical Settlements Act
44-3721	Violation of Motor Club Services Act
44-5508	Surplus lines licensee placing coverage with a nonadmitted insurer or placing nonadmitted insurance with or procuring nonadmitted insurance from a nonadmitted insurer
45-601	Operating a collection agency business without a license or violation of Collection Agency Act
45-740	Residential mortgage loan violations by licensee
45-1023	Making a false statement to secure a loan
46-263	Neglecting or preventing delivery of irrigation water
46-1142	Failure to provide notice of a chemigation accident

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46-1240	Engaging in business or employing another without complying with standards under Water Well Standards and Contractors' Practice Act
48-213	Employment regulations, violation of lunch hour requirements
48-216	Discrimination in employment by manufacturer or distributor of military supplies
48-511	Employment agencies splitting fees with employers
48-513	Violation of private employment agency provisions when not otherwise specified
48-612	Commissioner of Labor employees violating provisions relating to administration of Employment Security Law
48-612.01	Unauthorized disclosure of information received for administration of Employment Security Law
48-614	Contumacy or disobedience to subpoenas in unemployment compensation proceedings
48-663	False statements or failure to disclose information by employees to obtain unemployment compensation benefits
48-664	False statements by employers to obtain unemployment compensation benefits
48-666	Violation of Employment Security Law when not otherwise specified
48-1005	Age discrimination in employment or interfering with enforcement of statutes relating to age discrimination in employment
48-1118	Unlawful disclosure of information under Nebraska Fair Employment Practice Act
48-1123	Interference with Equal Opportunity Commission in performance of duty under Nebraska Fair Employment Practice Act
48-1227	Discrimination on the basis of sex
49-231	Failure of state, county, or political subdivision officer to furnish information required by constitutional convention
49-1447	Campaign practices, violation by committee treasurer or candidate in statements or reports
49-1461.01	Ballot question committee violating surety bond requirements
49-1469.08	Violation of campaign practices by businesses and organizations in contributions, expenditures, and volunteer services
49-1471	Campaign contribution or expenditure in excess of \$50 made in cash
49-1472	Campaign practices, acceptance of anonymous contribution
49-1473	Campaign practices, legal name of contributor required
49-1474	Campaign practices, political newsletter or mass mailing sent at public expense
49-1475	Campaign practices, failing to disclose name and address of contributor
49-1476.02	Accepting or receiving a campaign contribution from a state lottery contractor
49-1477	Campaign practices, required information on contributions from persons other than committees
49-1478	Campaign practices, violation of required reports on expenditures
49-1479	Campaign practices, unlawful contributions or expenditures made for transfer to candidate committee
49-1479.01	Violations related to earmarked campaign contributions
49-1490	Prohibited acts relating to gifts by principals or lobbyists
49-1492	Prohibited practices of a lobbyist

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CLASS III MISDEMEANOR

49-1492.01	Violation of gift reporting requirements by certain entities
49-14,101	Conflicts of interest, prohibited acts of public official, employee, candidate, and other individuals
49-14,101.01	Public official or employee using office, confidential information, personnel, property, or funds for financial gain or improperly using public communication system or public official or immediate family member accepting gift of travel or lodging if made for immediate family member to accompany the public official
49-14,103.04	Knowing violation of conflict of interest prohibitions
49-14,104	Official or full-time employee of executive branch representing a person or acting as an expert witness
49-14,115	Unlawful disclosure of confidential information by member or employee of Nebraska Accountability and Disclosure Commission
49-14,135	Violation of confidentiality of proceedings of Nebraska Accountability and Disclosure Commission
50-1213	Divulging confidential information or records relating to a legislative performance audit or preaudit inquiry
50-1214	Taking personnel action against a state employee providing information pursuant to Legislative Performance Audit Act
53-167.02	Violations relating to beer keg identification numbers
53-167.03	Tamper with, alter, or remove beer keg identification number or possess beer container with altered or removed keg identification number
53-180.05	Misrepresentation of age by minor to obtain or attempt to obtain alcoholic liquor
53-180.05	Minor over 18 years old and under 21 years old in possession of alcoholic liquor
53-180.05	Parent or guardian knowingly permitting minor to violate alcoholic liquor laws
53-181	Minor 18 years old or younger in possession of alcoholic liquor
53-186.01	Consumption of liquor in unlicensed public places
54-796	Violation of Animal Importation Act, first offense
54-904	Indecency with a livestock animal
54-1711	Livestock dealer violating provisions of Nebraska Livestock Dealer Licensing Act
54-1913	Meat and poultry inspector, officer, or employee accepting bribes
54-2288	Violation of quarantine requirements under Pseudorabies Control and Eradication Act, first offense
57-507	Unlawful use of liquefied petroleum gas cylinders
57-1106	Willfully and maliciously breaking, injuring, damaging, or interfering with oil or gas pipeline, plant, or equipment
60-142	Using a bill of sale for a parts vehicle to transfer ownership of any vehicle other than a parts vehicle
60-180	Prohibited acts relating to certificates of title for motor vehicles, all-terrain vehicles, or minibikes
60-3,113.07	Knowingly provide false information on an application for a handicapped or disabled parking permit
60-3,170	Violation of Motor Vehicle Registration Act when not otherwise specified
60-3,171	Fraud in registration of motor vehicle or trailer

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60-3,176	Disclosure of information regarding undercover license plates to unauthorized individual
60-3,206	Violation of International Registration Plan Act
60-480.01	Disclosure of information regarding undercover drivers' licenses to unauthorized individual
60-4,108	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure
60-4,109	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure for violation of city or village ordinance
60-4,111	Violation of Motor Vehicle Operator's License Act when not otherwise specified
60-4,118	Failure to surrender operator's license or appear before examiner regarding determination of physical or mental competence
60-4,140	Commercial driver, multiple operators' licenses
60-4,141	Operation of commercial motor vehicle outside operator's license or permit classification
60-4,146.01	Violation of privileges conferred by commercial drivers' licenses
60-4,159	Commercial driver, failure to provide notifications relating to conviction or disqualification
60-4,161	Commercial driver, failure to provide information to prospective employer
60-4,162	Employer failing to require information or allowing commercial driver to violate highway-rail grade crossing, out-of-service order, or licensing provisions
60-4,170	Failure to surrender commercial driver's license or CLP-commercial learner's permit
60-4,179	Violation of driver training instructor or school provisions
60-4,184	Failure to surrender operator's license for loss of license under point system
60-4,186	Illegal operation of motor vehicle under period of license revocation for loss of license under point system
60-558	Failure to return motor vehicle license or registration to Department of Motor Vehicles for violation of financial responsibility provisions
60-560	Violation of Motor Vehicle Safety Responsibility Act when not otherwise specified
60-678	Operation of vehicles in certain public places where prohibited, where not permitted, without permission, or in a dangerous manner
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,110	Failing to obey lawful order of law enforcement officer given under Nebraska Rules of the Road to apprehend violator
60-6,130	Willful damage or destruction of road signs, monuments, traffic control or surveillance devices by shooting upon highway
60-6,211.11	Operating a motor vehicle with an ignition interlock device in violation of court order or Department of Motor Vehicles order unless otherwise specified
60-6,215	Reckless driving, first offense
60-6,216	Willful reckless driving, first offense
60-6,222	Violations in connection with headlights and taillights

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60-6,228	Vehicle proceeding forward on highway with backup lights on
60-6,234	Violations involving rotating or flashing lights on motor vehicles
60-6,235	Violation of vehicle clearance light requirements
60-6,245	Violation of motor vehicle brake requirements
60-6,259	Application of an illegal sunscreening or glazing material on a motor vehicle
60-6,263	Operating or owning vehicle in violation of safety glass requirements
60-6,291	Exceeding limitations on width, length, height, or weight of motor vehicles when not otherwise specified
60-6,303	Refusal to weigh vehicle or lighten load
60-6,336	Snowmobile contest on highway without permission, first offense within one year
60-6,343	Violation of provisions relating to snowmobiles, first offense within one year
60-6,352	Illegal operation of minibikes on state highway
60-6,353	Operating a minibike in a place, at a time, or in a manner not permitted by regulatory authority
60-6,362	Violation of all-terrain vehicle requirements, first offense within one year
60-1307	Failing to appear at hearing for violations discovered at weigh stations
60-1308	Failure to comply with weigh station requirements
60-1309	Resisting arrest or disobeying order of carrier enforcement officer at weigh station
60-1418	Violating conditions of a motor vehicle sale
62-304	Limitation upon negotiation of tuition notes or contracts of business colleges
64-105.03	Unauthorized practice of law by notary public
66-107	Illegal use of containers for gasoline or kerosene
68-314	Unlawful use and disclosure of books and records of Department of Health and Human Services
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is \$500 or more but less than \$1,500
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is \$500 or more but less than \$1,500
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is \$500 or more but less than \$1,500
69-2012	Violation of Degradable Products Act
69-2443	Carrying concealed handgun at prohibited site or while under the influence, first offense
69-2443	Failure to report discharge of concealed handgun, first offense
69-2443	Failure to carry or display concealed handgun permit, first offense
69-2443	Failure to inform peace officer of concealed handgun, first offense
69-2709	Selling, possessing, or distributing cigarettes in violation of stamping requirements
71-220	Violation of barbering provisions
71-506	Willful or malicious disclosure of confidential reports, notifications, and investigations relating to communicable diseases
71-542	Unauthorized disclosure of confidential immunization information

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CLASS III MISDEMEANOR

71-613	Violation of provisions on vital statistics
71-1371	Violation of Cremation of Human Remains Act
71-1631.01	Violating regulation for protecting public health and preventing communicable diseases
71-1905	Violations regarding children in foster care
71-2228	Illegal receipt of food supplement benefits when value is \$500 or more but less than \$1,500
71-2229	Using, altering, or transferring food instruments or food supplements when value is \$500 or more but less than \$1,500
71-2229	Illegal possession or redemption of food supplement benefits when value is \$500 or more but less than \$1,500
71-2482	Violation involving adulterated or misbranded drugs, first offense
71-2482	Violation of provisions relating to drugs which are not controlled substances
71-2510.01	Use of arsenic or strychnine in embalming fluids, violations of labeling requirements
71-2512	Violation of Poison Control Act when not otherwise specified, first offense
71-4632	Mobile home parks established, conducted, operated, or maintained without license, nuisance
71-6741	Violation of Medication Aide Act
71-6907	Performing an abortion in violation of parental consent provisions, knowingly and intentionally or with reckless disregard
71-6907	Unauthorized person providing consent for an abortion
71-6907	Coercing a pregnant woman to have an abortion
74-609.01	Hunting on railroad right-of-way without permission
74-1331	Failure to construct, maintain, and repair railroad bridges in compliance with law
75-114	Refusal to allow access to Public Service Commission to records of a motor or common carrier
75-367	Violation of motor carrier safety regulations or hazardous materials regulations
76-505	Judges and other county officers engaging in business of abstracting
76-558	Unlawful practice in business of abstracting
76-2246	Unlawful practice as a real property appraiser
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of less than \$200 (certain situations)
77-1719.02	Violations by county board members regarding collection of personal taxes and false returns
77-2619	Fail, neglect, or refuse to report or make false statement regarding cigarette taxation
77-3407	Unlawful signature on budget limitation petition
79-210	Violation of compulsory school attendance provisions
79-603	School vehicles, violation of safety requirements and operating school vehicles which violate safety requirements when not otherwise specified
79-897	Illegal inquiries concerning religious affiliation of teacher applicants
79-8,101	Illegal solicitation of business from classroom teachers
79-1607	Violation of laws on private, denominational, and parochial schools
81-2,157	Unlawful sale or marking of hybrid seed corn

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CLASS III MISDEMEANOR

81-2,179	Violation of Nebraska Apiary Act
81-5,181	Violation of Boiler Inspection Act
81-829.41	Unauthorized release of information from emergency management registry
81-8,127	Unlawful practice of land surveying or use of title
81-8,142	Violation of provisions relating to the State Athletic Commissioner
81-8,205	Unlawful practice as a professional landscape architect
81-1508.01	Knowing and willful violation of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act when not otherwise specified
81-2008	Failure to obey rules or orders of or resisting arrest by Nebraska State Patrol
82-111	Destroy, deface, remove, or injure monuments marking Oregon Trail
82-507	Knowingly and willfully appropriate, excavate, injure, or destroy any archaeological resource on public land without written permission from the State Archaeology Office
82-508	Enter or attempt to enter upon the lands of another without permission and intentionally appropriate, excavate, injure, or destroy any archaeological resource or any archaeological site
84-311	Disclosure of restricted information by the Auditor of Public Accounts or an employee of the auditor
84-316	Taking personnel action against a state or public employee for providing information to the Auditor of Public Accounts
84-712.09	Violation of provisions for access to public records
84-1213	Mutilation, transfer, removal, damage, or destruction of or refusal to return government records
84-1414	Unlawful action by members of public bodies in public meetings, second or subsequent offense
86-290	Intercepting or interfering with certain wire, electronic, or oral communication
86-606	Unlawful delay or disclosure of telegraph dispatches
89-1,101	Violation of Weights and Measures Act or order of Department of Agriculture, first offense
90-104	Use of state banner as advertisement or trademark

CLASS IIIA MISDEMEANOR

Maximum—seven days' imprisonment, five hundred dollars' fine, or both
Minimum—none

28-416	Knowingly or intentionally possessing one ounce or less of marijuana or any substance containing a quantifiable amount of a material, compound, mixture, or preparation containing any quantity of synthetically produced cannabinoids, third or subsequent offense
53-173	Knowingly or intentionally possessing powdered alcohol, third or subsequent offense
54-623	Owning a dangerous dog within 10 years after conviction of violating dangerous dog laws
54-623	Dangerous dog attacking or biting a person when owner of dog has a prior conviction for violating dangerous dog laws

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CLASS IIIA MISDEMEANOR

60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,196.01	Driving under the influence with a prior felony DUI conviction
60-6,275	Operating or possessing radar transmission device while operating motor vehicle
60-6,378	Failure to move over, proceed with due care and caution, or follow officer's directions when passing a stopped emergency or road assistance vehicle, second or subsequent offense
77-2704.33	Failure of a contractor or taxpayer to pay certain sales taxes of less than \$300
79-1602	Transmitting or providing for transmission of false school information when electing not to meet school accreditation or approval requirements
89-1,107	Use of a grain moisture measuring device which has not been tested
89-1,108	Violation of laws on grain moisture measuring devices

CLASS IV MISDEMEANOR

Maximum—no imprisonment, five hundred dollars' fine

Minimum—none

2-220.03	Failure to file specified security or certificates by carnival companies, booking agencies, or shows for state and county fairs
2-515	Violation of provisions relating to transportation of hemp under the Nebraska Hemp Farming Act
2-957	Unlawful movement of article through which noxious weeds may be disseminated
2-963	Violation of provisions relating to weed control
2-10,115	Specified violations of Plant Protection and Plant Pest Act, first offense
2-1207	Knowingly aiding or abetting a minor to make a parimutuel wager
2-1806	Engaging in business as a potato shipper without a license
2-1807	Failure by potato shipper to file statement or pay tax
2-3109	Violation of Nebraska Soil and Plant Analysis Laboratory Act when not otherwise specified
2-3223.01	Failure to file audit of natural resources district
2-4327	Violation of Agricultural Liming Materials Act, first offense
3-330	Violation of Airport Zoning Act
9-513	Violation of Nebraska Small Lottery and Raffle Act, first offense
9-814	Purchase of state lottery ticket by person less than 19 years old
12-512.07	Violations in administering perpetual care trust funds for cemeteries
12-617	Violation relating to perpetual care trust funds for public mausoleums and other burial structures
12-1115	Failure to surrender a license under Burial Pre-Need Sale Act
14-415	Violation of building ordinance or regulations in city of the metropolitan class, first or second offense
19-1847	Violation of Civil Service Act
20-149	Failure of consumer reporting agency to provide reports to consumers, protected consumers, or representatives
23-387	Violation of provisions relating to community antenna television service
23-919	Violation of County Budget Act of 1937
23-1507	Failure of register of deeds to perform duties

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CLASS IV MISDEMEANOR

23-1821	Failure to notify coroner of a death during apprehension or while in custody
25-1563	Attachment or garnishment procedure used to avoid exemption laws
25-1640	Penalizing employee due to jury service
28-410	Failure to comply with inventory requirements by manufacturer, distributor, or dispenser of controlled substances
28-416	Knowingly or intentionally possessing one ounce or less of marijuana or any substance containing a quantifiable amount of a material, compound, mixture, or preparation containing any quantity of synthetically produced cannabinoids, second offense
28-456.01	Purchase, receive, or otherwise acquire pseudoephedrine base or phenylpropanolamine base over authorized limits, first offense
28-462	Knowingly fail to submit methamphetamine precursor information or knowingly submit incorrect information to national exchange
28-1009	Harassment of police animal not resulting in death of animal
28-1019	Violation of court order related to misdemeanor animal abuse conviction
28-1104	Promoting gambling in the third degree
28-1253	Distribution, sale, or use of refrigerants containing liquefied petroleum gas
28-1304	Putting carcass or filthy substance in well or running water
28-1357	Distribute or sell a novelty lighter without a child safety feature
28-1405	Failure to acquire locksmith registration certificate
29-3527	Unlawful access to or dissemination of criminal history record information
32-1507	Elections, false representation of political party affiliation
32-1517	Refusing to serve as election official
32-1520	Printing or distribution of illegal ballots
32-1547	Elections, filing for more than one elective office
36-213.01	Unlawful assignment or notice of assignment of wages of head of family
37-403	Violation of farm or ranch land hunting permit exemption
37-463	Dealing in raw furs without fur buyer's permit, failure to keep complete records of furs bought or sold
37-471	Violation relating to aquatic organisms raised under an aquaculture permit
37-482	Keeping wild birds or animals in captivity without permit
37-4,103	Unlawfully taking, maintaining, or selling raptors
37-524	Importation, possession, or release of certain wild or nonnative animals or aquatic invasive species
37-528	Administering a drug to wildlife
37-558	Placing harmful matter into waters stocked by Game and Parks Commission
37-1238.02	Failure of vessel to comply with order of officer to stop
37-1271	Violation of certain provisions of State Boat Act
38-28,115	Violation of Nebraska Drug Product Selection Act or rules and regulations
39-302	Failure to properly equip certain sprinkler irrigation systems with endgun
43-1414	Violation of genetic paternity testing provisions, first offense

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CLASS IV MISDEMEANOR

44-3,142	Unauthorized release of relevant insurance information relating to motor vehicle theft or insurance fraud
44-10,108	Soliciting membership for a fraternal benefit society not licensed in this state
44-2615	Acting as insurance consultant without license
45-101.07	Lender imposing certain conditions on mortgage loan escrow accounts
46-613.02	Violations of registration and spacing requirements for water wells; illegal transfer of ground water
46-687	Withdrawing or transferring ground water in violation of Industrial Ground Water Regulatory Act
46-1127	Placing chemical in irrigation distribution system without complying with law
46-1143	Violation of Nebraska Chemigation Act when not otherwise specified
46-1666	Willfully obstruct, hinder, or prevent Department of Natural Resources from performing duties under Safety of Dams and Reservoirs Act
48-219	Contracting to deny employment due to relationship with labor organization
48-230	Violation of provisions allowing preference to veterans seeking employment
48-433	Failure of architect to comply with law in preparing building plans
48-1206	Minimum wage rate violations
48-1505	Violations relating to sheltered workshops
48-2211	Violating recruiting restrictions related to non-English-speaking persons
49-1445	Violation of requirement to form candidate committee upon raising, receiving, or expending more than \$5,000 in a calendar year
49-1446	Violations relating to campaign committee funds
49-1467	Failure to report campaign expenditure of more than \$250
49-1474.01	Violation of distribution requirements for political material
53-149	Providing false information regarding alcohol retailer's accounts with alcoholic liquor wholesale licensee in connection with sale of retailer's business
53-173	Knowingly or intentionally possessing powdered alcohol, second offense
53-186.01	Permitting consumption of liquor in unlicensed public places, first offense
53-187	Nonbeverage liquor licensee giving or selling liquor fit for beverage purposes, first offense
53-194.03	Importation of alcohol for personal use in certain quantities
53-1,100	Violation of Nebraska Liquor Control Act, first offense
54-315	Leaving well or pitfall uncovered, failure to decommission inactive well
54-613	Allowing dogs to run at large, damage property, injure persons, or kill animals
54-622	Violation of restrictions on dangerous dogs
54-753.04	Unlawful feeding of garbage to animals
54-861	Violation of Commercial Feed Act, first offense
54-861	Improper use of trade secrets in violation of Commercial Feed Act
54-909	Violating court order not to own or possess a livestock animal after the date of conviction for indecency with a livestock animal, first offense cruel mistreatment of an animal, or intentionally, knowingly, or

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CLASS IV MISDEMEANOR

	recklessly abandoning or cruelly neglecting livestock animal not resulting in serious injury or illness or death of the livestock animal
54-1371	Failure by owner to carry out brucellosis testing responsibilities
54-1377	Diversion of livestock from particular destination without permission or removing or altering livestock identification for such purposes
54-1384	Violation of Nebraska Bovine Brucellosis Act when not otherwise specified
54-1605	Violation of accreditation provisions for specific pathogen-free swine
54-22,100	Violation of Pseudorabies Control and Eradication Act, first offense
54-2323	Violation of Domesticated Cervine Animal Act, first offense
54-2612	Unlawful sale of swine by packer
54-2615	False reporting of swine by packer
54-2622	Unlawful sale of cattle by packer
54-2625	False reporting of cattle by packer
54-2761	Violation of Scrapie Control and Eradication Act, first offense
55-165	Discriminating against an employee who is a member of the reserve military forces
55-166	Discharging employee who is a member of the National Guard or armed forces of the United States for military service
57-516	Violation of provisions relating to sale of liquefied petroleum gas
57-719	Violating or aiding and abetting violations of oil and gas severance tax laws
57-1213	Failure or refusal to make uranium severance tax return or report
60-3,168	Failure to have and keep liability insurance or other proof of financial responsibility on motor vehicle
60-3,169	Unauthorized use of vehicle registered as farm truck
60-3,172	Registration of motor vehicle or trailer in location other than that authorized by law
60-3,173	Improper increase of gross weight or failure to pay registration fee on commercial trucks and truck-tractors
60-3,174	Improper use of a vehicle with a special equipment license plate
60-4,129	Violation involving use of an employment driving permit
60-4,130	Failure to surrender an employment driving permit
60-4,130.01	Violation involving use of a medical hardship driving permit
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,175	Improperly passing a school bus with warning signals flashing or stop signal arm extended
60-6,197.01	Failure to report unauthorized use of immobilized vehicle
60-6,292	Violation of requirements for extra-long vehicle combinations
60-6,302	Unlawful repositioning fifth-wheel connection device of truck-tractor and semitrailer combination
60-6,304	Operation of vehicle improperly constructed or loaded or with cargo or contents not properly secured
60-6,304	Spilling manure or urine from an empty livestock vehicle in a city of the metropolitan class
60-1407.02	Unauthorized use of sales tax permit relating to sale of vehicle or trailer
63-103	Printing copies of a publication in excess of the authorized quantity
66-495.01	Unlawfully using or selling diesel fuel or refusing an inspection
66-6,115	Fueling a motor vehicle with untaxed compressed fuel

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CLASS IV MISDEMEANOR

66-727	Failure to obtain license as required under motor fuel tax laws
66-727	Failure to produce motor fuel license or permit for inspection
66-1521	Sell, distribute, deliver, or use petroleum as a producer, refiner, importer, distributor, wholesaler, or supplier without a license
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is less than \$500
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is less than \$500
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is less than \$500
69-1808	Violation of American Indian Arts and Crafts Sales Act
69-2709	Knowing or intentional cigarette sales report, tax, or stamp violations or sales of unstamped cigarettes or cigarettes from manufacturer not in directory, first offense
69-2709	Knowing or intentional cigarette sales or purchases from unlicensed stamping agent or without appropriate stamp or reporting requirements, first offense
71-1563	Modular housing unit sold or leased without official seal
71-1613	Violation of provisions relating to district health boards
71-1914.03	Providing unlicensed child care when a license is required
71-2096	Interfere with enforcement of provisions relating to health care facility receivership proceedings
71-2228	Illegal receipt of food supplement benefits when value is less than \$500
71-2229	Using, altering, or transferring food instruments or food supplements when value is less than \$500
71-2229	Illegal possession or redemption of food supplement benefits when value is less than \$500
71-3517	Violation of Radiation Control Act
71-4632	Mobile home parks established, conducted, operated, or maintained without license
71-5312	Violation of Nebraska Safe Drinking Water Act
71-5733	Smoking in place of employment or public place, second or subsequent offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, second or subsequent offense
71-5870	Engaging in activity prohibited by Nebraska Health Care Certificate of Need Act
71-8711	Disclose actions, decisions, proceedings, discussions, or deliberations of patient safety organization meeting
73-105	Violation of laws on public lettings
74-1323	Failure to comply with order by Public Service Commission to store or park railroad cars safe distance from crossing
75-117	Refusal to comply with an order of Public Service Commission by a motor or common carrier
75-155	Knowing and willful violation of Chapter 75 or 86 when not otherwise specified
75-371	Operating motor vehicle in violation of insurance and bond requirements for motor carriers

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CLASS IV MISDEMEANOR

75-398	Operation of vehicle in violation of provisions relating to the unified carrier registration plan and agreement
75-426	Failure to file report of railroad accident
77-1232	Failure to list or filing false list of personal property for tax purposes prior to 1993
77-1324	False statement of assessment of public improvements
77-2026	Receipt by inheritance tax appraiser of extra fee or reward
77-2350.02	Failure to perform duties relating to deposit of public funds by school district or township treasurer
77-2713	Violation of laws relating to sales and use taxes when not otherwise specified
77-3709	Violation of reporting and permit requirements for mobile homes
81-2,147.09	Violation of Nebraska Seed Law
81-2,154	Violation of state-certified seed laws
81-2,290	Violation of Nebraska Pure Food Act
81-520.02	Violation of open burning ban or range-management burning permit
81-5,131	Violation of provisions relating to arson information
81-674	Wrongful disclosure of confidential data from medical record and health information registries or deceitful use of such information
81-1525	Failure or refusal to remove accumulation of junk
81-1559	Failure of manufacturer or wholesaler to obtain litter fee license
81-1560.01	Failure of retailer to obtain litter fee license
81-1577	Failure to register hazardous substances storage tanks
81-1626	Lighting and thermal efficiency violations
84-1414	Unlawful action by members of public bodies in public meetings, first offense
86-162	Failure to provide telephone services

CLASS V MISDEMEANOR

Maximum—no imprisonment, one hundred dollars' fine

Minimum—none

2-219	Conducting indecent shows or exhibits or gambling at state, district, or county fairs
2-220	State, district, and county fairs, refusal or failure to remove illegal devices
2-3292	Conducting recreational activities outside of designated areas in a natural resources district recreation area
2-3293	Smoking and use of fire or fireworks in a natural resources district recreation area
2-3294	Pets or other animals in a natural resources district recreation area
2-3295	Hunting, fishing, trapping, or using weapons in a natural resources district recreation area
2-3296	Conducting prohibited water-related activities in a natural resources district recreation area
2-3297	Destruction or removal of property, constructing a structure, or trespassing in a natural resources district recreation area
2-3298	Abandoning vehicle in a natural resources district recreation area

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CLASS V MISDEMEANOR

2-3299	Unauthorized sale or trading of goods in a natural resources district recreation area
2-32,100	Violation of traffic rules in a natural resources district recreation area
2-3974	Violation of Nebraska Milk Act or impeding or attempting to impede enforcement of the act
7-111	Practice of law by certain judges, clerks, sheriffs, or other officials
8-113	Unauthorized use of the word "bank"
8-114	Unauthorized conduct of banking business
8-226	Unauthorized use of the words "trust", "trust company", "trust association", or "trust fund"
8-305	Unauthorized use of "building and loan" or "savings and loan" or any combination of such words in corporate name
8-829	Collecting certain charges on personal loans by banks and trust companies
13-510	Illegal obligation of funds in county budget during emergency
16-230	Violation of ordinances regulating drainage, litter, and growth of grass, weeds, and worthless vegetation
17-563	Violation of ordinances regulating drainage, litter, and growth of grass, weeds, and worthless vegetation
18-312	Cities, villages, and their officers entering into compensation contracts contingent upon elections
21-1306	Unauthorized use of the word "cooperative"
21-1728	Unlawful use of the words "credit union" or representing oneself or conducting business as a credit union
23-808	Operating pool or billiard hall or bowling alley outside of municipality without a county license
23-813	Operating roadhouse, dance hall, carnival, show, amusement park, or other place of public amusement outside of municipality without a county license
23-817	Violation of law regulating places of amusement
23-1612	Audit of county offices, failure or refusal to exhibit records
24-216	Clerk of Supreme Court, fees, neglect or fraud in report
28-3,107	Intentional or reckless falsification of report required under Pain-Capable Unborn Child Protection Act
28-725	Unauthorized release of child abuse or neglect information
28-1018	Selling puppy or kitten under 8 weeks old without its mother
28-1255	Sale, possession, or use of flying lantern-type devices
28-1305	Putting carcass or putrid animal substance in a public place
28-1306	Railroads bringing unclean stock cars into state
28-1308	Watering livestock at private tank without permission
28-1347	Unauthorized access to or use of a computer, first offense
28-1418	Smoking or other use of tobacco or use of electronic nicotine delivery systems or other alternative nicotine products by a person under the age of 19
28-1427	Person under the age of 19 misrepresenting age to obtain tobacco or cigarette, electronic nicotine delivery systems, or alternative nicotine products
28-1472	Failure to submit to preliminary breath test for operation of aircraft while under influence of alcohol or drugs

APPENDIX

CLASS V MISDEMEANOR

28-1483	Sale of certain donated food
31-435	Neglect of duty by officers of drainage districts
32-228	Failure to serve as an election official in counties having an election commissioner
32-236	Failure to serve as an election official in counties that do not have an election commissioner
32-241	Taking personnel actions against employee serving as an election official
32-1523	Obstructing entrance to polling place
32-1524	Electioneering by election official
32-1524	Electioneering or soliciting at or near polling place
32-1525	Exit interviews with voters near polling place on election day
32-1527	Voter voting ballot, unlawful acts
32-1535	Unlawful removal of ballot from polling place
33-132	Failure or neglect to charge, keep current account of, report, or pay over fees by any officer
37-305	Violation of rules and regulations for camping areas
37-306	Violation of rules and regulations for fire safety
37-307	Violation of rules and regulations for animals on state property
37-308	Violation of rules and regulations for hunting, fishing, trapping, and use of weapons on state property
37-309	Violation of rules and regulations for water-related recreational activities on state property
37-310	Violation of rules and regulations for real and personal property on state property
37-311	Violation of rules and regulations for vendors on state property
37-313	Violation of rules and regulations for traffic on state property under Game and Parks Commission jurisdiction
37-321	Fishing violation in emergency created by drying up of waters
37-349	Use of state park name for commercial purposes
37-428	Obtaining habitat stamps, aquatic habitat stamps, or migratory waterfowl stamps by false pretenses or misuse of stamps
37-433	Violation of provisions on habitat stamps or aquatic habitat stamps
37-443	Entry by a motor vehicle to a park permit area without a valid park permit
37-476	Violation of aquaculture provisions
37-504	Unlawfully taking, possessing, or destroying certain birds, eggs, or nests
37-527	Failure to display required amount of hunter orange material when hunting
37-541	Kill, injure, or detain carrier pigeons or removing identification therefrom
37-553	Violation by owner of dam to maintain water flow for fish
37-609	Resisting officer or employee of the Game and Parks Commission
37-610	Falsely representing oneself as officer or employee of the Game and Parks Commission
37-728	False statements about fishing on privately owned land
37-1270	Violation of State Boat Act when not otherwise specified
37-12,107	Destroy, deface, or remove any part of unattended or abandoned motorboat

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CLASS V MISDEMEANOR

39-221	Illegal advertising outside right-of-way on state highways
39-301	Injuring or obstructing public roads
39-303	Injuring or obstructing sidewalks or bridges
39-304	Injuring roads, bridges, gates, milestones, or other fixtures
39-305	Plowing up public highway
39-306	Willful neglect of duty by road overseer or other such officer
39-307	Building barbed wire fence which obstructs highway without guards
39-308	Failure of property owner to remove plant which obstructs view of roadway within 10 days after notice
39-312	Illegal camping on highways, roadside areas, or parks unless designated as campsites or violating camping regulations
39-313	Hunting on freeway or private land without permission
39-808	Unlawful signs or advertising on bridges or culverts
39-1012	Illegal location of rural mail boxes
39-1801	Removing or interfering with barricades on county and township roads
39-1816	Illegal parking of vehicles on county road right-of-way
42-918	Unlawful disclosure of confidential information under Protection from Domestic Abuse Act
43-2,108.05	Violation of provisions relating to handling and inspection of sealed juvenile records
44-361.02	Insurance agent obtaining license or renewal to circumvent rebates
46-266	Owner allowing irrigation ditches to overflow on roads
46-282	Wasting artesian water
46-1666	Violation of Safety of Dams and Reservoirs Act or any application approval, approval to operate, order, rule, regulation, or requirement of the department under the act
47-206	Neglect of duty by municipal jailer
48-222	Unlawful cost to applicant for medical examination as condition of employment
48-237	Prohibited uses of social security numbers by employers
48-442	Violation involving high voltage lines
48-1227	Discriminatory wage practices based on sex, failing to keep or falsifying records, interfering with enforcement
49-211	Failure of election officers to make returns on adoption of constitutional amendment
49-14,103.04	Negligent violation of conflict of interest prohibitions
51-109	Illegal removal of books from State Library
53-197	Neglect or refusal of sheriffs or police officers to make complaints against violators of liquor laws
54-302	Driving off livestock belonging to another
54-306	Driving cattle, horses, or sheep across private lands causing injury
54-7,104	Failure to take care of livestock during transport
59-1503	Unlawful acts by retailers or wholesalers in sales of cigarettes
60-196	Failure to retain a true copy of an odometer statement for five years
60-3,135.01	Unlawful ownership or operation of a motor vehicle with special interest motor vehicle license plates
60-3,166	Dealer, prospective buyer, or finance company operating motor vehicle or trailer without registration, transporter plate, or manufacturer plates and failing to keep records

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CLASS V MISDEMEANOR

60-3,175	Violation of registration and use provisions relating to historical vehicles
60-4,164	Refusal of commercial driver to submit to preliminary breath test for driving under the influence of alcohol
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-699	Failure to report vehicle accident or give correct information
60-6,197.04	Refusal to submit to preliminary breath test for driving under the influence of alcohol
60-6,211.05	Failure by ignition interlock service facility to notify probation office, court, or Department of Motor Vehicles of evidence of tampering with or circumvention of an ignition interlock device
60-6,224	Failure to dim motor vehicle headlights
60-6,239	Failure to equip or display motor vehicles required to have clearance lights, flares, reflectors, or red flags
60-6,240	Willful removal of red flags or flares before driver of vehicle is ready to proceed
60-6,247	Operation of buses or trucks without power brakes, auxiliary brakes, or standard booster brake equipment
60-6,248	Selling hydraulic brake fluid that does not meet requirements
60-6,258	Owning or operating a motor vehicle with illegal sunscreening or glazing material on windshield or windows
60-6,266	Sale of motor vehicle which does not comply with occupant protection system (seat belt) requirements
60-6,287	Operating a motor vehicle which is equipped to enable the driver to watch television while driving
60-6,319	Commercial dealer selling bicycle which fails to comply with requirements
60-6,373	Operation of diesel-powered motor vehicle in violation of controls on smoke emission and noise
60-1411.04	Unlawful advertising of motor vehicles
60-1808	Violation of laws relating to motor vehicle camper units
60-1908	Destroying, defacing, or removing parts of abandoned motor vehicles
61-211	Managers or operators of interstate ditches failing to install measuring devices and furnish daily gauge height reports
69-208	Violation of laws relating to pawnbrokers and dealers in secondhand goods
69-1005	Violation of requirements for sale at auction of commercial chicks and poultry
69-1007	Failure to keep records on sale of poultry
69-1008	False representation in sale of poultry
69-1102	Failing to comply with labeling requirements on binder twine
70-409	Violation of rate regulations by electric companies
70-624	Failure of chief executive officer to publish salaries of public power district officers
71-503	Physician failing to report existence of contagious disease, illness, or poisoning
71-506	Violation of prevention and testing provisions for contagious and infectious diseases
71-1006	Violation of laws relating to disposal of dead bodies

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CLASS V MISDEMEANOR

71-1571	Installation of 4 or more showers or bathtubs without scald prevention device
71-3107	Violation of laws relating to recreation camps
71-4410	Violation of rabies control provisions
71-5733	Smoking in place of employment or public place, first offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, first offense
74-593	Using track motor cars on rail lines without headlights or rear lights
74-605	Failure of railroad to report or care for injured animals
74-1308	Failure of Railroad Transportation Safety District treasurer to file report or neglect of duties or refusal by district officials to allow inspection of records
74-1340	Failure, neglect, or refusal to comply with order of Department of Transportation regarding railroad crossings
75-429	Failure of railroad to maintain or operate switch stand lights and signals
76-247	Register of deeds giving certified copy of power of attorney which has been revoked without stating fact of revocation in certificate
76-2,122	Acting as real estate closing agent without license or without complying with law
77-2105	Failure to furnish information or reports for estate or generation-skipping transfer taxes
77-5016.08	Prohibited acts relating to subpoenas, testimony, and depositions in Tax Equalization and Review Commission proceedings
79-223	Violation of student immunization requirements
79-253	Violation regarding physical examinations of students
79-571	Disorderly conduct at school district meetings
79-581	Failure by secretary of Class III school district to publish claims and summary of proceedings
79-606	Failure to remove equipment from and repaint school transportation vehicles sold for other purposes
79-607	Violation of traffic regulations or failure to include obligation to comply with traffic regulation in school district employment contract
79-608	Violations by a school bus driver involving licensing or hours of service
79-949	Failure or refusal to furnish information to retirement board for school employees retirement
79-992.02	Willful failure or refusal to furnish information to board of trustees under the Class V School Employees Retirement Act
79-1084	Secretary of Class III school board failing or neglecting to publish budget documents
79-1086	Secretary of Class V school board failing or neglecting to publish budget documents
81-520	Failure to comply with order of State Fire Marshal to remove or abate fire hazards
81-522	Failure of city or county authorities to investigate and report fires
81-538	Violation of State Fire Marshal or fire abatement provisions when not otherwise specified
81-5,146	Violation of smoke detector provisions
81-5,163	Water-based fire protection system contractor failing to comply with requirements
81-5,242	Violation of Conveyance Safety Act

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CLASS V MISDEMEANOR

- 81-649.02 Failure by hospital to make reports to cancer registry
- 81-6,120 Provision of transportation services by certain persons or failing to submit to background check prior to providing such services to vulnerable adults or minors on behalf of Department of Health and Human Services
- 81-1024 Personal use of state-owned motor vehicle
- 81-1551 Failure to place litter receptacles on premises in sufficient number
- 81-1552 Damaging or misusing litter receptacle
- 82-124 Damage to property of Nebraska State Historical Society
- 82-126 Violating restrictions on visitation to state sites and monuments
- 83-356 Mistreatment of mentally ill persons
- 86-161 Failure of telecommunications company to file territorial maps
- 86-609 Unlawful telegraph dispatch activities
- 88-549 Failure of warehouse licensee to send written notice to person storing grain of amount, location, and fees

CLASS W MISDEMEANOR

First Conviction:

Maximum—sixty days' imprisonment and five hundred dollars' fine

Mandatory minimum—seven days' imprisonment and five hundred dollars' fine

Second Conviction:

Maximum—six months' imprisonment and five hundred dollars' fine

Mandatory minimum—thirty days' imprisonment and five hundred dollars' fine

Third Conviction:

Maximum—one year imprisonment and one thousand dollars' fine

Mandatory minimum—ninety days' imprisonment and one thousand dollars' fine

- 60-690 Aiding or abetting a violation of Nebraska Rules of the Road which is a Class W misdemeanor
- 60-6,197.03 Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug committed with less than .15 gram alcohol concentration
- 60-6,197.03 Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug committed with .15 gram alcohol concentration, first offense only
- 60-6,197.03 Refusal to submit to chemical blood, breath, or urine test

UNCLASSIFIED MISDEMEANORS, see section 28-107

- 14-227 Failure to remit fines, penalties, and forfeitures to city treasurer
 - fine of not more than one thousand dollars
 - imprisonment of not more than six months
- 14-229 City officer or employee exerting influence regarding political views
 - fine of not more than one hundred dollars
 - imprisonment of not more than thirty days
- 15-215 Using unsafe building for the assembly of more than 12 persons
 - fine of not more than two hundred dollars
- 16-233 Using unsafe building for the assembly of more than 12 persons
 - fine of not more than two hundred dollars
- 16-706 Unauthorized use of city funds by city council member or city officer
 - fine of twenty-five dollars plus costs of prosecution

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UNCLASSIFIED MISDEMEANORS, see section 28-107

- 18-1914 Violation of plumbing ordinances or plumbing license requirements
–fine of not more than fifty dollars and not less than five dollars per violation
- 18-1918 Installing or repairing sanitary plumbing without permit
–fine of not less than fifty dollars nor more than five hundred dollars
- 18-2205 Violation involving community antenna television service or franchise ordinance
–fine of not more than five hundred dollars
- 18-2315 Violation involving heating, ventilating, and air conditioning services
–fine of not more than five hundred dollars
–imprisonment of not more than six months
–both
- 19-905 Remove, alter, or destroy posted notice prior to building zone and regulation hearing
- 19-913 Violation of zoning laws and ordinances and building regulations
–fine of not more than one hundred dollars
–imprisonment of not more than thirty days
- 19-1104 Failure of city or village clerk or treasurer to publish council proceedings or fiscal statement
–fine of not more than twenty-five dollars and removal from office
- 20-124 Interference with freedom of speech and access to public accommodation
–fine of not more than one hundred dollars
–imprisonment of not more than six months
–both
- 20-140 Equal Opportunity Commission officer or employee revealing unlawful discrimination complaint or investigation
–fine of not more than one hundred dollars
–imprisonment of not more than thirty days
- 23-2533 Willful violation of County Civil Service Act
–fine of not more than five hundred dollars
–imprisonment of not more than six months
–both
- 25-2231 Constable acting outside of jurisdiction
–fine of not less than ten dollars nor more than one hundred dollars
–imprisonment of not more than ten days
- 29-426 Failure to appear or comply with citation for traffic or other offense
–fine of not more than five hundred dollars
–imprisonment of not more than three months
–both
- 31-134 Obstructing drainage ditch
–fine of not less than ten dollars nor more than fifty dollars
- 31-221 Injuring or obstructing watercourse, drain, or ditch
–fine of not less than twenty-five dollars nor more than one hundred dollars
–imprisonment of not more than thirty days
- 31-226 Failure to clear watercourse, drain, or ditch after notice
–fine of not more than ten dollars
- 31-366 Willfully obstruct, injure, or destroy ditch, drain, watercourse, or dike of drainage district
–fine of not more than one hundred dollars

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UNCLASSIFIED MISDEMEANORS, see section 28-107

- 31-445 Obstruct ditch, drain, or watercourse or injure dike, levee, or other work of drainage district
–fine of not more than one hundred dollars
–imprisonment of not more than six months
- 31-507.01 Connection to sanitary sewer without permit
–fine of not less than twenty-five dollars nor more than one hundred dollars
- 33-153 Failure to report and remit fees to county for taking acknowledgments, oaths, and affirmations
–fine of not more than one hundred dollars
- 44-2504 Domestic insurer transacting unauthorized insurance business in reciprocal state
–fine of not more than ten thousand dollars
- 54-1365 Violation of Nebraska Swine Brucellosis Act when not otherwise specified
–fine of not less than one hundred dollars nor more than five hundred dollars
–imprisonment of not more than thirty days
–both
- 55-112 Failure to return or illegal use of military property
–fine of not more than fifty dollars
- 60-684 Refusal to sign traffic citation
–fine of not more than five hundred dollars
–imprisonment of not more than three months
–both
- 69-111 Security interest in personal property, failure to account or produce for inspection
–fine of not less than five dollars nor more than one hundred dollars
–imprisonment of not more than thirty days
- 74-918 Failure by railroad to supply drinking water and toilet facilities
–fine of not less than one hundred dollars nor more than five hundred dollars
- 75-130 Failure by witness to testify or comply with subpoena of Public Service Commission
–fine of not more than five thousand dollars
- 76-215 Failure to furnish real estate transfer tax statement
–fine of not less than ten dollars nor more than five hundred dollars
- 76-218 Violations involving acknowledging and recording instruments of conveyance
–fine of not more than five hundred dollars
–imprisonment of not more than one year
- 76-239.05 Failure to apply construction financing for labor and materials
–fine of not less than one hundred dollars nor more than one thousand dollars
–imprisonment of not more than six months
–both
- 76-2,108 Defrauding another by making a dual contract for purchase of real property or inducing the extension of credit
–fine of not less than one hundred dollars nor more than five hundred dollars
–imprisonment of not less than five days nor more than thirty days

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UNCLASSIFIED MISDEMEANORS, see section 28-107

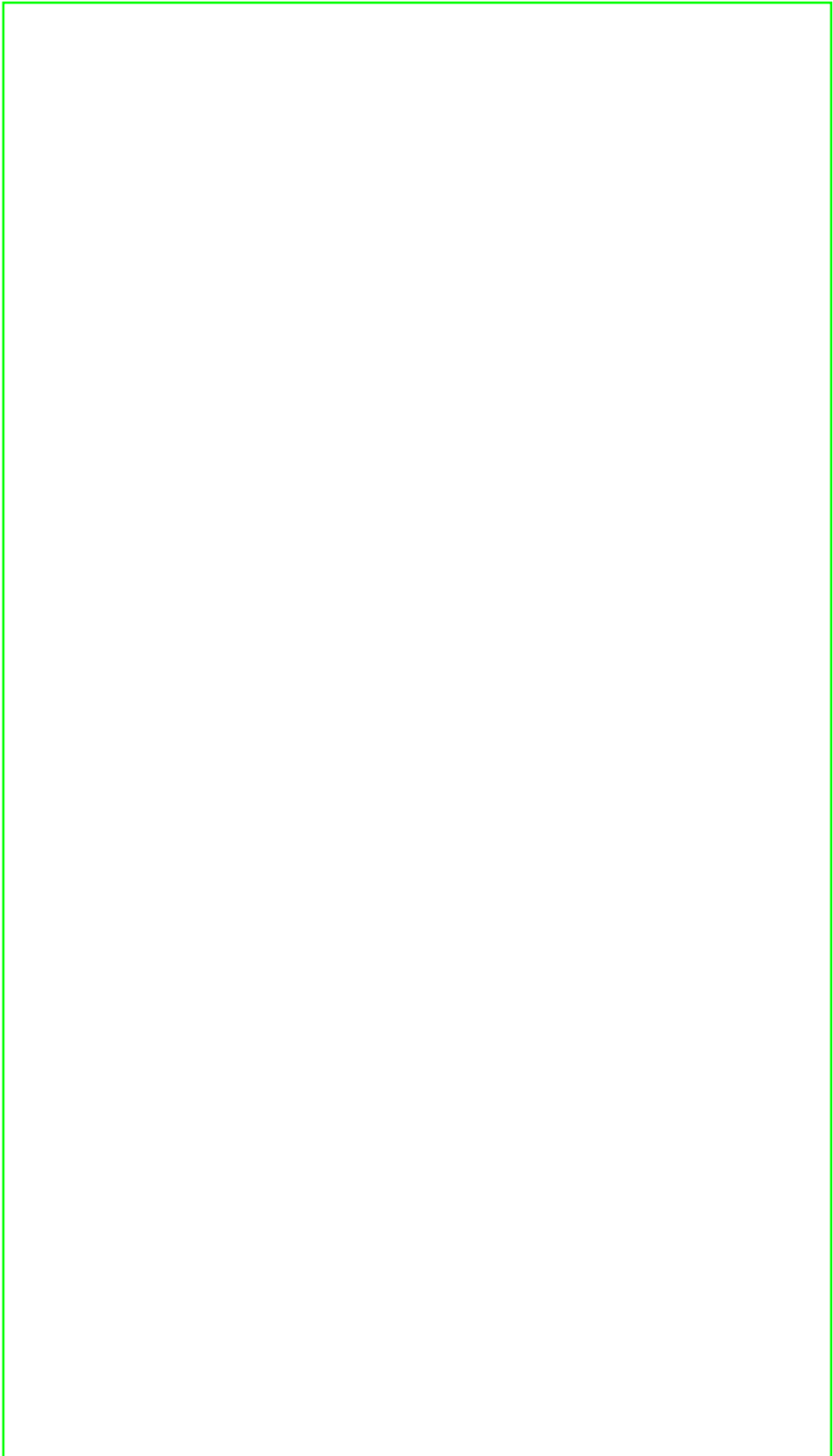
- both
- 77-1250.02 Owner, lessee, or manager of aircraft hangar or land upon which is parked or located any aircraft, fail to report aircraft to the county assessor
 - fine of not more than fifty dollars
- 77-1313 Failure of county officer to assist county assessor in assessment of property
 - fine of not less than fifty dollars nor more than five hundred dollars
- 77-1613.02 County assessor willfully reducing or increasing valuation of property without approval of county board of equalization
 - fine of not less than twenty dollars nor more than one hundred dollars
- 77-1918 County officers failing to perform duties related to foreclosure
 - removal from office
- 77-2703 Seller fails or refuses to furnish certified statement regarding a motor vehicle, motorboat, all-terrain vehicle, or utility-type vehicle transaction
 - fine of not less than twenty-five dollars nor more than one hundred dollars
- 77-2706 Giving a resale certificate to avoid sales tax
- 79-2,103 Soliciting membership in fraternity, society, or other association on school grounds
 - fine of not less than two dollars nor more than ten dollars
- 81-171 Using state mailing room or postage metering machine for private mail
 - fine of not less than twenty dollars nor more than one hundred dollars
- 83-114 Officer or employee interfering in an official Department of Health and Human Services investigation
 - fine of not less than ten dollars nor more than one hundred dollars
- 84-732 Governor or Attorney General knowingly failing or refusing to implement laws
 - fine of one hundred dollars
 - impeachment

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ACTS, CODES, AND OTHER NAMED LAWS

NAME OF ACT	WHERE CITED
*Boiler Inspection Act	81-5,165
Brain Injury Trust Fund Act	71-3701
Children of Nebraska Hearing Aid Act	44-5001
City Manager Plan of Government Act	19-601
*Conveyance Safety Act	81-5,210
Counterfeit Airbag Prevention Act	28-641
County Civil Service Commission Act	23-401
Healthy Pregnancies for Incarcerated Women Act	47-1001
Meadowlark Act	85-2801
Municipal Commission Plan of Government Act	19-401
*Nebraska Amusement Ride Act	81-5,190
*Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act	58-801
Nebraska Hemp Farming Act	2-501
Nebraska Uniform Directed Trust Act	30-4301
Neighbor Spoofing Protection Act	86-2,117
Online Notary Public Act	64-401
Qualified Judgment Payment Act	77-6401
Regional Metropolitan Transit Authority Act	18-801
Small Wireless Facilities Deployment Act	86-1201
Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act	25-3501
Uniform Voidable Transactions Act	36-801
Veteran and Active Duty Supportive Postsecondary Institution Act	85-2701
*Change in cite or name change	



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CROSS REFERENCE TABLE

2019 Session Laws of Nebraska, First Session
Showing LB section number to statute section number

2019 First Session	2019 Supplement	2019 First Session	2019 Supplement	2019 First Session	2019 Supplement
LB 1	Omitted		2 44-3303		16 79-971
LB 2	Omitted		3 Omitted		17 79-978.01
LB 3	§ 1 13-518	LB 29	§ 1 38-101		18 79-9,119
	2 85-1418		2 38-1,143		19 79-9,100
	3 85-1503		3 38-2001		20 79-9,106
	4 Omitted		4 Omitted		21 84-1307
	5 Omitted		5 Omitted		22 84-1309.02
LB 6	§ 1 85-502	LB 31	§ 1 79-978.01		23 84-1319
	2 Omitted		2 79-9,120		24 84-1321.01
LB 7	§ 1 28-101		3 79-9,121		25 84-1322
	2 28-641		4 79-9,122		26 84-1323
	3 28-642		5 79-9,123		27 84-1331
	4 28-643		6 84-1503		28 84-1323.02
	5 28-644		7 Omitted		29 84-1503
	6 Omitted		8 Omitted		30 Omitted
	7 Omitted		9 Omitted		31 Omitted
LB 8	§ 1 60-6,233	LB 31A	Omitted		32 Omitted
	2 Omitted	LB 32	§ 1 23-2309.01	LB 42	§ 1 76-808
LB 11	§ 1 18-1720		2 23-2310.05		2 76-816
	2 Omitted		3 84-1310.01		3 76-861
LB 12	§ 1 81-885.14		4 84-1311.03		4 Omitted
	2 81-885.17		5 Omitted	LB 48	§ 1 46-229.04
	3 Omitted	LB 33	§ 1 72-1243		2 Omitted
	4 Omitted		2 72-1277	LB 49	§ 1 1-162.01
LB 15	§ 1 44-5001		3 72-1278		2 Omitted
	2 44-5002		4 79-934	LB 52	§ 1 81-11,106
	3 44-5003		5 79-989		2 85-1807
	4 44-5004		6 84-712.05		3 85-1813
	5 44-5005		7 84-1502		4 Omitted
LB 16	§ 1 84-712.05		8 84-1503	LB 55	§ 1 30-2478
	2 Omitted		9 Omitted		2 30-901
LB 22	§ 1 71-2097		10 Omitted		3 30-2723
	2 71-2098	LB 33A	Omitted		4 30-3859
	3 71-20,100	LB 34	§ 1 23-2306		5 43-2101
	4 Omitted		2 23-2308.01		6 Omitted
LB 23	§ 1 13-3202		3 23-2317	LB 56	§ 1 53-124.11
	2 13-3203		4 23-2319.01		2 53-124.13
	3 13-3204		5 23-2320		3 Omitted
	4 13-3205		6 23-2321	LB 57	§ 1 18-1758
	5 Omitted		7 23-2331		2 77-2701
	6 Omitted		8 23-2327		3 77-2701.04
LB 25	§ 1 38-151		9 79-901		4 77-27,239
	2 71-8701		10 79-902		5 Omitted
	3 71-8722		11 79-969		6 Omitted
	4 Omitted		12 79-921	LB 59	§ 1 71-1936
	5 Omitted		13 79-927		2 Omitted
LB 25A	Omitted		14 79-934	LB 60	§ 1 43-2606
LB 26	§ 1 44-3302		15 79-956		2 71-2102

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2019 First Session	2019 Supplement	2019 First Session	2019 Supplement	2019 First Session	2019 Supplement
	3 71-2103		2 38-2802		12 60-479.01
	4 71-2104		3 38-2845		13 60-4,111.01
	5 79-1902		4 38-2846.01		14 60-4,132
	6 Omitted		5 38-2891.01		15 60-4,134
LB 61	§ 1 71-4401		6 Omitted		16 60-4,147.02
	2 71-4402.03	LB 75	§ 1 53-302		17 60-501
	3 71-4403		2 Omitted		18 60-628.01
	4 71-4406	LB 77	§ 1 76-2207.27		19 60-6,265
	5 71-4407		2 76-2207.30		20 60-2705
	6 Omitted		3 76-2222		21 60-2909.01
	7 Omitted		4 76-2228.01		22 75-363
LB 62	§ 1 71-503.02		5 76-2228.02		23 75-364
	2 Omitted		6 76-2230		24 75-366
LB 63	§ 1 35-506		7 76-2231.01		25 75-392
	2 35-509		8 76-2232		26 75-393
	3 35-1204		9 76-2236		27 Omitted
	4 35-1206		10 76-2238		28 Omitted
	5 35-1207		11 76-3202	LB 80	§ 1 60-146
	6 77-3442		12 76-3203		2 Omitted
	7 Omitted		13 76-3203.01	LB 81	§ 1 60-601
	8 Omitted		14 76-3204		2 60-605
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	2 81-2106		16 Omitted		4 60-6,170
	3 81-2108	LB 78	§ 1 21-147		5 60-6,172
	4 81-2144		2 21-192		6 60-6,173
	5 Omitted		3 21-507		7 60-6,174
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	2 13-1302		5 21-510	LB 82	§ 1 39-810
	3 13-2705		6 21-513		2 39-847
	4 19-3052		7 21-514		3 39-1320
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	7 31-505		10 21-521		6 39-2114
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	2 71-6406		2 71-6404		2 23-3211
	3 Omitted		3 71-6406		3 Omitted
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	2 85-1,136		5 76-3502	LB 155	§ 1 70-1014.02
	3 Omitted		6 76-3503		2 70-1015
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	2 Omitted		8 76-3505	LB 156	§ 1 60-101
	3 Omitted		9 76-3506		2 60-102
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	3 Omitted	LB 130A	Omitted		5 60-153
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	5 38-118.01		3 60-301		10 60-3,236
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	2 79-216		13 60-3,123		20 Omitted
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	6 71-7911		2 30-4031		2 18-2709
	7 71-7912		3 Omitted		3 Omitted
	8 71-7913	LB 146	§ 1 30-4020	LB 177	§ 1 2-3226.14
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	2 Omitted		4 28-1420	LB 180	§ 1 85-2002
	3 Omitted		5 28-1421		2 Omitted
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	91	19-925	149	19-2410	207	19-3501
	92	19-926	150	19-2411	208	19-3701
	93	19-927	151	19-2412	209	19-3801
	94	19-928	152	19-2413	210	19-4017
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	39 16-624	LB 196	§ 1 14-407		21 58-838
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	10 Omitted	34	81-5,198		4 81-15,257
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	12 2-4018	36	81-5,200		6 81-15,259
	13 9-1,101	37	81-5,201		7 2-969
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	20 84-1227	44	81-5,208		14 2-4604
	21 86-563	45	81-5,209		15 13-1701
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	29 81-5,193	87	Omitted		57 54-2417

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61	57-1407	119	81-15,124	177	86-570
62	57-1502	120	81-15,124.01	178	88-550
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64	58-221	122	81-15,124.04	180	Omitted
65	60-6,363	123	81-15,124.05	181	Omitted
66	60-6,364	124	81-15,125	182	Omitted
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95	76-2608	153	81-15,245		3 2-2628
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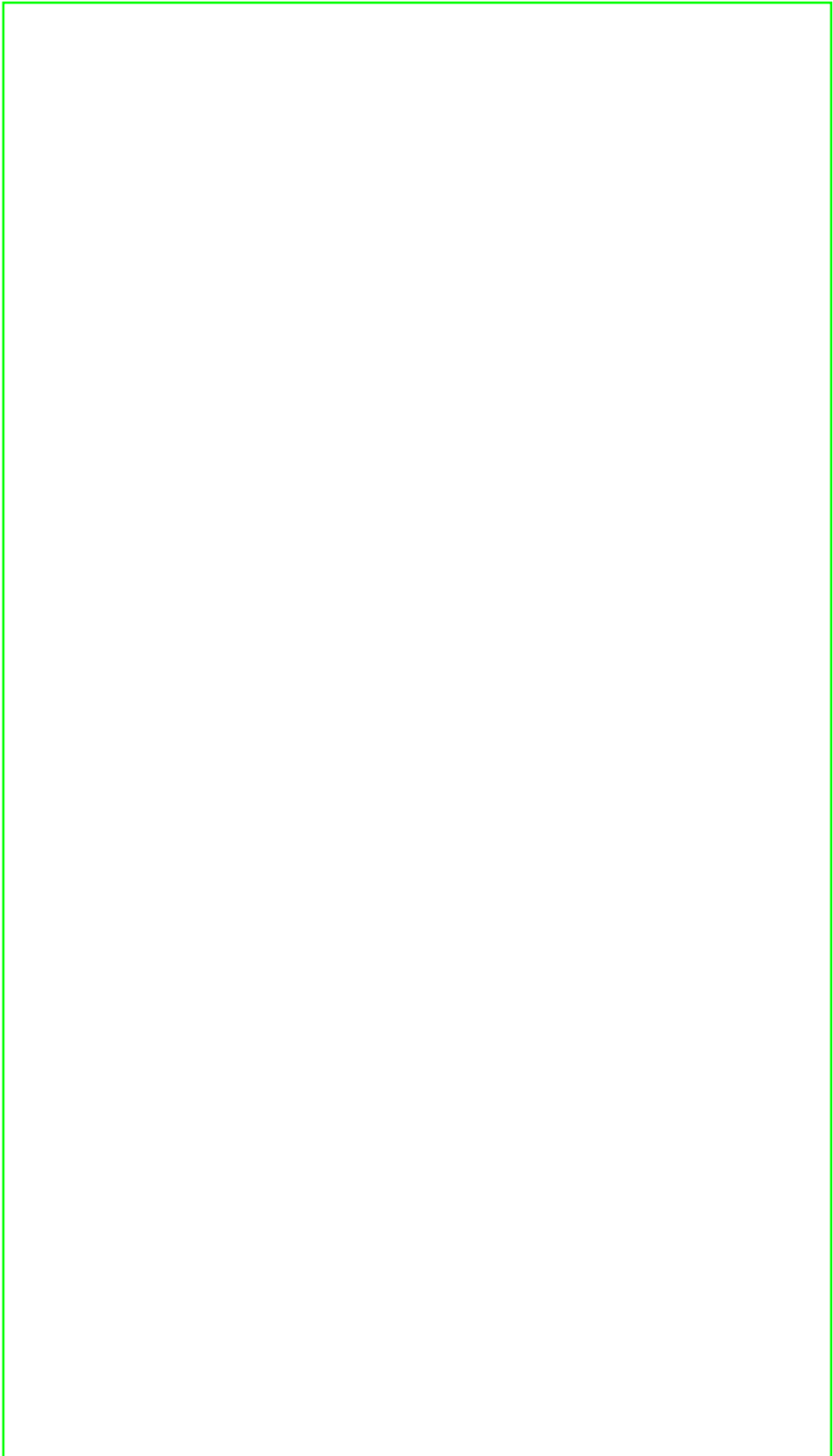
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	13 77-23,102		3 Omitted		55 83-1225
	14 77-23,107	LB 660A	Omitted		56 Omitted
	15 77-23,108	LB 663	§ 1 77-118		57 Omitted

CROSS REFERENCE TABLE

2019 First Session	2019 Supplement	2019 First Session	2019 Supplement	2019 First Session	2019 Supplement
LB 680	58 Omitted § 1 25-3501 2 25-3502 3 25-3503 4 25-3504 5 25-3505 6 25-3506 7 25-3507 8 25-3508 9 25-3509 10 25-213 11 Omitted 12 Omitted	LB 690	§ 1 47-1001 2 47-1002 3 47-1003 4 47-1004 5 47-1005 6 47-1006 7 47-1007 8 13-910 9 81-8,219 10 Omitted	LB 699	§ 1 60-378 2 Omitted
				LB 713	§ 1 50-419.03 2 50-419 3 Omitted
				LB 719	§ 1 60-169 2 Omitted
				LB 719A	Omitted
				LB 726	§ 1 68-901 2 68-993 3 Omitted
		LB 693	§ 1 86-2,117		
		LB 698	§ 1 60-6,304 2 Omitted 3 Omitted		
LB 686	§ 1 28-101 2 28-105 3 28-936 4 28-1206 5 29-1823 6 29-2202 7 29-2246 8 29-2268 9 29-2292 10 29-2293 11 29-2294 12 29-3523 13 83-173.03 14 83-4,114 15 Omitted 16 Omitted 17 Omitted 18 Omitted				



APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, One Hundred Sixth Legislature
First Session, 2019

Showing the date each act went into effect.
Convened January 9, 2019, and adjourned May 31, 2019.

LB No.	Effective Date	LB No.	Effective Date
1	September 1, 2019	70	September 1, 2019
2	September 1, 2019	71	September 1, 2019
3	September 1, 2019	74	September 1, 2019
6	September 1, 2019	75	September 1, 2019
7	September 1, 2019	77	September 1, 2019
8	September 1, 2019	78	Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, and 24 of this act become operative on January 1, 2021. The other sections of this act become operative on September 1, 2019.
11	September 1, 2019		
12	March 7, 2019		
15	September 1, 2019		
16	September 1, 2019		
22	September 1, 2019		
23	May 2, 2019		
25	January 1, 2020 (operative date)		
25A	September 1, 2019	79	March 7, 2019
26	September 1, 2019	80	September 1, 2019
29	September 1, 2019	81	September 1, 2019
31	May 2, 2019	82	March 8, 2019
31A	May 2, 2019	86	September 1, 2019
32	September 1, 2019	86A	September 1, 2019
33	March 7, 2019	87	September 1, 2019
33A	March 7, 2019	96	September 1, 2019
34	April 18, 2019	102	September 1, 2019
42	September 1, 2019	103	March 13, 2019
48	September 1, 2019	111	September 1, 2019
49	September 1, 2019	112	January 1, 2020 (operative date)
52	September 1, 2019		
55	September 1, 2019	112A	September 1, 2019
56	September 1, 2019	115	September 1, 2019
57	September 1, 2019	116	September 1, 2019
59	September 1, 2019	117	September 1, 2019
60	September 1, 2019	119	September 1, 2019
61	September 1, 2019	121	September 1, 2019
62	September 1, 2019	122	March 8, 2019
63	March 8, 2019	123	September 1, 2019
65	September 1, 2019	124	March 22, 2019
67	September 1, 2019	125	September 1, 2019

APPENDIX

LB No.	Effective Date	LB No.	Effective Date
127	September 1, 2019		(operative date)
130	September 1, 2019	220	September 1, 2019
130A	September 1, 2019	221	September 1, 2019
135	September 1, 2019	222	January 1, 2020
138	September 1, 2019		(operative date)
139	September 1, 2019	223	September 1, 2019
141	September 1, 2019	224	September 1, 2019
145	September 1, 2019	227	September 1, 2019
146	September 1, 2019	235	September 1, 2019
149	January 1, 2020 (operative date)	237	January 1, 2020 (operative date)
152	September 1, 2019	237A	September 1, 2019
154	September 1, 2019	243	April 18, 2019
155	September 1, 2019	244	May 30, 2019
156	September 1, 2019	248	September 1, 2019
159	March 13, 2019	252	September 1, 2019
160	September 1, 2019	256	March 13, 2019
177	September 1, 2019	258	March 8, 2019
179	September 1, 2019	259	March 8, 2019
180	September 1, 2019	260	September 1, 2019
184	September 1, 2019	264	September 1, 2019
185	January 1, 2020 (operative date)	268	September 1, 2019
186	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, and 29 of this act become operative on July 1, 2020. The other sections of this act become operative on May 31, 2019.	269	September 1, 2019
186A	May 31, 2019	270	September 1, 2019
190	September 1, 2019	281	September 1, 2019
192	January 1, 2021 (operative date)	284	April 1, 2019 (operative date)
192A	September 1, 2019	293	May 28, 2019
193	September 1, 2019	294	July 1, 2019 (operative date)
194	September 1, 2019	295	July 1, 2019 (operative date)
195	September 1, 2019	296	July 1, 2019 (operative date)
196	September 1, 2019	297	July 1, 2019 (operative date)
200	September 1, 2019	298	May 28, 2019
203	September 1, 2019	299	May 28, 2019
209	September 1, 2019	300	July 1, 2019 (operative date)
212	September 1, 2019	300A	July 1, 2019 (operative date)
214	September 1, 2019	301	July 1, 2019 (operative date)
217	September 1, 2019	302	July 1, 2019 (operative date)
218	July 1, 2019	304	September 1, 2019
		307	September 1, 2019

CROSS REFERENCE TABLE

LB No.	Effective Date	LB No.	Effective Date	
308	September 1, 2019		66, 67, and 69 of this act become operative on September 1, 2019. The other sections of this act become operative on May 18, 2019.	
309	September 1, 2019			
315	September 1, 2019			
316	April 25, 2019			
318	September 1, 2019			
319	September 1, 2019			
320	September 1, 2019	414		September 1, 2019
333	September 1, 2019	418		September 1, 2019
334	September 1, 2019	427		September 1, 2019
334A	September 1, 2019	428		September 1, 2019
339	September 1, 2019	430		March 1, 2019
340	September 1, 2019	433		September 1, 2019
348	September 1, 2019	442		September 1, 2019
352	September 1, 2019	443		September 1, 2019
354	September 1, 2019	445	September 1, 2019	
354A	September 1, 2019	447	September 1, 2019	
355	Sections 2, 3, 4, 5, 6, and 12 of this act become operative on January 1, 2020. The other sections of this act become operative on September 1, 2019.	447A	September 1, 2019	
		449	September 1, 2019	
		454	September 1, 2019	
		460	Sections 1, 2, 3, and 7 of this act become operative on September 1, 2019. The other sections of this act become operative on May 31, 2019.	
356	September 1, 2019			
359	September 1, 2019			
372	September 1, 2019	460A	May 31, 2019	
374	September 1, 2019	462	September 1, 2019	
375	September 1, 2019	463	September 1, 2019	
380	September 1, 2019	464	May 28, 2019	
384	July 1, 2020 (operative date)	468	September 1, 2019	
		469	September 1, 2019	
390	September 1, 2019	472	September 1, 2019	
392	September 1, 2019	476	September 1, 2019	
397	September 1, 2019	478	May 18, 2019	
399	September 1, 2019	481	July 15, 2020 (operative date)	
405	July 1, 2020 (operative date)	481A	September 1, 2019	
406	March 13, 2019	486	September 1, 2019	
409	September 1, 2019	492	September 1, 2019	
411	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65,	496	September 1, 2019	
		505	September 1, 2019	
		511	September 1, 2019	
		512	Sections 20 and 32 of this act become operative for all taxable years beginning or deemed to begin on or after January 1, 2018, under the Internal	

APPENDIX

LB No.	Effective Date	LB No.	Effective Date
	Revenue Code of 1986, as amended. Sections 21, 22, 23, and 33 of this act become operative for all taxable years beginning or deemed to begin on or after January 1, 2019, under the Internal Revenue Code of 1986, as amended. The other sections of this act become operative on May 31, 2019.		(operative date)
514	September 1, 2019	600A	May 30, 2019
519	September 1, 2019	603	September 1, 2019
524	September 1, 2019	609	September 1, 2019
525	September 1, 2019	610	September 1, 2019
532	January 1, 2020 (operative date)	610A	September 1, 2019
532A	September 1, 2019	616	September 1, 2019
536	September 1, 2019	619	September 1, 2019
538	January 1, 2020 (operative date)	622	July 1, 2020 (operative date)
538A	September 1, 2019	624	September 1, 2019
556	May 2, 2019	630	September 1, 2019
556A	May 2, 2019	637	April 25, 2019
559	September 1, 2019	638	July 1, 2020 (operative date)
560	September 1, 2019	641	September 1, 2019
561	September 1, 2019	641A	September 1, 2019
564	September 1, 2019	657	Sections 17, 18, and 19 of this act become operative on July 1, 2021. The other sections of this act become operative on May 31, 2019.
570	May 18, 2019	657A	May 31, 2019
570A	May 18, 2019	660	March 22, 2019
571	September 1, 2019	660A	March 22, 2019
571A	September 1, 2019	663	September 1, 2019
575	September 1, 2019	675	May 28, 2019
583	September 1, 2019	680	September 1, 2019
585	January 1, 2020 (operative date)	686	Sections 5 and 18 of this act become operative on July 1, 2021. The other sections of this act become operative on September 1, 2019.
590	September 1, 2019	690	September 1, 2019
592	September 1, 2019	693	September 1, 2019
593	May 31, 2019	698	May 2, 2019
595	September 1, 2019	699	September 1, 2019
600	July 1, 2019	713	September 1, 2019
		719	September 1, 2019
		719A	September 1, 2019
		726	September 1, 2019